

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

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., CORBEIL ÉLECTRIQUE INC., S.L.H. TRANSPORT 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**")

AFFIDAVIT OF WILLIAM TURNER
(Sworn on February 1st, 2018)

I, **WILLIAM TURNER**, of the City of Toronto, in the Province of Ontario,
MAKE OATH AND SAY:

1. I am a retiree of Sears Canada Inc. ("**Sears Canada**") and one of the three Pension Representatives appointed by the Court in this proceeding to represent approximately 18,000 retirees and beneficiaries across Canada (collectively, the "**Represented Parties**"). I have personal knowledge of the matters stated in this

Affidavit, except where I have acquired such information from others or from documents attached hereto, in which case I believe such information to be true.

2. This affidavit is sworn in support of a motion seeking to appoint the Honourable Mr. Frank J.C. Newbould Q.C. as Litigation Trustee for the purpose of investigating, considering, and reporting any rights or claims that Sears Canada or any creditors of Sears Canada may have or be entitled to assert as against any parties. The appointment of a Litigation Trustee will ensure that any such claims are pursued efficiently and in a cost-effective manner.

3. In respect of this motion, I also rely on my affidavit sworn on August 11, 2017 and I supplement that affidavit herein.

4. On June 22, 2017, Sears Canada applied for and obtained protection from its creditors under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 ("CCAA"). At the same court attendance, the firm of Koskie Minsky LLP ("KM") was appointed Representative Counsel to those retirees and employees of Sears Canada with pension and benefit entitlements, and the firm of Ursel Phillips Fellows Hopkinson LLP was appointed Representative Counsel to the active employees.

5. By order of this Court dated July 13, 2017, I together with retirees and SCRG members Ken Eady and Larry Moore, were appointed by the Court as representatives (the "**Pension Representatives**") to represent the pensioners and other former employees of the Applicants (together with SearsConnect, collectively the "**Sears Canada Entities**") and their beneficiaries for purposes of claims pertaining to pension matters and "other post-employment benefits" such as health benefits and life insurance

benefits (known collectively as "**Other Post-Employment Benefits**"; "**OPEBs**"). A copy of the July 13, 2017 Order is attached hereto as **Exhibit "A"**.

The underfunding of the Sears Canada Plan

6. During our employment years, Sears Canada employees earned pension benefits that are to be paid to them during their retirement years for their lifetimes. The pension benefits are the deferred wages for work they performed from the company and are critical to pay for their livelihoods in their elderly years. The majority of Sears Canada retirees rely on their monthly pension benefits to pay their bills. Many of the retirees, given their age and health statuses, have no ability to make up for losses in their pension benefits.

7. The pension benefits are paid from the Sears Canada Inc. Registered Retirement Plan, Registration No. 0360065 (the "**Sears Canada Plan**"). Since 2008, it has been reported in the company's actuarial reports that the Sears Canada Plan was underfunded on a wind up basis. As set out in my affidavit sworn August 11, 2017, the Sears Canada Plan has an estimated funding shortfall of approximately \$266.8 million on a wind up basis and thus is only 81 percent funded. The wind up deficit will be a claim against the estate of the Sears Canada Entities.

8. On or around December 8, 2017, I and all other retirees received a letter from Morneau Shepell ("**Morneau**"), the actuarial firm that is the replacement administrator for the Sears Canada Plan that was appointed on October 17, 2017 by the Ontario Superintendent of Financial Services (the "**Superintendent**"). In the letter, Morneau advised that on November 10, 2017, the Superintendent issued a Notice of Intended

Decision to formally wind up the Plan effective as of October 1, 2017. Morneau also advised that it is currently preparing a valuation of the funded status of the Sears Canada Plan as at the proposed wind up date of October 1, 2017 and that monthly pension payments will be reduced, where necessary, to reflect the Sears Canada Plan's estimated wind up funded ratio. Attached hereto as **Exhibit "B"** is a copy of the letter I received from Morneau dated December 8, 2017. The pending reduction of pension benefits, coupled with the loss of OPEBs discussed below, have and will continue to cause significant financial hardships for the retirees of Sears Canada and have caused stress and worry among the many retirees I regularly hear from across Canada.

9. I am advised by my counsel and believe that the pension plan members are the beneficiaries of a statutory deemed trust priority under section 57 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8 ("**PBA**") for the amounts owing by Sears Canada to the Sears Canada Plan, which as indicated above, is approximately \$266.8 million on the wind up of the Plan.

10. On behalf of all the beneficiaries of the Sears Canada Plan, our counsel has asserted the statutory deemed trust for the amount owing to the Sears Canada Plan by Sears Canada. Attached hereto as **Exhibit "C"** is a copy of the KM letter dated October 26, 2017 sent to the Company, the Monitor, and to the CCAA Service List.

Retiree Health benefits and life insurance benefits (OPEBs)

11. In addition to pension benefits, Sears Canada retirees also earned entitlements to OPEBs. As of September 31, 2017, Sears Canada terminated all OPEBs. I am advised by the actuarial advisor to the Pension Representatives, Tom Levy of Segal Canada that

the estimated liability for OPEBs is approximately CDN\$400 million. Combined with the pension funding shortfall by Sears Canada, this makes Sears Canada pensioners and other members of the Represented Parties the largest creditor of the Sears Canada Entities, both in terms of number of creditors and the amount of debt owing.

Claims Processes

12. The claims process for general creditor claims was approved by this Court on December 8, 2017. The claims bar date under the general creditor claims process is March 2, 2018.

13. Another claims process for pensioners' and employees' claims is currently being discussed among counsel and is expected to be brought before the Court by the Monitor for approval on February 22, 2018.

Litigation Trustee

14. As set out in my affidavit of August 11, 2017, in paragraphs 20 to 33, since 2005, Sears Canada engaged in declaring dividend payments after the company came under the control of a U.S. hedge fund called ESL Investments Inc. ("ESL") who also became the major controlling shareholder of Sears Canada. Edward Lampert, the CEO of ESL, eventually became the Chief Executive Officer of Sears Holdings in the United States. Sears Holdings is a major shareholder of Sears Canada.

15. In the years following the assumption of control by ESL and Edward Lampert, SCRG became very concerned about Sears Canada's financial deterioration and the resulting threat to the security of our earned pension benefits and OPEBs.

16. SCRG, on behalf of Sears Canada retirees, has on a number of occasions raised its concerns regarding the underfunding of the Sears Canada Plan, the company's failing business strategy, and the continuing decline in the company's financial performance, with Sears Canada, ESL, its directors, and the Superintendent.

17. Despite the company's continued financial deterioration, the Sears Canada board of directors approved the payment of significant dividends to shareholders based on publicly available records as follows:

December 9, 2005	\$1,557 million
May 11, 2006	\$13 million
September 20, 2010	\$753 million
December 20, 2012	\$102 million
December 9, 2013	\$509 million
Total	\$2,934 million

18. This means that, in total, Sears Canada has paid over \$2.9 billion to shareholders since 2005.

19. On January 20, 2014, SCRG demanded that Sears Canada cease paying dividends (Exhibit "C" to my Affidavit of August 11, 2017). After receipt of that letter, Sears Canada appears to have ceased declaring any further dividends. Nevertheless, the financial deterioration of Sears Canada's business continued and the wind up deficit in the Sears Canada Plan worsened. The actuarial reports indicate that the wind up deficit amounts were:

WIND UP DEFICIT

December 31, 2007	\$36 million
December 31, 2010	\$307 million
December 31, 2013	\$133 million
December 31, 2015	\$267 million

20. As early as November 2014, SCRG made repeated requests to both Sears Canada and the Superintendent to wind up the Sears Canada Plan. The wind up at that time would have required the company to fund the wind up deficit. The wind up of the plan would have also severed the retirees and their earned pension benefits from the failing Sears Canada business.

21. The company refused to wind up the plan. The Superintendent did not order the wind up of the plan.

22. On June 22, 2017, the Sears Canada Entities sought and obtained protection from its creditors under the CCAA.

23. At the time my earlier affidavit of August 11, 2017 was sworn, Sears Canada was engaged in discussions regarding a possible going concern transaction that may have saved some jobs for Sears Canada employees. The Pension Representatives and Representative Counsel participated and encouraged those discussions with the bidder, Sears Canada and the Monitor with the hope that a going concern transaction could be achieved. Unfortunately, no executable transaction was brought forward. Since then, Sears Canada has substantially liquidated all its inventory, sold or is in the process of a

final sale of all of its real estate assets, and has shut down all operations. The next major step in the CCAA proceeding is to distribute the available proceeds to creditors.

24. Based on the cash available as reported by the Monitor, there will be significant shortfall in paying creditors' claims.

25. In the fall of 2017, in addition to the correspondences appended to my affidavit of August 11, 2017, SCRG through KM provided to the Monitor copies of certain of SCRG's prior correspondence that had been sent to Sears Canada, its directors and ESL to the Monitor and other parties for their consideration. The Monitor has since been investigating certain past transactions.

26. On January 15, 2018, the Monitor issued its 11th Report. In paragraphs 50-54, it identified certain "Transactions of Interest".

27. The Monitor's 11th Report does not disclose or identify all potential claims by the Sears Canada Entities or any creditors against all potential defendants. In order to coordinate and organize all potential claims in a comprehensive and efficient manner, and to coordinate with the work done to date by the Monitor effectively and in a cost-effective manner, I and the other Pension Representatives believe it is appropriate to appoint a Litigation Trustee for the benefit of all creditors of the estate of Sears Canada.

28. Since December, 2017, discussions commenced among major creditor groups of Sears Canada for the appointment of a Litigation Trustee to examine and, if deemed advisable, pursue claims for the benefit of the estate of Sears Canada and its creditors. I am advised by my counsel that a number of candidates were considered for the role and

it was decided by the major creditor groups in attendance that Hon. Frank Newbould, Q.C., a respected former Justice of the Ontario Superior Court and the former Team Leader of the Toronto Commercial List, would be the most appropriate person for this role.

29. The mandate of the Litigation Trustee is set out in the draft court order included in the motion materials as follows:

The Litigation Trustee shall be an officer of this Court, and is appointed for the purpose of investigating, considering, and reporting to the Court and the Committee (defined below) regarding any rights or claims (whether legal, equitable, statutory or otherwise) that the Sears Canada Entities, or any Litigation Trustee acting on behalf of creditors of any of the Sears Canada Entities, may have as against any parties, including but not limited to, current and former directors, officers, shareholders and advisors of any of the Sears Canada Entities (the “Mandate”). For greater certainty, the Mandate shall not include, and the Litigation Trustee shall have no role in determining, advising on, opposing, supporting, or articulating any claim of any creditor or stakeholder filed in this proceeding as part of any claims process or for distribution purposes from the estates of the Sears Canada Entities.

Qualifications of Hon. Frank Newbould, Q.C.

30. I am advised by our counsel and believe that The Hon. Mr. Newbould has an exemplary reputation as a Commercial List Judge and prior to that, as a commercial litigation lawyer. In addition to acting for clients (as a lawyer) and presiding (as a judge) over many commercial cases, he successfully presided over aspects of the Nortel CCAA proceeding, which was one of the most complex commercial insolvency cases in Canada. He also wrote an important decision on the law of oppression in a recent case (Essar Algoma CCAA) that was upheld by the Ontario Court of Appeal.

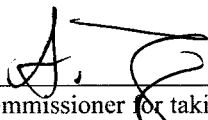
Our meeting with the Proposed Litigation Trustee

31. On January 24, 2018, I and the two other Pension Representatives, personally met with the Hon. Mr. Newbould to discuss his proposed appointment as a Litigation Trustee in these CCAA proceedings for the benefit of the creditors of the Sears Canada Entities. Based on our meeting, we found him to be highly qualified to act in the role of the Litigation Trustee.


32. For purposes of efficiency and to ensure that no potential claims and/or potential defendant(s) are overlooked or not pursued in a global and effective manner for the best outcome for all of the creditors of the estate, I and the other court appointed Pension Representatives strongly support the appointment of the Hon. Mr. Newbould as the Litigation Trustee.

33. I swear this Affidavit in support of a motion for the appointment of Mr. Newbould as Litigation Trustee and for no improper purpose.

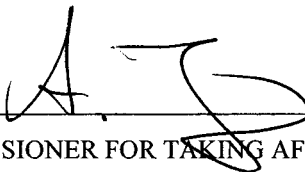
SWORN BEFORE ME at the City of Toronto, in the Province of Ontario on February 12, 2018.


A Commissioner for taking Affidavits, etc.

LSUC # 70164K


WILLIAM TURNER

This is **Exhibit "A"**
referred to in the Affidavit of William Turner
sworn before me this 12th day of February, 2018.

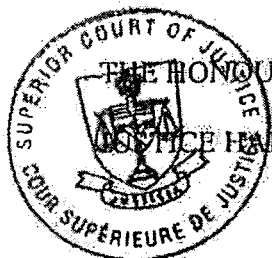


A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

LSUC # 70164K

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

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



THE HONOURABLE MR.)

JUSTICE HEANEY)

THURSDAY, THE 13TH

DAY OF JULY, 2017

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., CORBEIL ÉLECTRIQUE INC., S.L.H. TRANSPORT 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")

**REPRESENTATIVE COUNSEL ORDER FOR PENSIONS
AND POST-RETIREMENT BENEFITS**

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCA"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Billy Wong sworn June 22, 2017, and the Exhibits attached thereto (collectively, the "**Wong Affidavit**"), and the pre-filing report dated June 22, 2017 of FTI Consulting Canada Inc., in its capacity as the proposed Monitor of the Applicants, and on hearing the submissions of counsel for the Applicants and SearsConnect (the "**Partnership**", and

collectively with the Applicants, the “**Sears Canada Entities**”), counsel to the Board of Directors of Sears Canada Inc. (“**SCI**”) and the Special Committee of the Board of Directors of SCI, counsel to the proposed Monitor, and on hearing from Representative Counsel (as defined below), and those other parties present:

APPOINTMENT OF REPRESENTATIVE COUNSEL

1. **THIS COURT ORDERS** that Koskie Minsky LLP (the “**Representative Counsel**”) is hereby appointed as representative counsel to represent the interests of the non-unionized retirees and non-unionized active and former employees of the Sears Canada Entities (collectively, the “**Represented Parties**”) in these CCAA proceedings, solely with respect to (a) entitlements of the Represented Parties under the Sears Pension Plan and the Supplemental Plan (each as defined in the Wong Affidavit), and any other pension or retirement plan of the Sears Canada Entities; and (b) Represented Parties’ other post-employment benefits entitlements (the “**Purpose**”). As used herein, “**Represented Parties**” shall (x) exclude the senior management of the Sears Canada Entities; and (y) include any person claiming an interest under or on behalf of a Represented Party.

2. **THIS COURT ORDERS** that Bill Turner, Ken Eady and Larry Moore (collectively, the “**Representatives**”) are hereby appointed as representatives of all Represented Parties (excluding the Opt-Out Individuals (as defined below), if any) in these CCAA proceedings, to act in the overall best interests of the Represented Parties, and to advise and where appropriate instruct the Representative Counsel, in every case, solely for the Purpose. The Representative Counsel may rely upon the advice, information and instructions received from the Representatives in carrying out the mandate of the Representative Counsel without further communications with or instructions from the Represented Parties, except as may be recommended by the Representative Counsel or ordered by this Court.

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3. **THIS COURT ORDERS** that, with the exception of Opt-Out Individuals, (a) the Representatives and the Representative Counsel shall represent all Represented Parties in these CCAA proceedings; (b) the Represented Parties shall be bound by the actions of the Representatives and the Representative Counsel in these CCAA proceedings; and (c) the Representatives shall be entitled, on the advice of counsel, to reach any settlement agreements, advocate on behalf of the Represented Parties for the Purpose and compromise any rights, entitlements or claims of the Represented Parties, subject to approval of this Court.

4. **THIS COURT ORDERS** that the Sears Canada Entities shall provide to the Representative Counsel, subject to confidentiality arrangements satisfactory to the Sears Canada Entities and the Monitor, without charge, the following information, documents and data (the “**Information**”) to only be used for the Purpose in the context of these CCAA proceedings,

- (a) the names, last known addresses and last known telephone numbers and e-mail addresses (if any) of the Represented Parties (excluding Opt-Out Individuals, if any, who have opted out prior to delivery of the Information); and
- (b) upon request of the Representative Counsel, such documents and data as may be reasonably relevant to matters relating to the issues affecting the Represented Parties in these CCAA proceedings provided that such Information is to be only used for the Purpose;

and that, in so doing, the Sears Canada Entities are not required to obtain express consent from such Represented Parties authorizing disclosure of the Information to the Representative Counsel for the Purpose and, further, in accordance with section 7(3) of the *Personal Information Protection and Electronic Documents Act*, this Order shall be

sufficient to authorize the disclosure of the Information for the Purpose without the knowledge or consent of the individual Represented Parties.

5. **THIS COURT ORDERS** that notice of the granting of this Order shall be provided by:
- (a) the Sears Canada Entities, with the assistance of the Monitor, delivering a letter from the Representative Counsel explaining the terms of this Order, which shall include the Monitor's website address where a full copy of this Order can be reviewed, to be delivered forthwith to the Represented Parties by ordinary mail to the physical address of each Represented Party as last shown in the books and records of the Sears Canada Entities, or by such other electronic means as is maintained by the Sears Canada Entities for the purposes of communicating directly with its non-unionized retirees and non-unionized active and former employees, and further that a copy of this Order be posted on the Monitor's website; and
 - (b) the Sears Canada Entities, with the assistance of the Monitor, publishing (i) in The Globe & Mail (National Edition), an English notice substantially in the form attached as Schedule "A" hereto (the "**English Notice**") within 14 days of the date of this Order; and (ii) in La Presse, the English Notice and a French notice substantially in the form attached as Schedule "B" hereto within 14 days of the date of this Order.
6. **THIS COURT ORDERS** that any individual Represented Party who does not wish to be represented by the Representatives and the Representative Counsel in these CCAA proceedings shall, within 30 days of the date of the letter pursuant to paragraph 5 above, notify the Monitor, in writing, that he or she is opting out of representation by the Representatives and the Representative Counsel by delivering to the Monitor an English or French opt-out notice in the form attached as

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Schedule “C” hereto (each an “**Opt-Out Notice**”), and shall thereafter not be bound by the actions of the Representatives or the Representative Counsel and shall represent himself or herself or be represented by any counsel that he or she may retain exclusively at his or her own expense in these CCAA proceedings (any such persons who deliver an Opt-Out Notice in compliance with the terms of this paragraph, “**Opt-Out Individuals**”). The Monitor shall deliver copies of all Opt-Out Notices received to the Sears Canada Entities and the Representative Counsel as soon as reasonably practicable.

7. **THIS COURT ORDERS** that the Representative Counsel shall be given notice of all motions to which the Represented Parties are entitled to receive notice in these CCAA proceedings and that it shall be entitled to represent those on whose behalf it is hereby appointed in all such proceedings.

8. **THIS COURT ORDERS** that Representative Counsel may retain such actuarial, financial and other advisors and assistants (collectively, the “**Advisors**”) as may be reasonably necessary in connection with its duties as Representative Counsel in relation to the Purpose.

9. **THIS COURT ORDERS** that, subject to the terms of the letter agreement between SCI and the Representative Counsel dated as of June 22, 2017 (the “**Representative Counsel Letter**”), which Representative Counsel Letter has been approved by the Monitor, the Representative Counsel shall be paid its reasonable fees and disbursements (including disbursements relating to Advisors retained by the Representative Counsel) by the Sears Canada Entities on a monthly basis, forthwith upon rendering its accounts to the Sears Canada Entities for fulfilling its mandate in accordance with this Order, and subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between the Representative Counsel and the Represented

Parties. In the event of any disagreement with respect to such fees and disbursements, such disagreement may be remitted to this Court for determination.

10. **THIS COURT ORDERS** that the Representative Counsel shall be entitled to benefit of the Administration Charge (as defined in the Initial Order in these CCAA proceedings issued by the Court on June 22, 2017, as amended), as security for its professional fees and disbursements incurred at its standard rates and charges, up to an aggregate maximum amount of \$125,000.

11. **THIS COURT ORDERS** that the payments made by the Sears Canada Entities pursuant to this Order do not and will not constitute preferences, fraudulent conveyances, transfers of undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable laws.

12. **THIS COURT ORDERS** that the Representative Counsel is hereby authorized to take all steps and do all acts necessary or desirable to carry out the terms of this Order.

13. **THIS COURT ORDERS** that the Representative Counsel shall be at liberty, and is hereby authorized, at any time, to apply to this Court for advice and directions in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order or any variation of the powers and duties of the Representative Counsel, which shall be brought on notice to the Sears Canada Entities, the Monitor, Wells Fargo Capital Finance Corporation Canada as administrative agent under the DIP Revolving Credit Agreement (as defined in the Wong Affidavit), GACP Finance Co., LLC as administrative agent under the DIP Term Credit Agreement (as defined in the Wong Affidavit), and other interested parties, unless this Court orders otherwise.

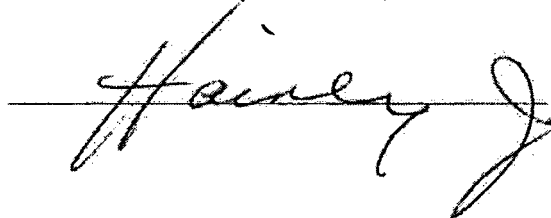
14. **THIS COURT ORDERS** that the Representative Counsel and the Representatives shall have no personal liability or obligations as a result of the performance of their duties in carrying

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out the provisions of this Order or any subsequent Orders in these CCAA proceedings, save and except for liability arising out of gross negligence or wilful misconduct.

15. **THIS COURT ORDERS** that no action or other proceeding may be commenced against the Representative Counsel or the Representatives in respect of the performance of their duties under this Order without leave of this Court on seven (7) days' notice to the Representative Counsel or the Representatives, as the case may be.

16. **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 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 and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order and in case, any which motion to be served within three (3) weeks of the date of this order.



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

JUL 13 2017

PER/PAR: 

SCHEDULE “A”

ENGLISH NEWSPAPER NOTICE

SEARS CANADA INC., CORBEIL ÉLECTRIQUE INC., S.L.H. TRANSPORT 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. (collectively referred to as the “Sears Canada Entities”)

NOTICE TO RETIREES, FORMER EMPLOYEES and CERTAIN ACTIVE EMPLOYEES

On June 22, 2017, the Sears Canada Entities commenced court-supervised restructuring proceedings under the *Companies’ Creditors Arrangement Act* (“CCAA”) pursuant to an Order (the “Initial Order”) of the Ontario Superior Court of Justice (Commercial List) (the “Court”). FTI Consulting Canada Inc. has been appointed by the Court as monitor in the Applicants’ CCAA proceedings (the “Monitor”).

TAKE NOTICE THAT pursuant to an Order of the Court:

1. Koskie Minsky LLP (“Representative Counsel”) was appointed as representative counsel for the purpose of representing the interests of the non-unionized retirees and non-unionized active and former employees of the Sears Canada Entities, solely with respect to their entitlements under the Sears Canada Inc. Registered Retirement Plan or any other pension or retirement plan (collectively, the “Retirement Plans”) provided by the Sears Canada Entities and of any individual with an entitlement to other post-employment benefits (including retiree health and dental benefits and retiree life insurance benefits) (collectively, the “Retiree Benefits”) and of any person claiming an interest under or on behalf of such persons (collectively, the “Represented Parties”) and to advise the Representatives with respect to Retirement Plans and Retiree Benefits in relation to the CCAA proceedings or any other forum related to this purpose.
2. Bill Turner, Ken Eady and Larry Moore (collectively, the “Representatives”) were appointed to represent the overall best interests of the Represented Parties and to advise and instruct the Representative Counsel.
3. For more information visit Representative Counsel’s website at www.kmlaw.ca/searsrepcounsel.

IF YOU DO NOT WISH TO BE REPRESENTED by the Representatives and the Representative Counsel, you must, before ●, 2017, complete the Opt-Out Notice (a copy of which can be obtained from the Representative Counsel’s website) indicating that you wish to opt-out of such representation and send the completed Opt-Out Notice to:

FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of the Sears Canada Entities

TD Waterhouse Tower
79 Wellington Street West

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Suite 2010, P.O. Box 104
Toronto, ON, M4K 1G8
Fax: 416-649-8101

Attention: Jim Robinson

Persons requiring further information should review the website established by the Monitor
<http://cfcanada.fticonsulting.com/searscanada> or call the Monitor's Hotline at 1-855-649-8113.

SCHEDULE "B"

AVIS DANS LES JOURNAUX FRANÇAIS

SEARS CANADA INC., CORBEIL ÉLECTRIQUE INC., TRANSPORTS S.L.H. INC., THE CUT INC., SERVICES CLIENTÈLE SEARS INC., INITIUM LOGISTICS SERVICES INC., INITIUM COMMERCE LABS INC., INITIUM TRADING AND SOURCING CORP., CENTRE DE REVÊTEMENTS DE SOL SEARS 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. ET 3339611 CANADA INC. (collectivement appelées les « entités Sears Canada »)

AVIS AUX RETRAITÉS, AUX ANCIENS EMPLOYÉS et À CERTAINS EMPLOYÉS ACTIFS

Le 22 juin 2017, les entités Sears Canada ont amorcé un processus de restructuration supervisé par un tribunal en vertu de la *Loi sur les arrangements avec les créanciers des compagnies* (la « LACC ») aux termes d'une ordonnance (l'« ordonnance initiale ») de la Cour supérieure de justice de l'Ontario (rôle commercial) (la « Cour »). La Cour a nommé FTI Consulting Canada Inc. à titre de contrôleur aux fins de l'instance en vertu de la LACC intentée par les requérants (le « contrôleur »).

AVIS EST PAR LES PRÉSENTES DONNÉ qu'aux termes d'une ordonnance de la Cour :

1. Le cabinet Koskie Minsky LLP (les « conseillers juridiques des représentants ») a été nommé à titre de conseiller juridique dans le but de défendre les intérêts des retraités non syndiqués et des anciens employés et des employés actifs non syndiqués des entités Sears Canada, uniquement en ce qui a trait à leurs droits aux termes du régime de retraite agréé de Sears Canada Inc. ou des autres régimes de retraite (collectivement, les « régimes de retraite ») offerts par les entités Sears Canada, des personnes physiques qui ont droit à d'autres avantages postérieurs à la retraite (dont l'assurance santé et dentaire et l'assurance-vie pour les retraités) (collectivement, les « avantages des retraités ») et des personnes physiques qui revendique un droit par l'intermédiaire de ces personnes physiques ou au nom de celles-ci (collectivement, les « parties représentées »), ainsi que pour conseiller les représentants à l'égard des régimes de retraite et des avantages des retraités en lien avec l'instance en vertu de la LACC ou toute autre procédure portant sur cette question.

2. Bill Turner, Ken Eady et Larry Moore (collectivement, les « représentants ») ont été nommés pour défendre les intérêts fondamentaux des parties représentées et pour donner des conseils et des directives aux conseillers juridiques des représentants.

3. Pour de plus amples renseignements, veuillez consulter le site Web des conseillers juridiques des représentants à <https://knlaw.ca/cases/sears-canada/?lang=fr>.

SI VOUS NE SOUHAITEZ PAS ÊTRE REPRÉSENTÉ par les représentants et les conseillers juridiques des représentants, vous devez, avant le ● 2017, remplir l'Avis de retrait (dont vous trouverez copie sur le site Web des conseillers juridiques des représentants) sur lequel vous aurez indiqué que vous ne souhaitez pas être représenté, et faire parvenir cet Avis de retrait rempli à :

FTI Consulting Canada Inc., en sa qualité de contrôleur des entités Sears Canada nommé par la Cour
 TD Waterhouse Tower
 79 Wellington Street West
 Suite 2010, P.O. Box 104
 Toronto (Ontario) M4K 1G8
 Téléc. : 416 649-8101

- 2 -

À l'attention de Jim Robinson

Les personnes qui souhaitent obtenir de plus amples renseignements devraient consulter le site Web que le contrôleur a créé à <http://cfcanada.fticonsulting.com/searscanada>, ou composer le 1 855 649-8113 pour obtenir la ligne d'aide du contrôleur.

SCHEDULE "C"

FORM OF OPT-OUT NOTICE

To: **FTI CONSULTING CANADA INC.**, in its capacity as Court-appointed Monitor of the Sears Canada Entities
 TD Waterhouse Tower
 79 Wellington Street West
 Suite 2010, P.O. Box 104
 Toronto, ON, M4K 1G8
 Fax: 416-649-8101

Attention: Jim Robinson

I hereby provide written notice that I do not wish to be represented by Koskie Minsky LLP, representative counsel (the "Representative Counsel") for the non-unionized employees and retirees of Sears Canada Inc. and certain of its subsidiaries (collectively, the "Sears Canada Entities") in their proceedings under the *Companies' Creditors Arrangement Act* (Court File No. CV-17-11846-00CL) (the "CCAA Proceedings"). I understand that by opting out of representation if I wish to take part in the CCAA Proceedings I would need to do so as an independent party. I am responsible for retaining my own legal counsel should I choose to do so, and that I would be personally liable for the costs of my own legal representation.

I understand that a copy of this Opt-Out Form will be provided to the Representative Counsel and to the Sears Canada Entities.

 Witness

 Signature

Name [please print]: _____

Address: _____

Telephone: _____

Note: To opt out, this form must be completed and received at the above address on or before _____, 2017.

ANNEXE "C"

AVIS DE RETRAIT

À : FTI CONSULTING CANADA INC., en sa qualité de contrôleur des entités Sears Canada
 nommé par la Cour
 TD Waterhouse Tower
 79 Wellington Street West
 Suite 2010, P.O. Box 104
 Toronto (Ontario) M4K 1G8
 Téléc. : 416 649-8101

À l'attention de Jim Robinson

Par les présentes, je vous avise que je ne souhaite pas être représenté par le cabinet Koskie Minsky LLP, conseillers juridiques des représentants (les « conseillers juridiques des représentants ») qui représentent les employés et les retraités non syndiqués de Sears Canada Inc. et de certaines de ses filiales (collectivement, les « entités Sears Canada ») dans le cadre l'instance intentée en vertu de la *Loi sur les arrangements avec les créanciers des compagnies* (n° de dossier de la Cour : CV-17-11846-00CL) (l'« instance en vertu de la LACC »). Je comprends que si je refuse d'être ainsi représenté et que je souhaite prendre part à l'instance en vertu de la LACC, je devrai le faire à titre indépendant. Je devrai alors, le cas échéant, retenir les services de mes propres conseillers juridiques, et je serai personnellement responsable des frais de ma propre représentation juridique.

Je comprends qu'une copie du présent avis de retrait sera remise aux conseillers juridiques des représentants et aux entités Sears Canada.

Témoin

Signature

Nom [en caractères d'imprimerie] : _____

Adresse : _____

Téléphone : _____

Note : Pour refuser les services représentation, le présent formulaire doit être rempli et reçu à l'adresse qui précède au plus tard le _____ 2017.

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., CORBEL ÉLECTRIQUE INC., S.L.H. TRANSPORT 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. (collectively, the "Applicants")

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

REPRESENTATIVE COUNSEL ORDER

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, Canada M5X 1B8

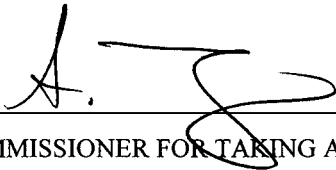
Marc Wasserman (LSUC #: 44066M)
Tel: 416.862.4908

Jeremy Dacks (LSUC #: 41851R)
Tel: 416.862.4923

Michael De Lellis (LSUC #: 48038U)
Tel: 416.862.5997

Lawyers for the Applicants

This is **Exhibit "B"**
referred to in the Affidavit of William Turner
sworn before me this 12th day of February, 2018.

A handwritten signature in black ink, appearing to be 'A. J.', written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

LSUC # 70164K

December 8, 2017

«First_checked» «Last_checked»
 «Street_checked»
 «City_checked» «Prov_checked» «Postal_checked»
 «Country_checked»

Dear Member/Former Member:

**Re: Sears Canada Inc. Registered Retirement Plan (the "Plan") Registration No. 0360065
 Defined Benefit Component**

Morneau Shepell was appointed as the Administrator of the above Plan by Ontario's Superintendent of Financial Services ("the Superintendent") effective October 16, 2017, to administer the wind up of the Plan. The Superintendent made this appointment in accordance with the provisions of subsection 8(1.1) of the *Pension Benefits Act*, R.S.O. 1990, c.P.8 (the "Act").

Role of Administrator

The appointment of Morneau Shepell as Administrator places the operation of all aspects of the Plan under the control of Morneau Shepell. The Administrator is responsible for administering the Plan and processing the wind up of the Plan, as ordered by the Superintendent, as well as ensuring that all Plan members are treated fairly in accordance with the Plan documents, applicable pension legislation and regulations.

Wind Up Date

On November 10, 2017, the Superintendent of Financial Services issued a Notice of Intended Decision ("NOID") to formally wind up the Plan effective October 1, 2017. The NOID provides that:

- all members of the Plan who terminate employment on or after June 13, 2017 have their pension benefit entitlement determined under the wind up of the Plan; and
- contributions to the Defined Contribution ("DC") component of the Plan be allowed to continue after October 1, 2017 for members still employed with Sears in accordance with the Plan terms until all or substantially all of the members of the DC component terminate employment with Sears Canada Inc.

The Wind Up Process

We are in the early stages of our administration, which includes gathering documentation and records, informing members and interested parties of our appointment, and assuming responsibilities for the administration of the Plan.

Due to legislative requirements, the wind up of a pension plan and the distribution of benefits to plan members can be a lengthy process.

In our capacity as the Administrator, we will correspond with you from time to time and provide you with updates on the wind up process. We may also be collecting some personal information about you to determine your benefit entitlement for the purposes of administering the wind up of the Plan. We request that you please keep us informed of any changes in your mailing address or marital status, by contacting us as shown near the end of this letter.

Active/Suspended Plan Members

Date of Termination of Employment Before Issuance of NOID

If your date of termination of employment with Sears was prior to November 10, 2017, the date the Superintendent issued the NOID to formally wind up the Plan, you will receive a Statement of Benefits outlining your pension benefit entitlements and the options available to you from the DB component of the Plan. If you elect to transfer your pension benefit entitlement out of the Plan on a lump-sum basis, the lump-sum transfer will be limited to 81% of your commuted value. If you elect a monthly pension payment, your monthly pension amount will be limited to 81% of your accrued monthly pension. Once the wind up report is approved by the Superintendent and the final wind up funded ratio of the Plan is known, we will notify you if any amounts are owing to you from the Plan in addition to any payments you may have already received.

Date of Termination of Employment After Issuance of NOID

If your date of termination of employment with Sears was on or after November 10, 2017, the date the Superintendent issued the NOID to formally wind up the Plan, you may request to receive a termination/retirement statement by contacting us, or submitting a "Request for Interim Termination/Retirement Form" (or "Request for Interim Termination/Temporary Monthly Pension Form" for Plan members employed in Quebec) that is available on our website www.pensionwindups.morneaushepell.com.

The Superintendent has approved the payment of commuted value lump-sum transfers and accrued monthly pensions from the DB component of the Plan prior to the approval of the wind up report for Plan members terminating employment on or after November 10, 2017. The payments will be made at a reduced funded level, based on conservative assumptions. Once the wind up report for the DB component is approved by the Superintendent and the final wind up funded ratio of the Plan is known, we will notify you if any amounts are owing to you from the Plan in addition the any payments you may have already received.

Members with a Deferred Vested Pension Entitlement

Immediate Retirement – Non-Québec Members

If you are a former Plan member with a deferred vested pension entitlement from the DB component, you can commence interim monthly pension payments at a reduced funded level, based on conservative assumptions, if you are eligible and wish to elect to receive an immediate pension. For non-Québec members, if you are eligible for an early or normal retirement pension and are interested in commencing your pension, please contact us or submit a "Request for Retirement Quote Form" that is available on our website www.pensionwindups.morneaushepell.com. We have received the necessary approval from the Superintendent to commence interim monthly pension payments at a level of benefits that can be

supported by the Plan's assets. You can apply at a later date to commence your monthly pension, but you will only be allowed to elect a pension commencing after the date of your written request.

Please note: if you elect to start receiving a monthly retirement pension at this time, you will not be offered the option to transfer your entitlement into a locked-in retirement account from the DB component of the Plan upon approval of the Wind Up Report.

Immediate Retirement – Québec Members

Québec legislation does not allow a non-retired member to commence monthly pension payments from a pension plan that is being wound up. However, we will offer to Québec members who are eligible for retirement the option of receiving temporary monthly payments from the Plan during the wind up process. Québec rules provide that any such advance payments, plus interest on advance payments, be deducted from any remaining lump sum payment at the end of the wind up process. Québec members who are retirement eligible and are interested in receiving temporary monthly payments, may apply to receive payments from the Plan by contacting us or submitting a "Request for Temporary Monthly Payments Form" that is available on our website www.pensionwindups.morneaushepell.com.

Retired Plan Members Receiving a Monthly Pension

Payments to Retirees

Upon completion of a preliminary valuation of the Plans' s funded status and a determination of the Plan's estimated wind up funded ratio, we will review records for all retired members who were put into pay prior to our appointment. Monthly pension payments will then be reduced, where necessary, to reflect the Plan's estimated wind up funded ratio. We will notify pensioners in writing, prior to any cut-backs to their monthly pensions.

Post-retirement Inflation Adjustment

The Plan provides an annual inflation adjustment made to pensions in pay for certain retired Plan members in the amount of 0.5% of the pension benefit of the immediately preceding year. The annual inflation adjustment is made on the first of January.

In light of the issuance of the NOID by the Superintendent to wind up the Plan effective October 1, 2017, we have determined that the January 1, 2018 annual inflation adjustment will not be provided.

The basis of this decision is as follows:

- The Plan is not fully funded as the estimated liabilities exceed the assets at the recommended wind up date.
- With respect to members who were employed in Ontario - the Administrator will submit a request to the Superintendent for an allocation from the Pension Benefits Guarantee Fund (PBGF). We anticipate the Superintendent will order the PBGF to apply to the Plan. Section 85 of the *Pension Benefits Act* excludes inflation adjustments occurring after the wind up date from benefits payable to Ontario members which are covered by the PBGF.
- With respect to members who were employed in Nova Scotia - inflation adjustments occurring after the wind up date are not payable as these benefits are not required to be pre-funded on a solvency basis.

- All other jurisdictions - in the coming months pension benefits will be reduced to reflect the Plan's estimated wind up funded ratio. Any entitlement to inflation increases will be taken into account when Plan liabilities are settled after the Wind Up Report is approved.

Rules for Retirees in Québec

Québec's pension legislation includes provisions that allow Québec retirees whose benefits have been reduced following the termination of their pension plan due to their employer's insolvency to request that their pension be administered by the Retraite Québec for a maximum period of ten years. After approval of the Wind Up Report, Québec retirees will be given the opportunity to elect to transfer their pension entitlement to the Retraite Québec.

Upcoming Change in Monthly Pension Payer

The monthly payroll for the retiree pension payments is currently prepared by Sears and the payments are processed by RBC. CIBC Mellon is the custodian of the Plan assets. In light of the Plan wind up, we have initiated the transition of the monthly pension payroll from Sears to CIBC Mellon with an anticipated effective date of March 1, 2018. We will write to you in advance of the retiree payroll transition to provide you with more information on the transition.

Pension Benefits Guarantee Fund (the "PBGF") (applicable only to members under Ontario jurisdiction)

As part of the wind up process, we will review Plan and membership documentation and file an application requesting that the Superintendent declare the Plan are eligible for coverage under the Pension Benefits Guarantee Fund.

The PBGF is an insurance-type compensation fund that provides limited protection for pension benefits of Ontario members in under-funded pension plans in circumstances set out in the Act and the Regulations made thereunder.

Defined Contribution ("DC") Component

If you also have an entitlement under the DC component of the Plan, we will be sending you a separate communication with additional information that is specific to your DC pension.

For more information

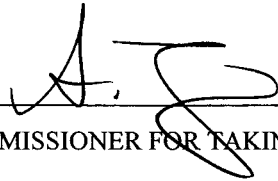
If you have any questions regarding the administration of your Plan, please call us at **1-888-841-8956**, from Monday to Friday, between 9:00 a.m. and 5:00 p.m. (Eastern time). You can also email us at searspension@morneaushepell.com. For more information regarding the wind up process, please visit our website at www.pensionwindups.morneaushepell.com.

Yours truly,

Morneau Shepell Ltd.

In its capacity as Administrator for the
Sears Canada Inc. Registered Retirement Plan
and not in its personal capacity.

This is **Exhibit "C"**
referred to in the Affidavit of William Turner
sworn before me this 12th day of February, 2018.



A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

LSUC# 70164K

KOSKIE MINSKY

JUSTICE PARTNERS

October 26, 2017

Via E-mail

Andrew J. Hatnay
Direct Dial: 416-595-2083
Direct Fax: 416-204-2872
ahatnay@kmlaw.ca

FTI Consulting
TD South Tower, 79 Wellington Street West
Toronto Dominion Centre, Suite 2010 P.O. Box 104
Toronto ON M5K 1G8

ATTENTION: Paul Bishop and Greg Watson

AND TO: The Service List

Dear Sirs/Mesdames:

Re: Sears Canada Inc. - CCAA proceedings
The Sears Canada Inc. Registered Retirement Plan, Registration Number 0360065
("Sears Canada Plan")
Our File No. 17/1312

We are Representative Counsel to the non-union active and retired employees of Sears Canada who have earned pension entitlements to be paid to them from the Sears Canada Plan.

It is now confirmed that the company is liquidating and not restructuring. The Ontario Superintendent of Financial Services has appointed the firm of Morneau Shepell to take over as administrator of the Sears Canada Plan. The wind up of the Sears Canada Plan is inevitable.

As set out in the company's materials filed in the CCAA proceedings, the Sears Canada Plan is underfunded by approximately \$270 million on its wind up. If the Plan is wound up in its current underfunded state, it will result in reductions to the monthly pension benefits of retirees. Such reductions will cause financial hardship for many Sears retirees across Canada, who as you know, have already lost their earned health and life insurance benefits.

In order to avoid reductions to monthly pension benefits, and although no claims process has yet commenced in the CCAA proceedings, we are writing to advise that under sections 57(3) and (4) of the Ontario *Pension Benefits Act*, R.S.O. 1990, c. P.-8 ("PBA"), section 30(7) of the Ontario *Personal Property Security Act*, R.S.O. 1990, c. P.10 ("PPSA") and as confirmed by the

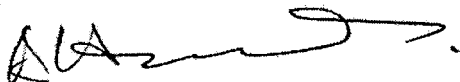
Supreme Court of Canada in *Indalex*, our clients are the beneficiaries of statutory deemed trusts for the amounts owing by Sears Canada to the Sears Canada Plan, including unpaid special payments and the wind up deficit. As such, they are entitled to first priority recovery for those amounts ahead of the claims of all other creditors immediately after the CCAA- court ordered changes.

Please consider this letter as a claim by the pension plan beneficiaries against Sears Canada for the amount of the unpaid special payments and wind up deficit, and all other amounts owing to the plan by Sears Canada. Please make interim distributions for the benefit of the Sears Canada Plan as funds become available, allowing for the appropriate reserves for the CCAA-court ordered charges.

If you or any other party intends to object to the priority position of the pension plan beneficiaries, please let us know and we will schedule an appointment before the CCAA Judge for a motion for the appropriate determinations.

Yours truly,

KOSKIE MINSKY LLP



Andrew J. Hatnay
AJH:hh/encl

- c. Client Committee
Gus Tertigas, *Ernst & Young Inc.*
Orestes Pasparakis, Alan Merskey, Evan Cobb, *Norton Rose LLP*
Mark Zigler, *Koskie Minsky LLP*

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA INC., CORBEIL ÉLECTRIQUE INC., S.L.H. TRANSPORT 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

AFFIDAVIT OF WILLIAM TURNER
(SWORN ON FEBRUARY 12, 2018)

KOSKIE MINSKY LLP

20 Queen Street West, Suite 900, Box 52
Toronto, ON M5H 3R3

Andrew J. Hatnay – LSUC No. 31885W

Tel: 416-595-2083 / Fax: 416-204-2872
Email: ahatnay@kmlaw.ca

Mark Zigler – LSUC No. 19757B

Tel: 416-595-2090 / Fax: 416-204-2877
Email: mzigler@kmlaw.ca

Representative Counsel for the Non-Unionized
Retirees and Non-Unionized Active and Former
Employees of the Sears Canada Entities