

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

**SEARS CANADA INC.,
AND RELATED APPLICANTS**

**THIRD SUPPLEMENT TO THE NINETEENTH REPORT OF FTI CONSULTING
CANADA INC., AS MONITOR**

June 29, 2018

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

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

**THIRD SUPPLEMENT TO THE NINETEENTH REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS MONITOR**

A. INTRODUCTION

1. On June 1, 2018, the Monitor filed the Nineteenth Report to the Court (the “**Nineteenth Report**”) in these CCAA Proceedings. The Nineteenth Report included an update on the steps taken by the Applicants and their advisors, in consultation with the Monitor, in connection with the marketing of the Remaining Real Estate Assets.
2. Capitalized terms used herein and not otherwise defined in this Third Supplement to the Nineteenth Report (the “**Third Supplement**”) have the meanings given to them in the Nineteenth Report.

3. The purpose of this Third Supplement is to provide the Court with updated information and the Monitor's comments and recommendations regarding the Sears Canada Group's motion for approval of a sale transaction for the former Sears Canada store located at the site municipally known as 500 Wilfred Hamel Boulevard, Quebec City, Quebec (the "**FDL Property**").
4. This Third Supplement should be read in conjunction with the Nineteenth Report. A copy of the Nineteenth Report is attached hereto as Appendix "A".

B. FLEUR DE LYS PROPERTY

5. The FDL Property is located adjacent to the Fleur De Lys commercial centre in Quebec City, Quebec, owned by Place Fleur De Lys GP Inc. (the "**Purchaser**") or one of its affiliates.
6. Pursuant to an Amendment of Servitude between Sears Canada and Place Fleur De Lys (as assigned to the Purchaser) dated May 25, 2004, the Purchaser holds a right of first refusal to purchase the FDL Property (the "**FDL ROFR**") that applies to a bona fide offer received by Sears Canada from any person to purchase part or all of the FDL Property. The right of first refusal is exercisable for a period of 20 days following receipt by the Purchaser of written notice of such a bona fide third party offer.
7. An Operating Agreement that was previously entered into by Sears Canada in connection with the FDL Property has terminated. Therefore, unlike many of Sears Canada's other owned real property assets, there is no longer any Operating Agreement in effect with the adjacent property owner at the FDL Property.

C. INITIAL APS FOR THE FLEUR DE LYS PROPERTY

8. On March 7, 2018, as requested in the Updated Sale Process Letter, offers were received for the FDL Property, including from Groupe Mach Inc. ("**Groupe Mach**"). Groupe Mach had previously submitted a bid for the FDL Property on August 31, 2017 in connection with the initial bid deadline under the SISP.

9. A summary of offers received for the FDL Property at the initial August 31, 2017 bid deadline under the SISP and the subsequent March 7, 2018 bid deadline is attached hereto as Confidential Appendix “B”.
10. Following a period of negotiation with Groupe Mach through which various terms of the Groupe Mach offer were refined, Sears Canada determined, in consultation with the Sale Advisor, the Monitor and the Owned Real Estate Consultation Parties, that the transaction proposed by Groupe Mach was in the best interests of the Applicants and their stakeholders. The transaction was approved by the board of directors of Sears Canada.
11. The Monitor notes that the Owned Real Estate Consultation Parties were consulted throughout the process.
12. The terms of the bid by Groupe Mach for this property were contained in an Agreement of Purchase and Sale dated with effect as of May 29, 2018 between Groupe Mach and Sears Canada (the “**Initial FDL APS**”). An unredacted copy of the Initial FDL APS is attached hereto as Confidential Appendix “C”.
13. The Service List was notified of the Initial FDL APS on June 4, 2018 when a motion record was served by Sears Canada seeking approval of the Initial FDL APS on a date to be determined pending the outcome of the FDL ROFR process described below.

D. FDL ROFR

14. In accordance with the FDL ROFR, Sears Canada delivered written notice of the Initial FDL APS to counsel for the Purchaser on May 30, 2018 (the “**FDL ROFR Notice**”). The FDL ROFR Notice included a cover letter, a copy of the Initial FDL APS, a form of agreement of purchase and sale for the Purchaser to execute should it wish to exercise the FDL ROFR substantially in the form of the Initial FDL APS with necessary modifications, and a blackline comparing that proposed form of agreement of purchase and sale to the Initial FDL APS. An unredacted copy of the FDL ROFR Notice is attached hereto as Confidential Appendix “D”.

15. The delivery of the FDL ROFR Notice was consistent with the terms of the Initial FDL APS, which provided that:
 - (a) closing of the Initial FDL APS was conditional upon the expiry or waiver of the FDL ROFR by the Purchaser; and
 - (b) a Termination Payment (as defined in the Initial FDL APS) would be payable if, among other things, the Initial FDL APS is terminated as a result of the Purchaser exercising the FDL ROFR.

16. On June 19, 2018, the Purchaser confirmed that it elected to exercise the FDL ROFR, thereby agreeing to acquire the Fleur De Lys Property on the same terms and conditions as the Initial FDL APS (other than those relating to the ROFR and the Termination Payment), which terms are contained in an Agreement of Purchase and Sale made with effect as of June 19, 2018 between the Purchaser and Sears Canada (the “**Final FDL APS**”). An unredacted copy of the Final FDL APS is attached hereto as Confidential Appendix “E”.

E. FINAL FDL APS

17. The terms of the Final FDL APS are substantially similar to Sears Canada’s template transaction agreement described in the Nineteenth Report. Modifications to the template transaction terms include:
 - (a) No contracts will be assigned or assumed as part of this transaction;
 - (b) The outside date for completion of the transaction is July 24, 2018;
 - (c) From and after execution of the Final FDL APS, Sears Canada agreed it would not enter into any new Permitted Encumbrances (as defined in the Final FDL APS) without the Purchaser’s consent;
 - (d) Closing of the transaction is conditional upon the Approval and Vesting Order for the transaction not being subject to any appeal or motion for leave to appeal that

has not been fully disposed of with no further right of appeal or leave to appeal;
and

- (e) The Final FDL APS may be assigned by the Purchaser upon five business days written notice and before the Approval and Vesting Order is issued to an affiliate, provided that the Purchaser shall not be relieved of its obligations under the Final FDL APS until the occurrence of closing of the Final FDL APS with such assignee affiliate.¹

F. TERMINATION PAYMENT

- 18. Pursuant to Section 6.6 of the Initial FDL APS, if the Initial FDL APS is terminated as a result of the Purchaser exercising the FDL ROFR, Sears Canada has covenanted and agreed to pay to Groupe Mach the Termination Payment in consideration of the lost opportunity to Groupe Mach.
- 19. Funds in the amount of the Termination Payment have been placed into trust with the Monitor pursuant to the Initial FDL APS (the “**Termination Deposit**”).
- 20. On June 22, 2018, notice was provided by counsel for Sears Canada to Groupe Mach that the Initial FDL APS was terminated as a result of the exercise of the FDL ROFR by the Purchaser. As a result, Sears Canada is now obligated, subject to court approval, to pay the Termination Payment. A copy of email correspondence from counsel to Sears Canada to Groupe Mach confirming termination of the Initial FDL APS is attached hereto as Appendix “F”. This email correspondence has been redacted to remove ancillary correspondence that is not material to Sears Canada’s motion.
- 21. The Monitor has not yet publicly disclosed information regarding the quantum of the Termination Payment. In connection with Sears Canada’s motion for approval of the sale of Sears Canada’s former Home Store property in Newmarket, Ontario, the Court directed that any future termination payments would be dealt with on a case by case basis as to whether the actual amount of the termination fee should be disclosed. The Monitor

¹ The Monitor understands the Purchaser intends to assign the Final FDL APS to an affiliate in accordance with this provision.

will provide any information regarding the Termination Payment as directed by the Court in connection with this transaction. The Monitor is not aware of any objection to the payment of the Termination Payment.

G. MOTION FOR APPROVAL OF THE SALE AND THE TERMINATION PAYMENT

22. Sears Canada now seeks approval for:

- (a) its entry into and completion of the transactions under the Final FDL APS;
- (b) the payment of the Termination Payment described above to Groupe Mach; and
- (c) the sealing of Confidential Appendices “B”, “C”, “D”, “E”, and “G” to this Third Supplement.

Sale of the FDL Property

23. Section 36(1) of the CCAA states:

36(1) Restriction on disposition of business assets - A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

24. Section 36(3) of the CCAA states:

(3) Factors to be considered - In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the monitor approved the process leading to the proposed sale or disposition;

(c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

- (d) the extent to which the creditors were consulted;
- (e) the effects of the proposed sale or disposition on the creditors and other interested parties; and
- (f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

25. The SISP was approved by the Court on July 13, 2017. The Monitor notes that the SISP was the subject of significant media attention, thereby further increasing the notice to all bona fide interested parties about the ongoing SISP.
26. The FDL Property has been marketed extensively for a period of approximately 11 months.
27. The Monitor participated in all stages of the marketing process and is satisfied that the marketing process was carried out in accordance with all orders of the Court, that the opportunity to acquire the asset offered was widely known and that the process that resulted in the Final FDL APS was fair and reasonable. In the Monitor's view, the Applicants' marketing efforts were appropriate in the circumstances.
28. The Monitor approved the process set out in the SISP and the extended marketing process in early 2018 that led to the transaction for the FDL Property.
29. The Sears Canada Group have consulted extensively with the Owned Real Estate Consultation Parties during the process to market the FDL Property. The Owned Real Estate Consultation Parties were informed of material developments in that marketing process. This consultation included in-person meetings and conference calls regarding the status of the sale process and access to bids received and counter-proposals delivered by Sears Canada through Sears Canada's electronic data room.
30. The Monitor has not been advised of any objection to the transaction by the Owned Real Estate Consultation Parties.
31. The proposed transaction maximizes value from all options available at this time for the FDL Property and eliminates ongoing carrying costs of this property, estimated at approximately \$76,000 per month.

32. The proposed transaction represents the highest and best executable offer obtained for the FDL Property.
33. The Monitor understands an appraisal of the FDL Property was obtained in May 2017, when the property was still operating as a going concern Sears store. A copy of that appraisal is attached as Confidential Appendix “G”.

FDL Termination Payment

34. As noted above, pursuant to the Initial FDL APS, the Termination Payment is now due and payable to Groupe Mach, subject to court approval. The Monitor supports Sears Canada’s request for approval to pay the Termination Payment to Groupe Mach for the following reasons:
 - (a) The Initial FDL APS was a bona fide arm’s length proposed transaction with a purchaser who (i) advanced a substantial deposit; and (ii) agreed to a binding obligation to complete the acquisition of the FDL Property unless the FDL ROFR was exercised.
 - (b) Groupe Mach required the Termination Payment as a term of the Initial FDL APS. Groupe Mach was aware that the Initial FDL APS would be shared with the Purchaser pursuant to the FDL ROFR and the Purchaser would have an opportunity to match the offer provided in the Initial FDL APS. There was a material risk that Groupe Mach, having entered into an agreement to acquire the FDL Property, would lose the right to complete the transaction it had negotiated.
 - (c) The quantum of the Termination Payment, relative to the size of the overall purchase price for the FDL Property under the Initial FDL APS, is within a reasonable range having regard to (i) termination payments previously approved in this proceeding; and (ii) the values of the bids received for the FDL Property.

- (d) After accounting for the payment of the Termination Payment, the recoveries provided by the Final FDL APS still represent the highest or otherwise best recoveries available for this property.
- (e) Due to the existence of the FDL ROFR, the Termination Payment was an important incentive for a party other than the holder of the FDL ROFR to have invested the time and effort to arrive at a binding agreement of purchase and sale for the FDL Property.
- (f) The Initial FDL APS served a useful purpose in setting a benchmark price that maximized the value that was received for this asset.
- (g) The Monitor notes that in the context of this transaction there is no risk of the Termination Payment ‘chilling’ the market. Unlike a stalking horse bid or auction scenario, the Termination Payment in this case does not represent an amount by which the FDL ROFR holder’s proposed purchase price must exceed the price under the Initial FDL APS.
- (h) The Monitor is not aware of any objection to the Termination Payment from stakeholders.

Sealing of Confidential Appendices

- 35. Confidential Appendices “B”, “C”, “D”, “E”, and “G” to this Third Supplement contain commercially sensitive information, including information on the bids received for the FDL Property, the purchase price for the FDL Property and the appraisal regarding the FDL Property. The public disclosure of this information would be harmful to the integrity of the process to sell the FDL Property, including if the FDL Property needed to be subject to a further marketing process.

H. MONITOR’S RECOMMENDATION

- 36. Based upon the considerations set out above, the Monitor supports the Applicants’ motion for approval of the sale of the FDL Property as contemplated in the Final FDL APS.

37. The Monitor supports the sealing of Confidential Appendices “B”, “C”, “D”, “E”, and “G” to this Third Supplement.
38. The Monitor also supports the payment of the Termination Payment to Groupe Mach.

The Monitor respectfully submits to the Court this, its Third Supplement to the Nineteenth Report.

Dated this 29th day of June, 2018.

FTI Consulting Canada Inc.
in its capacity as Monitor of
the Sears Canada Entities

A handwritten signature in black ink that reads "Paul Bishop". The signature is written in a cursive style with a large initial "P".

Paul Bishop
Senior Managing Director

A handwritten signature in blue ink that reads "Greg Watson". The signature is written in a cursive style with a large initial "G".

Greg Watson
Senior Managing Director

Appendix "A"
Nineteenth Report

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

**SEARS CANADA INC.,
AND RELATED APPLICANTS**

NINETEENTH REPORT OF FTI CONSULTING CANADA INC., AS MONITOR

June 1, 2018

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APPLICANTS

**NINETEENTH REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS MONITOR**

A. INTRODUCTION

1. On June 22, 2017, Sears Canada Inc. (“**Sears Canada**”) and a number of its operating subsidiaries (collectively with Sears Canada, the “**Sears Canada Group**” or the “**Applicants**”) sought and obtained an initial order (as amended and restated on July 13, 2017, the “**Initial Order**”), under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). The relief granted pursuant to the Initial Order was also extended to SearsConnect, a partnership forming part of the operations of the Sears Canada Group. The proceedings commenced under the CCAA by the Sears Canada Group are referred to herein as the “**CCAA Proceedings**”.
2. The Initial Order, among other things:

- (a) appointed FTI Consulting Canada Inc. as monitor of the Sears Canada Group (the “**Monitor**”) in the CCAA Proceedings;
 - (b) granted an initial stay of proceedings against the Sears Canada Group until July 22, 2017; and
 - (c) scheduled a comeback motion for July 13, 2017 (the “**Comeback Motion**”).
3. Following the Comeback Motion, the Court extended the stay of proceedings to October 4, 2017. In addition, the following orders were issued:
- (a) the amended and restated Initial Order;
 - (b) an order setting out the terms of the appointment of Ursel Phillips Fellows Hopkinson LLP as representative counsel for the non-unionized active and former employees of the Sears Canada Group (“**Employee Representative Counsel**”);
 - (c) an order setting out the terms of the appointment of Koskie Minsky LLP as representative counsel to the non-unionized retirees and non-unionized active and former employees of the Sears Canada Group with respect to pension and post-employment benefit matters (“**Pension and Retiree Representative Counsel**”); and
 - (d) an order approving a sale and investor solicitation process (the “**SISP**”) to solicit interest in potential transactions, including investment and liquidation proposals, involving the business, property, assets and/or leases of the Applicants (the “**SISP Approval Order**”).
4. On July 18, 2017, the Court issued a Liquidation Sale Approval Order, which approved (i) a process for the liquidation of inventory, furniture, fixtures and equipment (“**FF&E**”) at locations scheduled for closure (the “**Liquidation Process**”); and (ii) in connection with that Liquidation Process, an Amended and Restated Agency Agreement and a Consulting Agreement between Sears Canada and the agent and consultant described therein. The Liquidation Process is now completed.

5. On October 13, 2017, the Court issued, among other orders, an order (a) approving an agreement and a process (the “**Second Liquidation Process**”) for the liquidation of the inventory and FF&E at all remaining Sears Canada retail locations, which liquidation commenced shortly thereafter and is now completed.
6. On December 8, 2017, the Court issued an Order (the “**Claims Procedure Order**”) approving a claims process for the identification, determination and adjudication of claims of creditors against the Sears Canada Group and their Officers and Directors.
7. On February 22, 2018, the Court issued an Employee and Retiree Claims Procedure Order (the “**E&R Claims Procedure Order**”) approving a process for the identification, determination and adjudication of claims of employees and retirees of the Sears Canada Entities.
8. The liquidation of assets at Sears Canada’s retail locations is now completed, all retail locations are closed, and leases in respect of such locations have been disclaimed or otherwise dealt with in the CCAA Proceedings. The primary assets of the Sears Canada Group that remain to be realized upon are the Remaining Real Estate Assets (as defined and discussed later in this Report).
9. Since the date of the Comeback Motion, the stay period has been extended a number of times and currently expires on July 31, 2018. A Court-ordered mediation described in greater detail in the Monitor’s Eighteenth Report has been scheduled for June 13-14, 2018.
10. In connection with the CCAA Proceedings, the Monitor has provided eighteen reports and eight supplemental reports (collectively, the “**Prior Reports**”), and prior to its appointment as Monitor, FTI also provided to this Court a pre-filing report of the proposed Monitor dated June 22, 2017 (the “**Pre-Filing Report**”). The Pre-Filing Report, the Prior Reports and other Court-filed documents and notices in these CCAA Proceedings are available on the Monitor’s website at cfcanada.fticonsulting.com/searscanada/ (the “**Monitor's Website**”).

B. PURPOSE

11. The purpose of this nineteenth report of the Monitor (the “**Nineteenth Report**”) is to provide the Court with updated information, and where appropriate the Monitor’s comments and recommendations, regarding the following:
 - (a) the steps being taken by the Sears Canada Group to market its Remaining Real Estate Assets; and
 - (b) the Sears Canada Group’s motion for approval of a sale transaction for the former Sears Canada store located at the shopping centre commonly referred to as Place Vertu in St. Laurent, Quebec (the “**Place Vertu Property**”).

C. TERMS OF REFERENCE

12. In preparing this Nineteenth Report, the Monitor has relied upon audited and unaudited financial information of the Sears Canada Group, the Sears Canada Group’s books and records, certain financial information and forecasts prepared by the Sears Canada Group, and discussions with various parties, including senior management (“**Management**”) of, and advisors to, Sears Canada (collectively, the “**Information**”).
13. Except as otherwise described in this Nineteenth Report:
 - (a) the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants of Canada Handbook*; and
 - (b) the Monitor has not examined or reviewed the financial forecasts or projections referred to in this Nineteenth Report in a manner that would comply with the procedures described in the *Chartered Professional Accountants of Canada Handbook*.
14. Future-oriented financial information reported in or relied on in preparing this Nineteenth Report is based on Management’s assumptions regarding future events. Actual results will vary from these forecasts and such variations may be material.

15. The Monitor has prepared this Nineteenth Report in connection with the hearing on June 5, 2018. The Monitor also anticipates that this Report will be relied upon at future hearings seeking approval of further transactions for the Remaining Real Estate Assets.
16. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.
17. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the following documents filed as part of the CCAA Proceedings: (i) the affidavits of Mr. Billy Wong, the Chief Financial Officer of Sears Canada; (ii) the affidavit of Ms. Becky Penrice, Executive Vice-President and Chief Operating Officer of Sears Canada; (iii) the affidavits of Mr. Philip Mohtadi, General Counsel and Corporate Secretary of Sears Canada; (iv) the Affidavit of Mark Caiger, sworn May 29, 2018 (the “**Caiger Affidavit**”) and (v) the Prior Reports.

D. UPDATES ON REAL PROPERTY MARKETING PROCESS

18. Shortly following the approval of the SISP on July 13, 2017, Sears Canada, with the assistance of BMO Nesbitt Burns Inc. as financial advisor to the Sears Canada Group (“**BMO**” or the “**Sale Advisor**”), sought offers for, among other things, the purchase of Sears Canada’s owned real property.
19. As required by the SISP Approval Order, the Monitor and the Special Committee (as defined in the SISP Approval Order) supervised the implementation of the SISP by the Sears Canada Group and its advisors.
20. In particular, the Monitor:
 - (a) ensured that appropriate protections were put in place to preserve the integrity and fairness of the SISP;
 - (b) was consulted on documentation used to implement the SISP;

- (c) participated in extensive meetings, negotiations and discussions with SISP participants interested in all or part of the business and assets of the Sears Canada Group;
 - (d) reviewed and provided feedback to the Sale Advisor, the Sears Canada Group and the Special Committee regarding the bids and expressions of interest received through the SISP; and
 - (e) worked with the Sears Canada Group to provide disclosure of information regarding the progress and results of the SISP to various stakeholder groups in accordance with their access to information rights under the SISP and the term sheet regarding the suspension of special payments under the Sears Canada Pension Plan, certain payments in connection with supplemental pension plans and certain payments under post-retirement benefit plans.
21. The SISP solicited interest in a broad range of transactions to refinance, restructure, sell or reorganize the business and assets, including owned real estate assets, of the Sears Canada Group.
 22. The implementation of the SISP, including steps taken to solicit interest from potential bidders, are described in greater detail in the Caiger Affidavit and the Exhibits thereto.
 23. Expressions of interest were received for Sears Canada's owned real property by the August 31, 2017 bid deadline under the SISP.
 24. Subsequent to the bid deadline, transactions for the sale of the Winnipeg Garden City and the Upper Canada Home Store locations were approved by the Court and completed.
 25. In light of the expressions of interest that were received by the August 31st bid deadline for Sears Canada's remaining real estate assets, Sears Canada, in consultation with BMO, and the Monitor, as well as Pension Representative Counsel, Employee Representative Counsel, the Ontario Superintendent of Financial Services (the "**Superintendent**") and Morneau Shepell Limited, as administrator of the Sears Canada Pension Plan (the "**Plan Administrator**"), and their respective financial and/or real estate advisors, (collectively,

the “**Owned Real Estate Consultation Parties**”¹ determined that additional time should be provided for the completion of further due diligence, including making available further environmental studies and related materials to potential purchasers.

26. Sears Canada currently continues to own the following real estate assets:

- (a) Upper Canada Mall full-line store (Newmarket, ON);
 - (b) Distribution centre (Belleville, ON);
 - (c) Fleur de Lys full-line store (Quebec City, QC);
 - (d) Windsor full-line store (Windsor, ON);
 - (e) Peterborough full-line store (Peterborough, ON);
 - (f) Barrie full-line store (Barrie, ON);
 - (g) Trois-Rivières full-line store (Trois-Rivières, QC);
 - (h) Place Vertu liquidation store (Montréal, QC);
 - (i) Lévis full-line store (Lévis, QC);
 - (j) Charlottetown store (Charlottetown, PEI);
 - (k) Chicoutimi residual land (Chicoutimi, QC);
 - (l) Edmonton residual land (Edmonton, AB); and
 - (m) Sainte-Agathe-des-Monts residual land (Sainte-Agathe-des-Monts, QC),
- (collectively, the “**Remaining Real Estate Assets**”).

¹ The above noted parties were identified as appropriate consultation parties by Sears Canada and the Monitor as they represent a significant portion of the unsecured creditor class and do not have conflicting interests as they would have no interest in acquiring any of the Remaining Real Estate Assets for their own benefit. All of these consultation parties have entered into non-disclosure agreements with Sears Canada.

27. As of February 7, 2018, the additional due diligence information referenced above had been obtained and Sears Canada, in consultation with BMO, the Monitor and the Owned Real Estate Consultation Parties, determined that the sale process for the Remaining Real Estate Assets should continue.
28. On February 7, 2018, BMO delivered an updated sale process letter (the “**Updated Sale Process Letter**”) to those parties who had previously expressed an interest in the Remaining Real Estate Assets under the SISP and parties who had contacted BMO expressing interest subsequent to the original bid deadline. BMO also delivered the Updated Sale Process Letter to other potentially interested parties identified by the real estate advisor to the Superintendent.
29. As noted in the Caiger Affidavit, the Sale Advisor contacted or was contacted by approximately 100 potentially interested parties regarding their interest in Sears Canada’s owned real estate assets. These parties included landlords, institutional real estate investors and parties identified by the real estate advisor to the Superintendent.
30. The Updated Sale Process Letter solicited bids for all of the Remaining Real Estate Assets other than the assets located in Charlottetown, Edmonton, Chicoutimi and Sainte-Agathe-des-Monts (which properties are being marketed by CBRE Limited). The Updated Sale Process Letter provided for a bid deadline of March 7, 2018 at 5:00 p.m. (Eastern).
31. A template transaction document was prepared for the Remaining Real Estate Assets containing the following material provisions:
 - (a) A deposit of 10% of the cash purchase consideration must be submitted by the acquirer to be held in escrow by the Monitor.
 - (b) The purchase consideration would be subject to customary adjustments.
 - (c) Any taxes associated with the closing of these transactions would be paid by the acquirer.

- (d) The acquirer would acquire Sears Canada's interest in any outstanding realty tax appeals and would be entitled to assume and retain carriage of such appeals.
 - (e) Transactions would be completed on an 'as is, where is' basis without representations and warranties other than minimal warranties expressly stated in the transaction documents that are customary for transactions of this type in an insolvency context.
 - (f) Sears Canada would have no obligations to repair or otherwise remediate the applicable property. The acquirer would be responsible for the condition of the property on closing.
 - (g) Closing would be conditional upon court approval.
32. On March 7, 2018, BMO and the Monitor received a number of competing offers to purchase the Remaining Real Estate Assets that were the subject of the Updated Sale Process Letter. Subsequently, the Sears Canada Group, in consultation with the Sale Advisor, the Monitor and the Owned Real Estate Consultation Parties, have reviewed bids received and engaged in extensive discussions with bidders to seek to improve and finalize value maximizing executable transactions. This process is ongoing.
33. The Monitor intends to serve and file supplements to this Nineteenth Report to the Court as transactions for the Remaining Real Estate Assets are finalized and brought for approval by the Court.

E. THE PLACE VERTU PROPERTY

34. The Place Vertu Property is located adjacent to a mall in St. Laurent, Quebec, owned by Place Vertu Nominee Inc. / Fiduciare Place Vertu Inc. (the "**Mall Owner**").
35. Pursuant to an Operating Agreement dated as of June 1, 1975, as amended from time to time (the "**Vertu Operating Agreement**"), the Mall Owner holds a right of first refusal on the Place Vertu Property, providing the Mall Owner with the right to receive notice of any bona fide offers to purchase the Place Vertu Property, following which the Mall

Owner has 15 days to elect whether or not to purchase the Place Vertu Property on those same terms (the “**Vertu ROFR**”).

36. The Vertu Operating Agreement contains certain restrictions on the use of the Place Vertu Property for purposes other than a Sears branded department store. The existence of the Vertu Operating Agreement and the restrictions contained therein as well as the Vertu ROFR would be relevant factors for potential purchasers considering the acquisition of this property.
37. On or about the March 7th bid deadline, Sears Canada received offers for the Place Vertu Property, including an offer from LaSalle Acquisitions Corp. (the “**Place Vertu Purchaser**”), an affiliate of the Mall Owner. A summary of offers received for the Place Vertu Property at the initial August 31, 2017 bid deadline under the SISP and the subsequent March 7, 2018 bid deadline is attached hereto as Confidential Appendix “A”. The Monitor notes that the Place Vertu Purchaser did submit an offer by the initial August 31, 2017 deadline under the SISP.
38. Negotiations ensued with interested parties including the Place Vertu Purchaser in respect of the financial and legal aspects of the offers, draft documents were exchanged by the parties and follow up discussions were held as necessary.
39. Following those discussions and exchanges, Sears Canada determined, in consultation with the Sale Advisor, the Monitor and the Owned Real Estate Consultation Parties, that the transaction proposed by the Place Vertu Purchaser was in the best interests of the Applicants and their stakeholders, and was formally approved by the board of directors of Sears Canada.
40. The Monitor notes that the Owned Real Estate Consultation Parties were consulted throughout the process.
41. The terms of the successful bid by the Place Vertu Purchaser for this property are contained in an Agreement of Purchase and Sale dated May 17, 2018 between the Place Vertu Purchaser and Sears Canada (the “**Place Vertu APS**”). An unredacted copy of the Place Vertu APS is attached hereto as Confidential Appendix “B”.

42. The terms of the Place Vertu APS are substantially similar to the template transaction document described above. Modifications to the template transaction terms include:
- (a) It is a condition of closing that the Approval and Vesting Order granted in connection with the transaction is not stayed, amended, modified, reversed, dismissed or appealed and that all applicable appeal periods have expired.
 - (b) The outside date for completion of the transaction is July 24, 2018.
 - (c) It is a condition of closing that the Vertu ROFR has expired or has been waived. The Monitor notes that the Mall Owner has provided a signed waiver of the Vertu ROFR in connection with this transaction or in connection with any other transaction to the extent the Place Vertu APS does not close solely as a result of a default by the Place Vertu Purchaser under the Place Vertu APS.
 - (d) The Place Vertu Purchaser must deliver an assumption agreement in favour of Sears Canada and the Mall Owner in accordance with the terms of, among other things, the Vertu Operating Agreement in form and substance acceptable to Sears Canada and providing for the Place Vertu Purchaser's assumption of any amounts owing under, among other things, the Vertu Operating Agreement, other than amounts claimed by the Mall Owner under proofs of claim filed by the Mall Owner pursuant to the Claims Procedure Order in the CCAA Proceedings.
 - (e) The Place Vertu Purchaser must deliver a release in favour of Sears Canada from the Mall Owner of all of Sears Canada's obligations under the Vertu Operating Agreement, other than liabilities, if any, set out in proofs of claim filed by the Mall Owner pursuant to the Claims Procedure Order in the CCAA Proceedings.
 - (f) The Place Vertu Purchaser may assign the Place Vertu APS to a corporation, fund or limited partnership (i) owned by investors of LaSalle Investment Management; and (ii) managed by LaSalle Investment Management, the Place Vertu Purchaser or affiliates thereof; provided that any such assignment may include 10338788 Canada Inc. or an affiliate of such entity as to an approximately 10% interest. In

the case of such assignment, the Place Vertu Purchaser is not relieved of its obligations under the Place Vertu APS until closing.

F. SALE APPROVAL MOTION

43. Sears Canada now seeks approval for:

- (a) its entry into and completion of the transactions under the Place Vertu APS; and
- (b) the sealing of Confidential Appendices “A”, “B” and “C” to this Nineteenth Report.

44. Section 36(1) of the CCAA states:

36(1) Restriction on disposition of business assets - A debtor company in respect of which an order has been made under this Act may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

45. Section 36(3) of the CCAA states:

(3) Factors to be considered - In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the monitor approved the process leading to the proposed sale or disposition;

(c) whether the monitor filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

46. The SISP was approved by the Court on July 13, 2017. The Monitor notes that the SISP was the subject of significant media attention, thereby further increasing the notice to all *bona fide* interested parties about the ongoing SISP.
47. The Place Vertu Property has been marketed extensively for a period of approximately 10 months.
48. The Monitor participated in all stages of the marketing process and is satisfied that the marketing process was carried out in accordance with all orders of the Court, that the opportunity to acquire the asset offered was widely known and that the process that resulted in the Place Vertu APS was fair and reasonable. In the Monitor's view, the Applicants' marketing efforts were appropriate in the circumstances.
49. The Monitor approved the process set out in the SISP and the extended marketing process in early 2018 that led to the transaction for the Place Vertu Property.
50. The Sears Canada Group have consulted extensively with the Owned Real Estate Consultation Parties during the process to market the Place Vertu Property. The Owned Real Estate Consultation Parties were informed of material developments in that marketing process. This consultation included in-person meetings and conference calls regarding the status of the sale process and access to bids received and counter-proposals delivered by Sears Canada through Sears Canada's electronic data room.
51. The Monitor has not been advised of any objection to the transaction by the Owned Real Estate Consultation Parties. On May 19, 2018, BMO advised the Owned Real Estate Consultation Parties, through their financial advisors, of the terms of the Place Vertu APS and sought confirmation of the positions of the Owned Real Estate Consultation Parties on the transaction. The financial advisors for Employee Representative Counsel and Pension and Retiree Representative Counsel advised that their clients were not taking a position on the transaction at that time. The Monitor is not aware of any opposition from the other Owned Real Estate Consultation Parties.

52. The proposed transaction maximizes value from all options available at this time for the Place Vertu Property and eliminates ongoing carrying costs of this property, estimated at approximately \$95,000 per month.
53. The proposed transaction does not negatively affect the Mall Owner's rights under the Vertu Operating Agreement as: (i) the Vertu ROFR has been waived by the Mall Owner and, (ii) the Vertu Operating Agreement will be assumed by the Place Vertu Purchaser.
54. The proposed transaction represent the highest and best executable offer obtained for the Place Vertu Property.
55. The Monitor understands an appraisal of the Place Vertu Property was obtained in May 2017, when the property was still operating as a going concern Sears store. A copy of that appraisal is attached as Confidential Appendix "C".

G. MONITOR'S RECOMMENDATION

56. Based upon the considerations set out above, the Monitor supports the Applicants' motion for approval of the sale of the Place Vertu Property as contemplated in the Place Vertu APS.
57. Confidential Appendices "A", "B" and "C" to this Nineteenth Report contain commercially sensitive information, including information on the bids received for the Place Vertu Property, the purchase price for the Place Vertu Property and the appraisal regarding the Place Vertu Property. The public disclosure of this information would be harmful to the integrity of the process to sell the Place Vertu Property, including if the Place Vertu Property needed to be subject to a further marketing process. The Monitor supports the sealing of Confidential Appendices "A", "B" and "C" to this Nineteenth Report.

The Monitor respectfully submits to the Court this, its Nineteenth Report.

Dated this 1st day of June, 2018.

FTI Consulting Canada Inc.
in its capacity as Monitor of
the Sears Canada Entities

A handwritten signature in black ink that reads "Paul Bishop". The signature is written in a cursive style and is placed on a light yellow rectangular background.

Paul Bishop
Senior Managing Director

A handwritten signature in blue ink that reads "Greg Watson". The signature is written in a cursive style and is placed on a light yellow rectangular background.

Greg Watson
Senior Managing Director

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**NINETEENTH REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS MONITOR**

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

Confidential Appendix “B”

Bid Summary

Confidential Appendix “C”

Initial FDL APS (Unredacted)

Confidential Appendix “D”

ROFR Notice (Unredacted)

Confidential Appendix “E”

Final FDL APS (Unredacted)

Appendix "F"

Termination Notice (Initial FDL APS)

From: Nielsen, Ryan [mailto:RNielsen@osler.com]
Sent: June-22-18 4:48 PM
To: Laurent Dionne-Legendre
Cc: Sandler, Tracy; Dacks, Jeremy; Cobb, Evan
Subject: FW: ROFR Notice - Place Fleur De Lys

Hi Laurent,

As discussed, see below and attached. The ROFR Beneficiary has exercised the ROFR (each as defined in the agreement of purchase and sale dated with effect as of May 29, 2018 between Sears Canada Inc. and Groupe Mach Inc. (the "Purchase Agreement")). Accordingly, as a result of the condition contained in Section 7.3(a) of the Purchase Agreement not being satisfied, I confirm on behalf of Sears Canada Inc. that the Purchase Agreement is hereby terminated. Please confirm on behalf of Groupe Mach Inc.

As discussed, the Termination Payment (as defined in the Purchase Agreement) payable pursuant to section 6.6 of the Purchase Agreement will be paid to your client following approval by the court. We are currently scheduling a date for obtaining such approval and will keep you posted in that regard.

Let me know if any questions.

Thanks and have a nice long weekend.

Confidential Appendix “G”

Appraisal

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

**THIRD SUPPLEMENT TO THE NINETEENTH REPORT
TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS MONITOR**

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