

CANADA

SUPERIOR COURT

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

Commercial Division  
(Sitting as a court designated pursuant to the  
*Companies' Creditors Arrangement Act*, R.S.C.  
1985, c. C-36)

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No: 500-11-042345-120

IN THE MATTER OF THE PROPOSED PLAN OF  
COMPROMISE AND ARRANGEMENT OF:

**AVEOS FLEET PERFORMANCE INC./**  
**AVEOS PERFORMANCE AÉRONAUTIQUE INC.**  
and  
**AERO TECHNICAL US, INC.**

**Insolvent Debtors/Petitioners**

and

**FTI CONSULTING CANADA INC.**

**Monitor**

and

**INTERNATIONAL ASSOCIATION OF MACHINISTS  
AND AEROSPACE WORKERS (IAMAW)**, having a  
place of business at 2580 Drew Road, Suite 203,  
Mississauga, Ontario, L4T 3M5

**Respondent**

and

**THE ATTORNEY GENERAL OF CANADA**,  
Complexe Guy Favreau, 200 René-Lévesque  
Boulevard West, East Tower, 5th Floor,  
Montreal, Quebec, H2Z 1X4

**Respondent**

and

**CHUBB INSURANCE COMPANY OF CANADA**,  
having a place of business at 1, Adelaide Street,  
Toronto, Ontario M5C 2V9

**Mis-en -Cause**

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**MOTION FOR ORDERS AND DIRECTIONS PERTAINING TO WAGE EARNERS BENEFITS**

(Sections 6(5), 11 and 36(7) of the *Companies' Creditors Arrangement Act* ("CCAA"), Section 5 of the *Wage Earner Protection Program Act*, and Section 6 of the *Wage Earner Protection Program Regulations* )

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**TO THE HONOURABLE JUSTICE MARK SCHRAGER J.S.C., SITTING IN COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL, THE PETITIONERS RESPECTFULLY SUBMIT THE FOLLOWING:**

**I. INTRODUCTION**

1. Further to the filing of a *Petition for the Issuance of an Initial Order* (the "**Initial CCAA Petition**") as well as a *Motion for the Issuance of an Amended and Restated Initial Order*, this Honourable Court issued an *Initial Order* on March 19, 2012, as amended and restated by further orders (collectively the "**Initial Order**"), the whole as appears from the Court record. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Initial CCAA Petition or in the Initial Order.
2. Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed Monitor of the Petitioners (the "**Monitor**") and a stay of proceedings was granted until April 5, 2012 and subsequently extended by further orders until February 1<sup>st</sup>, 2013.
3. On March 20, 2012, a Chief Restructuring Officer ("**CRO**") was appointed over the Petitioners, with authority to carry on, manage, operate and supervise the management and operations of the business and affairs of the Petitioners, further to the Petitioners' *Motion for the Appointment of a Chief Restructuring Officer*, the whole as appears from the Court record.
4. As stated in the Initial CCAA Petition, the Petitioners owed amounts in respect of outstanding wages, salaries, overtime, employee benefits, vacation pay and expenses payable to employees or former employees prior to or at the date of the Initial Order (herein collectively referred to as the "**Employee Payments**"), as appears from the Court record herein.
5. The employment of substantially all employees of the Petitioners was terminated shortly before or shortly after the date of the Initial Order. A relatively small number of employees were retained initially by the Petitioners to assist with the remaining operations, the majority of whom have since been terminated. As of this date, only a small number of individuals remain employed by Aveos or are providing services on a contract basis.

6. As of the date of the Initial Order, approximately Five Million Eight Hundred Thousand Dollars (\$5,800,000) in accrued and unpaid base wages was owing to the approximately 2665 individuals previously employed by the Petitioners. This amount was comprised of base wages only and did not include approximately \$3,159,000 in aggregate owing to the employees and former employees that are also within the applicable definitions of "wages" (consisting of approximately \$2,005,000 in vacation pay, approximately \$1,948,000 in overtime wages and approximately \$206,000 in other obligations).
7. By a *Motion for directions and authorizations pertaining to the payment of certain sums to employees*, dated April 2, 2012, the Petitioners sought the issuance of an Order directing and authorizing the Petitioners, under certain conditions, to make certain Employee Payments on account of base wages only, to a maximum of \$2,000 each, the amount for which priority is given to wages under the BIA and payment of which is provided for under s. 6(5) and 36(7) of the CCAA..
8. By Order of this Court dated April 5, 2012 (the "**First Payroll Order**"), such relief was granted and the base wages due and owing to all employees and former employees were subsequently paid on or around April 22, 2012 pursuant to the First Payroll Order, thus alleviating some of the adverse financial consequences which would have been faced by the employees if such payments were to be paid at the times contemplated by the CCAA or otherwise. However, not all employees were owed base wages in the maximum amount of \$2,000, and therefore some employees still had priority claims in respect of other amounts still owing and qualifying as "wages" under the BIA, that would be payable under s. 6(5) and 36(7) of the CCAA.
9. To deal with this balance of priority claims outstanding, by an *Amended Second Motion for directions and authorizations pertaining to the payment of certain sums to employees*, dated November 9, 2012, Petitioners sought authorization of the Court to permit further disbursements to be made to the employees and former employees to finalize payment in full of remaining priority amounts owed to employees ("**Remaining Priority Payments**").
10. By Order of this Court dated November 12, 2012 (the "**Second Payroll Order**"), such relief was granted and the Petitioners were authorized, under certain conditions, to make the Remaining Priority Payments. The Remaining Priority Payments in the aggregate amount of approximately \$400,000 have been paid by Petitioners pursuant to the Second Payroll Order.
11. In the present circumstances, while it is possible that the Petitioners will present a Plan of Compromise and Arrangement (a "**Plan**") to the Court for sanction pursuant to the CCAA, it is unlikely that such a Plan could provide for payment on account of the former employees' remaining unsecured ordinary claims in an amount equivalent to that which may be available to them upon application of the *Wage Earner Protection Program Act* (S.C. 2005, c. 47, s. 1) ("**WEPPA**").

12. The purpose of the present Motion is to request a lifting of the CCAA stay to permit the Petitioners to seek the appointment of a receiver ("**Receiver**") for the limited sole purpose of enabling the former employees of the Petitioners, in accordance with directions to be provided by this Court, to have access to the WEPPA benefits they are or would be eligible to receive in the event of a bankruptcy or receivership of the Petitioners. These WEPPA benefits include amounts on account of severance and termination pay that are included in the definition of "wages" under the WEPPA but which are not accorded priority under the BIA.
13. This Motion addresses the available and potential wage earner benefits, the mechanics for implementation of the WEPPA program through the appointment of the Receiver and the directions to the Receiver and the Petitioners that are requested from the Court.

## II. EMPLOYEE BENEFITS

14. The former employees of Aveos may be eligible to receive various amounts by contract, law or various orders of administrative labour authorities. Of the former Aveos employees, approximately 90% were members of the International Association of Machinists and Aerospace Workers ("**IAMAW**"). This Motion therefore requires consideration of the respective and combined effects of three main benefit sources for the former employees:
  - (a) *Canada Labour Code* ("**CLC**") benefits, for all employees;
  - (b) Air Canada Heavy Maintenance Separation Program (the "**ACHMS Program**") entitlements (only for certain of the unionized employees who were members of the IAMAW); and
  - (c) WEPPA entitlements, for all employees who qualify.

### 2.1 Canada Labour Code benefits

15. Under the CLC, which applies to Aveos, former employees are entitled to severance and termination payments as follows:

#### a) CLC Severance

Section 235 of the CLC reads:

**"235. (1) An employer who terminates the employment of an employee who has completed twelve consecutive months of continuous employment by the employer shall, except where the termination is by way of dismissal for just cause, pay to the employee the greater of**

**(a) two days wages at the employee's regular rate of wages for his regular hours of work in respect of each completed year of**

employment that is within the term of the employee's continuous employment by the employer, and

(b) **five days** wages at the employee's regular rate of wages for his regular hours of work. (...)" (our emphasis)

## **b) CLC Termination**

Section 230 of the CLC reads:

**"230. (1)** Except where subsection (2) applies, an employer who terminates the employment of an employee who has **completed three consecutive months of continuous employment** by the employer shall, except where the termination is by way of dismissal for just cause, give the employee either

(a) notice in writing, **at least two weeks** before a date specified in the notice, of the employer's intention to terminate his employment on that date, or

(b) two weeks wages at his regular rate of wages for his regular hours of work, **in lieu of the notice.** (...)" (our emphasis)

16. The combined effects of the CLC Severance and Termination benefits are summarized along with the ACHMS Program (as detailed in the next section) in paragraph 23 below.

### **2.2 Air Canada Heavy Maintenance Separation Program Entitlements**

17. On January 31, 2011, the Canada Industrial Relations Board issued Orders 9994-U, 9995-U and 9996-U in matters 28234-C and 28402-C between Air Canada, Aveos and the IAMAW as appears from said Orders communicated en liasse as Exhibit P-1.
18. Attached to the Orders P-1 and being part thereof is the ACHMS Program communicated as Exhibit P-2. Despite its title, the ACHMS Program applies to all eligible unionized former employees of Aveos from all three of the main Aveos divisions (i.e. Heavy Maintenance, Engines and Components).
19. Pursuant to the Orders P-1 in the context of the application of the ACHMS Program, arbitrator Martin Teplitsky, Q.C., issued a ruling dated August 3, 2012 communicated as Exhibit P-3.
20. The ruling P-3 contains the following statement:

"After hearing submissions, I ruled that any packages which are smaller than the minimum provided under the Canada Labour Code will be paid without prejudice to these employees' claims under the Canada Labour Code."

21. Pursuant to the Orders P-1, in the context of the application of the ACHMS Program, arbitrator Teplitsky issued a further ruling dated September 12, 2012, communicated as Exhibit P-4, along with a clarification ruling dated September 24, 2012, communicated as Exhibit P-5.
22. The payments under the ACHMS program were to be made by Air Canada as follows: \$25 million in aggregate is to be paid before the end of 2012, a further \$25 million in aggregate to be paid thereafter bi-weekly in instalments equal to two weeks wages and the remainder of \$5 million is to be reserved for adjustments to claims resulting from employee grievances.
23. The former employees of Aveos therefore have the following entitlements under the CLC and, as a result of the Orders P-1 and rulings P-3, P-4 and P-5, the unionized former employees of Aveos (i.e. the members of the IAMAW) have the following entitlements under the ACHMS Program:

**Summary of CLC Severance and termination and ACHMS Program entitlements**

<b>Duration of service</b>	<b>CLC Entitlement for all employees</b>	<b>ACHMS Program entitlements for certain unionized employees</b>	<b>ACHMS vs. CLC</b>
Less than three months	No CLC termination No CLC severance	No package	N/A
Three months or more but less than one year	Two weeks wages as termination No CLC severance	No package	N/A
One year or more but less than two years	Two weeks wages as termination Five days severance	Two weeks wages	ACHMS is less than CLC
Two years or more but less than three years	Two weeks wages as termination Five days severance	Four weeks of wages	ACHMS is more than CLC
Three years and more	Two weeks wages as termination Six days severance	Six weeks of wages (plus two weeks per additional year of	ACHMS is more than CLC

	(plus two days per additional year > 3)	service > 3)	
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24. Aveos received a detailed list from the IAMAW that shows approximately 1750 packages available under the ACHMS Program for unionized former employees of all three divisions of Aveos. Aveos was advised that this list was posted on the IAMAW website and former employees were notified that they had 30 days from the date of posting to verify or challenge the calculation of their individual entitlements. The 30 day period has now expired.
25. Accordingly, Air Canada will be making payments to those unionized employees entitled to the larger ACHMS Program packages over a period of time that will extend, in part, to a period subsequent to the proposed appointment of the Receiver as requested in this Motion.
26. Pursuant to the Order P-1 and related rulings, those former unionized employees entitled to receive more under the ACHMS Program than under the CLC are releasing Aveos of their claims for severance and termination under the CLC.
27. Therefore, these former unionized employees would have no severance and termination claims against Aveos or for the purposes of WEPPA. The Petitioners understand that the IAMAW agrees with this conclusion.
28. There is no agreement between Aveos and the IAMAW with respect to those former employees entitled to receive less under the ACHMS Program than under the CLC.

**2.3 Wage Earner Protection Program Benefits**

29. Under the WEPPA and Regulations, the Receiver, within 45 days of its appointment, must communicate certain information to the Minister of Human Resources and Skills Development Canada (through Service Canada) including the names of individual claimants and the amount of the eligible wages owed and also communicate to each potential claimant the existence of the WEPPA program and the amount of his or her claim.
30. Aveos, in consultation with the Monitor, has prepared the information required by the Receiver for all the former employees, including both the IAMAW members and the non-unionized, management employees.
31. This information relates not only to severance and termination but also to all other amounts that remain owing after the payments made under the First and Second Payroll Orders that would qualify as “eligible wages” under WEPPA for all employees.

32. The effects of the ACHMS Program and the position of the IAMAW demonstrate the need to have this Court provide certain directions to the Receiver, once appointed.

### III. APPOINTMENT OF A RECEIVER

33. In order to facilitate the eligibility of former employees as applicants under the WEPPA program, the Petitioners seek the appointment of FTI Consulting Canada Inc., a licensed trustee in bankruptcy (and currently appointed as Monitor in these proceedings), as Receiver over certain limited, specified property of Aveos pursuant to section 243 of the BIA. The appointment of the Receiver is necessary to trigger the application of the WEPPA program.
34. For the purposes of triggering the WEPPA, it is sufficient that only a small part of the Aveos property be subject to the receivership. This is important to eliminate duplication of effort, minimize additional professional fees and avoid any potential prejudice to the Petitioners' restructuring efforts, including the possible filing of a Plan under the CCAA.
35. A term deposit in the name of Aveos in the amount of \$10,000 (the "**Designated Property**") would be the sole object of the Receiver's appointment until the Receiver has completed its mandate under the proposed Order and the Designated Property is returned to Aveos or distributed pursuant to a further Order of this Court.
36. Should a Receiver be appointed as proposed herein, each of Aveos' employees and former employees would be eligible, pursuant to Section 7(b) of the WEPPA, to a payment under the WEPPA program of up to Three Thousand Six Hundred and Forty-Six Dollars (\$3,646), being the amount equal to four times the maximum weekly insurable earnings of \$911.54 for 2013 under the *Employment Insurance Act*, less the 6.82% levy and any amounts received on account of such accrued wages after the date of the appointment of the Receiver.
37. After the payments made under the First and Second Payroll Orders, including the Remaining Priority Payments, there still remains outstanding and owing to employees and former employees amounts accumulated on account of vacation pay, overtime wages and other amounts as well as severance and termination pay. Almost all employees and former employees would therefore be entitled to assert a claim under the WEPPA if and when applicable. The vast majority of these claims will be by members of the IAMAW.
38. From a practical point of view, the order sought herein accelerates the benefits which would be available to employees and former employees upon a bankruptcy or receivership but would not be available under a Plan or other distribution of amounts



held by Petitioners in the context of the CCAA proceedings, because they are ordinary unsecured claims.

#### **IV. DIRECTIONS TO BE GIVEN TO THE RECEIVER AND THE PETITIONERS**

39. The interaction between the WEPPA, the ACHMS Program and the CLC entitlements in the present case creates unusual circumstances that require specific directions from this Honourable Court.

##### **4.1 Directions with respect to employees receiving more under the ACHMS Program than under CLC**

40. One such circumstance is that Air Canada, not the current employer (Aveos), will be making payments on account of severance and termination obligations directly to certain unionized former employees of Aveos.
41. While some payments may have already been made to former employees under the ACHMS Program before the appointment of the Receiver, remaining payments will be made by Air Canada over a period of time that will extend beyond the date of the Order sought herein.
42. However, pursuant to the Order P-1 and the rulings P3, P-4 and P-5, employees receiving ACHMS Program packages exceeding the CLC entitlements will not have a severance and termination claim against Aveos. Aveos understands that the IAMAW concurs with this position.
43. Because part of the severance and termination claims will not have been paid by Air Canada on the date when the Receiver is mandated by law to provide the claim information to Service Canada and to the former unionized employees, there is a genuine risk that there will be misunderstandings about the ultimate eligibility of such employees under WEPPA.
44. Therefore, Aveos seeks an Order that the Receiver be instructed and directed to reduce to "nil" the amount of the claims of former unionized employees for severance and termination when they are entitled to receive four weeks of wages or more under the ACHMS Program. Their claims for other items qualified as "eligible wages" are unaffected.

##### **4.2 Directions for employees receiving two weeks of wages under the ACHMS Program**

45. On the basis of the Arbitrator's ruling P-3, IAMAW may take the position that unionized former employees with one year or more but less than two years of service, are entitled to a full severance and termination WEPPA claim based on their CLC entitlements. As noted above, these employees would get five days of wages less under the ACHMS Program than under the CLC.

46. As such, IAMAW may request that the Receiver should apply no credit on account of the WEPPA claim of unionized former employees with one year or more but less than two years of service for moneys already received or to be received under the ACHMS Program.
47. It is proposed that the determination of the credits for the ACHMS Program which are to be applied for the purposes of the WEPPA entitlements will be made by the Receiver. Payments may have been received prior to the appointment of the Receiver or may be made after such appointment.
48. The direction of the Court with respect to the claim may, or may not, affect the rights of the Minister and, by subsequent assertion of subrogation rights, the former directors and/or insurers.
49. Therefore, the Petitioners respectfully submit that the Receiver should receive this Court's directions on whether ACHMS Program payments and proposed payments of two weeks wages should be taken into account on the claims and the information to be forwarded to Service Canada and to the individual former employees.
50. Aveos, in consultation with the Monitor, is of the view that it would be appropriate to take the ACHMS Program payments into account.
51. Therefore, Aveos seeks an Order that the Receiver be instructed and directed to deduct two weeks wages from the amount of the claims of former unionized employees for severance and termination when they are entitled to receive two weeks of wages under the ACHMS Program and that such employees' claims for other items qualified as wages be unaffected.

#### **4.3 Directions with respect to filing a proof of claim**

52. A claimant must file a proof of claim with the Receiver. In light of the payments previously made pursuant to the First and Second Payroll Orders, no priority attaches to the remaining payments to be made to the claimants.
53. The Petitioners request that Aveos, under the direction of the CRO, be authorized to file with the Receiver a global proof of claim under sub-section 126(2) of the BIA for all the employees for the amount of each employee's respective claim as reflected in the books and records of Aveos adjusted for the directions requested from the Court, and that the Receiver be directed to inform the employees that such a claim has been filed.

#### **V. CONCLUSIONS**

54. It is respectfully submitted that the Court's directions and authorizations requested herein are consistent with the effect and spirit of the CCAA, the BIA, the WEPPA, and the terms and spirit of the Initial Order as well as the First and Second Payroll Orders issued by this Honourable Court.

55. The modalities and declarations sought herein will serve to immediately alleviate some of the adverse financial consequences of the Petitioners' insolvency as it affected their former employees, and will not reduce or compromise in any way the rights granted to said employees and former employees by virtue of the applicable legislation mentioned herein.
56. By proceeding as is respectfully requested herein, the Petitioners seek to ensure that their employees and former employees receive, as soon as possible, those amounts which they would eventually be entitled to receive in the ordinary course, yet without subjecting the employees and former employees to the delays inherent to the process currently being overseen by this Court, and without withdrawing or otherwise limiting any of the employees and former employees' pecuniary rights. By requesting the proposed limited appointment, the Petitioners seek to minimize costs and duplication and preserve the process that has been conducted so far by the Petitioners to realize upon its assets for the benefit of stakeholders.
57. The Petitioners respectfully submit that this Motion should be granted in accordance with its conclusions.

**WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:**

- [1] **GRANT** the Motion for Orders and Directions pertaining to Wage Earners Benefits (the "**Motion**");
- [2] **DECLARE** that all capitalized terms not otherwise defined in the Motion shall have the meaning ascribed to them in the Initial Order dated March 19, 2012, as amended and restated, granted by the Honourable Mark Schrager, J.S.C., in the present matter (the "**Initial Order**");
- [3] **DECLARE** that the time for service of the Motion is abridged to the time actually given and service of the Motion and supporting material is good, valid and sufficient, and the service thereof is hereby dispensed with;

**Appointment of a Receiver**

- [4] **APPOINT** FTI Consulting Canada Inc. to act as receiver (the "**Receiver**") of the following property of Aveos Fleet Performance Inc. (the "**Debtor**"): a term deposit in the capital amount of \$10,000 in the name of Aveos Fleet Performance Inc. (the "**Designated Property**"), until the earlier of the following events:
  - (1) the distribution of all of the Designated Property pursuant to an order of the Court; or
  - (2) the issuance of an order by the Court terminating the mandate of the Receiver;

- [5] **ORDER** that the stay of proceedings under the Initial Order is hereby lifted solely with respect to the Designated Property and solely to allow for the appointment of the Receiver over the Designated Property and to allow the Receiver to act in respect of the Designated Property in accordance with the provisions of the Order;
- [6] **DECLARE** that the Receiver is a receiver within the meaning of Section 243(2)(b) of the BIA;
- [7] **ORDER** that the powers of the Petitioners and the CRO are not otherwise limited or affected by the order to be rendered herein (the “**Order**”);
- [8] **DECLARE** that the Order and its effects shall survive the filing by the Debtor of a notice of intention to make a proposal or of a proposal pursuant to the terms of the BIA, the termination of the stay of proceedings under the Initial Order pursuant to the terms of the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) or the bankruptcy of the Debtor, unless the Court orders otherwise;

**RECEIVER’S POWERS**

- [9] **AUTHORIZE** the Receiver to take possession of the Designated Property and to exercise the powers listed hereinafter in the place and stead of the Debtor in respect of the Designated Property only and not to interfere with the business and operations and any other property of the Debtor and to take any steps incidental to the exercise of these powers or performance of any statutory obligations under the *Wage Earner Protection Program Act* (the “**WEPPA**”);
- [10] **AUTHORIZE** the Receiver to retain the services of any lawyer, or of any person or business to the extent necessary in order to appropriately fulfill its functions;
- [11] **DECLARE** that the Receiver may provide creditors and other relevant stakeholders with information in response to requests made by them in writing. A copy of such request must be sent to the Petitioners’ attorney. Where the Receiver has been advised by the Petitioners that information is confidential, proprietary or competitive, the Receiver shall not provide such information to any person without the consent of the Petitioners unless otherwise directed by this Court;
- [12] **DECLARE** that the Receiver is relieved from compliance with the requirements for notice and reports under sections 245 and 246 of the BIA; provided that the Receiver shall provide notice of its appointment in the prescribed form and manner to the Superintendent of Bankruptcy, accompanied by the prescribed fee;

**DEBTOR'S DUTIES**

- [13] **ORDER** the Debtor, its officers, employees, agents and representatives to forthwith deliver the Designated Property to the Receiver;
- [14] **ORDER** the Debtor, its officers, employees, agents and representatives to cooperate with the Receiver in the exercise of the powers that are granted pursuant to the terms of the Order;
- [15] **ORDER** the Debtor not to dispose, alienate, encumber or otherwise transact in any manner whatsoever, with regard to the Designated Property, other than with the authorization of the Receiver;

**NON-INTERFERENCE WITH THE RECEIVER, THE DEBTOR AND THE PROPERTY**

- [16] **ORDER** that, subject to any other order rendered by the Court, which may only be rendered after prior notice has been duly sent to the Receiver and to the Petitioners, no proceeding, seizure, revendication or any other enforcement process shall be commenced or enforced against the Designated Property;

**EMPLOYEES**

- [17] **AUTHORIZE** the Receiver to engage the services of third party contractors, including current or former employees of Aveos, in carrying out its mandate and authorize that certain tasks in relation to the Order be performed by current or former employees of Aveos under the supervision of the Receiver; provided in any event that the Receiver shall not be liable for any employee related liabilities, including any successor-employer liabilities as provided for in sections 14.06(1.2) of the BIA other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) and 81.6(3) of the BIA or under the WEPPA;

**PROTECTION OF PERSONAL INFORMATION**

- [18] **DECLARE** that, pursuant to sub-section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information on identifiable individuals, which information it has in its possession or under its responsibility, to interested parties, including IMAAW, as well as to their advisors, but only to the extent desirable or required, and only upon condition that the persons to whom such personal information is disclosed shall undertake to maintain and protect the privacy of such information and limit the use of such information pursuant to confidentiality agreements entered into with the Receiver;

**LIMITATION OF LIABILITY**

- [19] **DECLARE** that, save and except for the exercise of the powers granted to the Receiver pursuant to the terms of paragraph [4] of the Order, nothing herein contained shall authorize or require the Receiver to take possession, occupy or to take control, or to otherwise manage all or any part of the property, assets or undertaking of the Debtor ("**Excluded Property**"). The Receiver shall not, as a result of this Order, be deemed to be in possession of any Excluded Property within the meaning of environmental legislation, the whole pursuant to the terms of the BIA;
- [20] **DECLARE** that the powers of the Receiver shall be exercised pursuant to its sole discretion and judgment;
- [21] **DECLARE** that section 215 of the BIA applies mutatis mutandis, and hence that no action lies against the Receiver by reason of its appointment or the execution of the powers granted by the Court, except by leave of the Court. The entities related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph;

**FEES**

- [22] **DECLARE** that the reasonable professional fees and disbursements incurred in relation to the appointment of the Receiver and the performance of its duties as set out in the Order, both before and after the date of the Order, shall be added to the accounts of the Monitor;
- [23] **DECLARE** that notwithstanding: (i) these proceedings and any declaration of insolvency made herein, (ii) any petition for a receiver order filed pursuant to the BIA in respect of the Petitioners and any receiving order granting such petition or any assignment in bankruptcy made or deemed to be made in respect of the Petitioners and (iii) the provisions of any federal or provincial statute, the payments or disposition of Property made by the Receiver pursuant to the Order do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting a recourse for abuse under an applicable law, and shall be valid and enforceable as against any person, including any trustee in bankruptcy, and any receiver to the Property of the Debtor;
- [24] **AUTHORIZE** the Receiver to receive payment of its fees and disbursements and those of its attorneys, with the consent of the Petitioners, the whole subject to the Initial Order;

**SPECIFIC DIRECTIONS TO THE DEBTOR AND TO THE RECEIVER**

- [25] **DIRECT AND ORDER** the Receiver to reduce to nil the amount of the claims of former unionized employees for severance and termination pay when they are entitled to receive four weeks of wages or more under the ACHMS Program (as defined in the Motion); provided that their claims for other items qualified as “wages” within the meaning of the WEPPA are unaffected;
- [26] **DIRECT AND ORDER** the Receiver to deduct two weeks of wages from the amount of the claims of former unionized employees for severance and termination pay when they are entitled to receive two weeks of wages under the ACHMS Program; provided that their claims for other items qualified as wages are unaffected;
- [27] **DIRECT AND ORDER** that the Debtor, under the direction of the CRO, be authorized to file with the Receiver a global proof of claim under section 126(2) BIA for all of its employees and former employees in the amount of the claim as reflected in the books and records of Aveos, taking into account the directions given above;

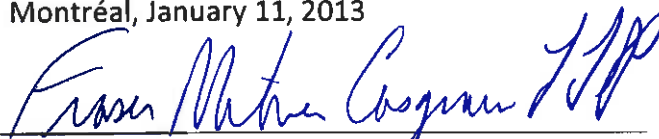
**General**

- [28] **DECLARE** that the Order and the filing of the Motion do not, in and of themselves, constitute a default or failure to comply by the Debtor under any statute, regulation, license, permit, contract, permission, covenant, agreement, undertaking or any other written document or requirement;
- [29] **DECLARE** that the Receiver is at liberty to serve any notice, circular or any other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to persons or other appropriate parties at their respective given address as last shown in the Records; the documents served in this manner shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three (3) business days after mailing if delivered by ordinary mail;
- [30] **DECLARE** that the Receiver may serve any court materials in these proceedings on all represented parties, by emailing a PDF or other electronic copy of such materials to counsels’ email addresses, provided that the Receiver shall deliver “hard copies” of such materials upon request to any party as soon as practicable thereafter;
- [31] **DECLARE** that any party interested in these proceedings may serve any court material in these proceedings by emailing a PDF or other electronic copy of such materials to counsels’ email addresses, provided that such party shall deliver a

“hard copy” on paper of such PDF or electronic materials to the Debtor’s and the Receiver’s counsel and to any other party who may request such delivery;

- [32] **DECLARE** that, unless otherwise provided herein, ordered by this Court, no document, order or other material need be served on any person in respect of these proceedings, unless such person has served a notice of appearance on the solicitors for the Debtor and the Receiver and has filed such notice with the Court;
- [33] **DECLARE** that the present Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada;
- [34] **DECLARES** that, except as otherwise provided herein, the Order to be rendered herein will not prejudice the rights, recourses and remedies of the employees and former employees against the Petitioners’ former directors and any insurers;
- [35] **THE WHOLE WITHOUT COSTS** save and except in the event of a contestation, in which case, with costs against the contesting party.

Montréal, January 11, 2013

A handwritten signature in blue ink, appearing to read "Fraser Milner Casgrain LLP", is written over a horizontal line.

**FRASER MILNER CASGRAIN LLP**

Attorneys for Petitioners



**AFFIDAVIT**

I, the undersigned, **JONATHAN SOLURSH**, Chief Restructuring Officer of the Petitioners in the present matter, domiciled, for the purposes hereof, at 7171 Côte Vertu, in the City of Montreal, Province of Quebec, do solemnly declare:

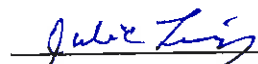
1. I am the Chief Restructuring Officer of the Petitioners in the present matter;
2. All of the facts alleged in the present *Motion for Orders and Directions Pertaining to Wage Earners Benefits* are true.

AND I HAVE SIGNED:



\_\_\_\_\_  
**JONATHAN SOLURSH**

SOLEMNLY DECLARED before me at Montreal,  
This 11<sup>th</sup> day of January 2013

 105415  
\_\_\_\_\_  
COMMISSIONER OF OATHS FOR THE  
PROVINCE OF QUÉBEC



**NOTICE OF PRESENTATION**

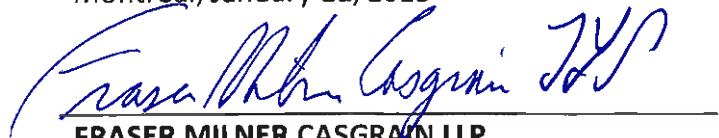
- TO: SERVICE LIST**
- TO: Superintendent of Bankruptcy**
- TO: THE ATTORNEY GENERAL OF CANADA,**  
Me Antoine Lippé and Me Pierre Lecavalier  
Complexe Guy Favreau,  
200 René-Lévesque Boulevard West, East Tower,  
5th Floor  
Montreal (Quebec) H2Z 1X4
- TO: INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS (IAMAW),**  
Me Amanda Pask and Me Gerry Apostolatos
- TO: CHUBB INSURANCE COMPANY OF CANADA,**  
1, Adelaide Street, Toronto, Ontario M5C 2V9  
C/O Me Aubrey Kauffman

Mis-en-Cause  
Insurer for the former directors of the Petitioners

**TAKE NOTICE** that the *Motion for Orders and Directions Pertaining to Wage Earners Benefits* will be presented before the Honourable Mark Schrager, of the Superior Court, sitting in the Commercial Division, at the Montréal Courthouse, situated at 1, Notre-Dame Street East, Montréal in a room to be determined on February 1<sup>st</sup>, 2013 at 9h30 a.m., or so soon thereafter as counsel may be heard.

**DO GOVERN YOURSELVES ACCORDINGLY.**

Montréal, January 11, 2013



**FRASER MILNER CASGRAIN LLP**  
Attorneys for Petitioners

