

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.

)

MONDAY, THE 19TH

)

JUSTICE HAINEY

)

DAY OF NOVEMBER, 2018



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
QUÉBEC 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.

Applicants

**ORDER
(Fifth Construction Lien Claims Order)**

THIS MOTION made by FTI Consulting Canada Inc., in its capacity as court-appointed Monitor (the "**Monitor**"), for an Order with respect to the Determined Construction Claims of certain Construction Contractors, as described in the Fourth Supplement to the Twentieth Report of the Monitor, dated November 15, 2018, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Twentieth Report of the Monitor, dated June 12, 2018, (the "**Twentieth Report**"), the Fourth Supplement to the Twentieth Report dated November 15, 2018 (the "**Fourth Supplement**"), and on hearing the submissions of counsel for the Applicants, the

Monitor, and those other counsel present, no one else appearing although duly served as appears from the affidavit of service of Catherine Ma sworn November 15, 2018,

SERVICE

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 hereby dispenses with further service thereof.

DEFINED TERMS

2. THIS COURT ORDERS that all capitalized terms used herein and not defined have the meanings ascribed to them in the Fourth Supplement, or where not so defined, the Twentieth Report.

PAYMENT OF DETERMINED CONSTRUCTION CLAIMS

3. THIS COURT ORDERS that the Monitor is hereby directed to make payments from the Net Proceeds of the Closed Property Transactions and Pending Property Transaction in the amounts and to the Secured Contractors set out on Schedule "A" hereto in full satisfaction of the Determined Owned Property Claims.

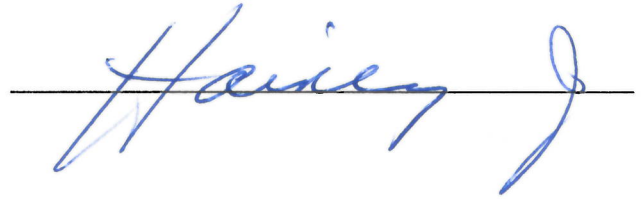
4. THIS COURT ORDERS that the Secured Contractors shall have sole responsibility to distribute the payments made pursuant to paragraph 3 above to the Connected Sub-Contractors in connection with the improvement for which such payment is made and the Sears Canada Entities shall have no liability to the Connected Sub-Contractors in connection with any Determined Owned Property Claim after payment of the amounts paid pursuant to paragraph 3 are made.

5. THIS COURT ORDERS that the Monitor shall have no liability with respect to or as a result of performing its duties under this Order, including the payment of the amounts pursuant to paragraph 3 above except to the extent such liabilities result from the gross negligence or wilful misconduct of the Monitor as determined by this Court.

RELEASE OF CLAIMS

6. THIS COURT ORDERS that, upon payment of the Determined Owned Property Claims pursuant to paragraph 3 above, any Claims (as defined in the Claims Procedure Order), which

for greater certainty include D&O Claims (as defined in the Claims Procedure Order), and any claims against the Sears Canada Entities' current or former employees, in each case by the Secured Contractors and the Connected Sub-Contractors (in their capacities as Connected Sub-Contractors) arising in respect of the relevant Remaining Owned Properties listed at Schedule "A" hereto are hereby extinguished and the Secured Contractors and the Connected Sub-Contractors (in their capacities as Connected Sub-Contractors) are hereby barred, estopped and enjoined from asserting or enforcing any such claims.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

NOV 19 2018

PER / PAR:



SCHEDULE "A"

Secured Contractor	Remaining Owned Property - Store Name and Location	Amount to be Paid
152610 Canada Inc. cob Laurin & Company	Upper Canada Mall, Newmarket, ON	\$1,220,585.05
Abbarch Architecture Inc.	Upper Canada Mall, Newmarket, ON	\$83,767.80
Kone Inc.	Upper Canada Mall, Newmarket, ON	\$8,029.49
Kone Inc.	Devonshire Mall, Windsor, ON	\$11,251.57
Kone Inc.	637 Lansdowne Street, Peterborough, ON	\$11,226.93

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., et al.

Court File No: CV-17-11846-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER
(FIFTH CONSTRUCTION LIEN CLAIMS ORDER)**

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as Monitor