

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Sears Canada Inc.
Plaintiff(s)
AND

Defendant(s)

Case Management Yes No by Judge: McEWENT

Counsel	Telephone No:	Facsimile No:
(see attached)		

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows):

The order shall go as per the draft filed & signed, as attached. Even though the order sought is opposed counsel agreed to the Endorsement attached as Schedule A, which shall also go. The provisions of the Endorsement are fair and reasonable.

16 Dec 21
Date

McEwnt
Judge's Signature

Additional Pages _____

FINAL Version
ENDORSEMENT

The Pension Representative Counsel (PRC) has brought a motion today for two things, a) the wind up of the Retirement Compensation Arrangement ("RCA") of the Sears Supplemental Retirement Plan (the "RCA Trust Order"), and b) an amendment to the Representation Order dated July 13, 2017 (the "Amendment Order").

Some aspects of the Amendment Order are still under discussion between the parties in attendance on the motion. I am advised that, subject to the reservation of rights referenced below, there is no opposition to RCA Trust Order in the form attached, and I have signed it accordingly.

I further understand that the issue of the Amendment Order has been adjourned and shall be the subject of discussion amongst the parties and I have put the Amendment Order motion over to February 1, 2022 at 11 am in order that these discussions may occur.

The non-opposition to the issuance of the RCA Trust Order today is on a without prejudice basis to any party's position with respect to the Amendment Order on the return of the motion.

For greater clarity, the form of the RCA Trust order and the fact of its issuance in this CCAA proceeding shall not be taken as indicative of agreement or acknowledgment by any responding party in attendance (see list attached) that the order was necessary, or that the wind up of the RCA Trust is properly a part of the CCAA proceedings or that the costs of its wind up or any matter related thereto should therefore be considered to be properly part of this CCAA proceeding, and the parties have reserved all their rights to make argument on these issues.



1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and that further service thereof is hereby dispensed with. Capitalized terms not otherwise defined have the meanings given to them in the affidavit of William Turner, sworn December 10, 2021.

RCA Trust

2. **THIS COURT ORDERS** that the Retiree Committee is authorized to proceed with the termination of the RCA Trust that funds the pension benefits payable from the Sears Supplemental Plan.

3. **THIS COURT ORDERS** that Representative Counsel and the Retiree Committee for the RCA Trust may rely and act upon the advice of Segal RogersCasey, an investment advisor, in respect of financial investment advice relating to the investment and liquidation of the funds in the RCA Trust during the termination process of the RCA Trust.

4. **THIS COURT ORDERS** that CIBC Mellon Trust Company (“**CIBC Mellon**”) and the Monitor are authorized to take the necessary steps to terminate the RCA Trust and file all necessary documentation in respect of its termination, and to distribute all of the assets in the RCA Trust to the eligible beneficiaries and/or their estates, as applicable, on the direction of the Retiree Committee.

5. **THIS COURT ORDERS** that none of past or present Retiree Committee members, namely, Bill Turner, Larry Moore, George Hughes, Claude Senechel, Ken Eady, and Brent Hollister, shall have any liability with respect to their appointment or the fulfilment of their duties including with respect to the termination of the RCA Trust, save and except for any claim based on gross negligence or wilful misconduct on their part.

6. **THIS COURT ORDERS** that CIBC Mellon shall have no liability with respect to the termination of the RCA Trust and implementing any directions of the Retiree Committee relating to the distribution of the assets to eligible beneficiaries and filing the necessary documentation except for any claim based on gross negligence or wilful misconduct on their part.

7. **THIS COURT ORDERS** that nothing herein shall restrict the Monitor's delivery of the CCAA Termination Certificate upon completion of the Remaining Matters (each as defined in the CCAA Termination Order dated October 25, 2021). Notwithstanding the CCAA Termination Time (as defined in the CCAA Termination Order dated October 25, 2021) and the discharge of the Monitor and the termination of these CCAA proceedings, FTI Consulting Canada Inc. shall have the authority to complete or address any matters that may be ancillary or incidental to these CCAA proceedings following the CCAA Termination Time, and in connection therewith FTI Consulting Canada Inc. shall continue to have the benefit of all approvals and protections in favour of the Monitor pursuant to the CCAA and all Orders made in these CCAA proceedings.



McEWEN, J.

Court File No. CV-17-11846-

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA INC., 9370-2751 QUEBEC INC., 191020 CANADA INC., THE CUT INC., SEARS CONTACT SERVICES INC., INITIUM LOGISTICS SERVICES INC., INITIUM COMMERCE LABS INC., INITIUM TRADING AND SOURCING CORP., SEARS FLOOR COVERING CENTRES INC., 173470 CANADA INC., 2497089 ONTARIO INC., 6988741 CANADA INC., 10011711 CANADA INC., 1592580 ONTARIO LIMITED, 955041 ALBERTA LTD., 4201531 CANADA INC., 168886 CANADA INC., AND 3339611 CANADA INC.

(each an "Applicant", and collectively, the "Applicants")

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

ORDER

**(Motion re: termination of the RCA 1
and amendment to Representation Order
returnable December 16, 2021)**

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Representative Counsel for the Retirees
Sears Canada

Name of Person Appearing	Name of Party	Phone Number	Email Address
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