

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE MR.

)

MONDAY, THE 19<sup>TH</sup>

)

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  
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.

APPLICANTS

**TERMINATION FEE ORDER**  
**(Newmarket Full Line)**

THIS MOTION, made by FTI Consulting Canada Inc., in its capacity as court-appointed Monitor of Sears Canada Inc., among others, (the "**Monitor**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Monitor and the Sixth Supplement to the Nineteenth Report of FTI Consulting Canada Inc., in its capacity as Monitor, filed, and on hearing the submissions of respective counsel for the Applicants, the Monitor and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of Catherine Ma sworn November 15, 2018, filed:

## **SERVICE AND DEFINITIONS**

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

2. THIS COURT ORDERS that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated June 22, 2017 (the "**Initial Order**"), or in the Sixth Supplement to the Nineteenth Report of the Monitor, as applicable.

## **APPROVAL OF THE LIBERTY TERMINATION FEE**

3. THIS COURT ORDERS that the Monitor is authorized to distribute the Liberty Termination Fee to 1979353 Ontario Inc. from the funds held by the Monitor on behalf of Sears Canada Inc. at the time set out in, and in accordance with the terms of, the Liberty APA.

## **SEALING**

4. THIS COURT ORDERS that Confidential Appendices "B", "D" and "E" to the Sixth Supplement to the Nineteenth Report of the Monitor shall be and is hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

## **GENERAL PROVISIONS**

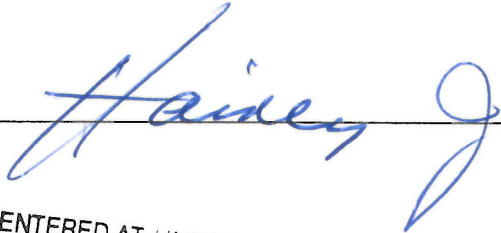
5. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Applicants and any bankruptcy order issued pursuant to any such applications; or
- (c) any assignment in bankruptcy made in respect of any of the Applicants;

the payment of the Liberty Termination Fee pursuant to this Order shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of any of the Applicants and shall not be void or voidable by creditors of any of the Applicants, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent

conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. THIS COURT ORDERS that this Order shall have full force and effect in all provinces and territories in Canada.

  
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LE / DANS LE REGISTRE NO:

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PER / PAR:



AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA INC., *et al.*

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

Proceeding commenced at Toronto

**TERMINATION FEE ORDER  
(Newmarket Full Line)**

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