

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) MONDAY, THE 25TH  
 )  
JUSTICE MCEWEN ) DAY OF OCTOBER, 2021



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., 9845488 CANADA 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  
(CCAA TERMINATION ORDER)**

**THIS MOTION**, made by FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor (the "**Monitor**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), proceeded by way of videoconference due to the COVID-19 pandemic.

**ON READING** the Notice of Motion of the Monitor and the Forty-Seventh Report of the Monitor dated October 18, 2021 (the "**Forty-Seventh Report**"), filed, including the Affidavit of Steven Bissell, sworn October 15, 2021, and the Affidavit of Orestes Pasparakis, sworn October 15, 2021 (collectively, the "**Fee Affidavits**") and on hearing the submissions of counsel for the Monitor and such other counsel as were present, no one else appearing although duly served as evidenced by the Affidavit of Service of Katie Parent sworn October 18, 2021, filed;

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Forty-Seventh Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

## **STAY EXTENSION**

2. **THIS COURT ORDERS** that the Stay Period (as defined in the Amended and Restated Initial Order of this Court dated June 22, 2017 (the “**Amended and Restated Initial Order**”)) be and is hereby extended to and including the CCAA Termination Time (as defined below).

## **TERMINATION OF CCAA PROCEEDINGS**

3. **THIS COURT ORDERS** that upon the filing, on at least seven days prior notice to the Service List, of a certificate of the Monitor substantially in the form attached hereto as Schedule “A” (the “**CCAA Termination Certificate**”) certifying that the Remaining Matters (as defined in the Forty-Seventh Report) have been completed, the within CCAA proceedings shall be terminated without any other act or formality (the “**CCAA Termination Time**”).

4. **THIS COURT ORDERS** that each of the Charges (as defined in the Amended and Restated Initial Order) shall be and are hereby terminated, released and discharged at the CCAA Termination Time.

## **DISCHARGE OF MONITOR AND RECEIVER**

5. **THIS COURT ORDERS AND DECLARES** that effective at the CCAA Termination Time, FTI Consulting Canada Inc. shall be and is hereby discharged as Monitor, and as Receiver pursuant to the Amended and Restated Receivership Order granted in these proceedings on

October 16, 2018 (in such capacity, the “**Receiver**”) and shall have no further duties, obligations or responsibilities as Monitor or Receiver from and after the CCAA Termination Time.

6. **THIS COURT ORDERS** that effective as of the date of this Order, in addition to the protections in favour of the Monitor and the Receiver in any Order of this Court in these proceedings or under the CCAA or the *Bankruptcy and Insolvency Act (Canada)*, the Monitor, the Receiver, Norton Rose Fulbright Canada LLP, in its capacity as counsel to the Monitor and the Receiver, and each of their respective affiliates and officers, directors, partners, employees and agents (collectively, the “**Released Parties**”) are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the date of this Order in any way relating to, arising out of or in respect of the within proceedings, the appointment of the Receiver or the Monitor, or with respect to their respective conduct in the within proceedings (collectively, the “**Released Claims**”), and any such Released Claims are hereby released, stayed, extinguished and forever barred and the Released Parties shall have no liability in respect thereof, provided that the Released Claims shall not include any claim or liability arising out of any gross negligence or willful misconduct on the part of the Released Parties.

7. **THIS COURT ORDERS** that effective as of the CCAA Termination Time, in addition to the protections in favour of the Monitor and the Receiver in any Order of this Court in these proceedings or under the CCAA or the *Bankruptcy and Insolvency Act (Canada)*, the Released Parties are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place following

the date of this Order and up to and including the CCAA Termination Time in any way relating to, arising out of or in respect of the within proceedings, the appointment of the Receiver or the Monitor, or with respect to their respective conduct in the within proceedings (collectively, the “**Subsequent Released Claims**”), and any such Subsequent Released Claims are hereby released, stayed, extinguished and forever barred and the Released Parties shall have no liability in respect thereof, provided that the Subsequent Released Claims shall not include any claim or liability arising out of any gross negligence or willful misconduct on the part of the Released Parties.

8. **THIS COURT ORDERS** that in the event that any person objects to the release of the Subsequent Released Claims pursuant to paragraph 7 hereof, that person must send a written notice of objection and the grounds therefor to the Monitor at the address set out on the Service List such that the objection is received by the Monitor prior to the proposed CCAA Termination Time. If no objection is received by the Monitor prior to the proposed CCAA Termination Time, the release of Subsequent Released Claims pursuant to paragraph 7 hereof shall be automatically deemed effective upon the CCAA Termination Time up to and including the CCAA Termination Time, without further Order of the Court.

9. **THIS COURT ORDERS** that if an objection to the release of the Subsequent Released Claims pursuant to paragraph 7 hereof is received by the Monitor in accordance with paragraph 8 hereof, the release of the Subsequent Released Claims pursuant to paragraph 7 hereof shall only become effective if the objection is resolved or upon further Order of the Court. For greater certainty, no objection received in accordance with paragraph 8 hereof shall affect the release of the Released Claims pursuant to paragraph 6 hereof, which shall be effective as of the date of this Order.

10. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against any of the Released Parties in any way arising from or related to the within proceedings, the appointment of the Receiver or the Monitor, or with respect to their respective conduct in the within proceedings except with prior leave of this Court on at least seven days' prior written notice to the applicable Released Party, and provided that any such Order granting leave includes a term granting the applicable Released Party security for its costs and the costs of its counsel in connection with any proposed action or proceeding, such security to be on terms this Court deems just and appropriate.

11. **THIS COURT ORDERS** that, notwithstanding any provision of this Order and the termination of the within proceedings, nothing herein shall affect, vary, derogate from, limit or amend, and the Monitor and the Receiver shall continue to have the benefit of, any of the protections in favour of the Monitor or the Receiver at law or pursuant to the CCAA, the *Bankruptcy and Insolvency Act* (Canada), or any Order of this Court in the within proceedings or otherwise.

15. **THIS COURT ORDERS** that the Forty-Seventh Report of the Monitor and the Prior Reports (as defined in the Forty-Seventh Report), and the actions, conduct and activities of the Monitor and the Receiver described therein are hereby approved; provided, however, that only the Monitor and the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

#### **APPROVAL OF FEES**

12. **THIS COURT ORDERS** that (i) the fees and disbursements of the Monitor for the period from June 1, 2021 to and including September 30, 2021 totalling \$454,871.20 (including applicable taxes); and (ii) the fees and disbursements of Norton Rose Fulbright Canada LLP, in

its capacity as legal counsel to the Monitor for the period June 1, 2021 to and including September 30, 2021 totalling \$123,271.75 (including applicable taxes), be and are hereby approved and the Monitor and its counsel shall no longer be required to pass their accounts pursuant to the CCAA and the Amended and Restated Initial Order granted in these proceedings.

## **GENERAL**

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicants, the Monitor and the Receiver and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants, the Monitor and the Receiver, and their respective agents as may be necessary or desirable to give effect to this Order or to assist the Applicants, the Monitor and the Receiver, and their respective agents, in carrying out the terms of this Order.

14. **THIS COURT ORDERS** that each of the Applicants, the Monitor and the Receiver be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside of Canada, including acting as the foreign representative of the Applicants to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, and to act as foreign representative in respect of any such proceedings and any ancillary relief in respect thereto, and to take such other steps as may be authorized by the Court.

A handwritten signature in cursive script, appearing to read 'McE T.', is positioned above a horizontal line.

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**Schedule "A"**

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

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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., 9845488 CANADA 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

**CCAA TERMINATION CERTIFICATE**

**WHEREAS** on October 25, 2021, the Honourable Justice McEwen made an order (the "**CCAA Termination Order**") authorizing the discharge of FTI Consulting Canada Inc. in its capacity as monitor (the "**Monitor**") and receiver (the "**Receiver**") in the *Companies' Creditors Arrangement Act* proceedings of Sears Canada Inc., among others, (the "**CCAA Proceedings**") and terminating the CCAA Proceedings effective upon the filing with this Court of a certificate in which the Monitor certifies that all Remaining Matters (as defined in the Forty-Seventh Report of the Monitor dated October 18, 2021) have been completed.

**THE MONITOR HEREBY CERTIFIES** that all Remaining Matters are now completed and the CCAA Proceedings are terminated pursuant to the CCAA Termination Order.



**DATED** at the City of Toronto, in the Province of Ontario, this ● day of ●, 2021.

**FTI CONSULTING CANADA INC.**, in its capacity as court-appointed Monitor of Sears Canada Inc., among others, and not in its personal or corporate capacity and without personal or corporate liability

Per: \_\_\_\_\_

Name: Steven Bissell

Title: Managing Director

25 Oct 21

The order shall go as per the draft filed and signed.  
it is unopposed. I have reviewed it with counsel. The relief sought is fair and  
reasonable, and in particular the relief regarding releases, fees and termination  
provisions.



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Proceeding commenced at Toronto

**ORDER  
(CCAA Termination Order)**

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Lawyers for FTI Consulting Canada Inc., in its capacity  
as Monitor