

Tab 4

Court File No. _____09-CL-8456-OOCL

**ONTARIO
SUPERIOR COURT OF JUSTICE,
COMMERCIAL LIST**

THE HONOURABLE _____)
_____))
JUSTICE _____MORAWETZ)
DAYFRIDAY, THE _____ 21ST
DAY
OF _____ JANUARY, 20__11

~~BETWEEN:-~~

~~PLAINTIFF~~

Plaintiff

~~-and-~~

~~DEFENDANT~~

Defendant

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF JAMES ROBERT TUCKER, RICHARD HEIS AND ALLAN
WATSON GRAHAM OF KPMG LLP, AS JOINT ADMINISTRATORS

Applicants

AND IN THE MATTER OF AERO INVENTORY (UK) LIMITED
and AERO INVENTORY PLC

Respondents

APPLICATION UNDER SECTIONS 46 AND FOLLOWING OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

APPROVAL AND VESTING ORDER

THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor") for ~~an order James Robert Tucker, Richard Heis and Allan Watson Graham of KPMG LLP, in their capacity as the foreign representatives (the "Foreign Representatives").~~ for an order:

- (i) abridging the time for service of the Notice of Motion and the Motion Record and dispensing with further service thereof;
- (ii) approving the settlement and labour supply agreement (the "Aveos Settlement Agreement") between Aero Inventory (UK) Limited (in administration) ("Aero UK"), Aero Inventory plc (in administration) (collectively, the "Foreign Debtors"), Aero Inventory (Canada) Inc./Aero Inventaire (Canada) Inc. ("Aero Canada"), James Robert Tucker, Richard Heis and Allan Watson Graham, in their capacities as Joint Administrators of the Foreign Debtors, Aveos Fleet Performance Inc. ("Aveos"), Aeromantenimiento S.A. ("Aeroman"), and KPMG Inc., in its capacities as trustee in bankruptcy of the Foreign Debtors (the "Trustee") and Receiver and Manager of all of the assets, undertakings and properties of Aero Canada (the "Receiver") dated December 31, 2010 and appended to the Second Report of KPMG Inc., in its capacities as Information Officer and Trustee, dated January 17, 2011 (the "Second Report").
- (iii) approving the sale transaction (the "Transaction" transactions to Aveos (the "Sale Transactions") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and vesting in the Purchaser the Debtor's the Aveos Settlement Agreement and vesting in Aveos the Foreign Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "Aveos Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario, (as defined in the Aveos Settlement Agreement) upon satisfaction of the conditions described herein.

- (iv) directing the net proceeds from the Aveos Settlement Agreement to be paid by Aveos and/or Aeroman to Aero UK to be dealt with in accordance with the Administration Proceedings;
- (v) sealing the confidential appendices to the Second Report as well as the Supplement to the Second Report of KPMG Inc. in its capacity as Trustee, dated January 17, 2011 (the "Supplemental Report").
- (vi) approving the Second Report, the First Report (as defined in the Second Report), the Supplemental Report and the Receiver's First Report (as defined in the Second Report) and the activities of the Information Officer, the Trustee and the Receiver (each as defined in the Second Report) described therein, and
- (vii) approving the Receiver's Statement of Receipts and Disbursements for the period from December 1, 2009 to January 7, 2011 in the form attached to the Receiver's First Report (the "R&D Statement").

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Second Report, the Receiver's First Report and the Supplemental Report and on hearing the submissions of counsel for the Receiver, ~~[NAMES OF OTHER PARTIES APPEARING]~~Foreign Representatives, the Information Officer, the Trustee, the Receiver, Air Canada, Aveos and Aeroman, no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed¹:

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

¹This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,² settlement and transactions contemplated by the Aveos Settlement Agreement (including the Sale Transactions and the releases in Section 2 thereof), and the execution of the Sale Aveos Settlement Agreement by the Receiver³ is and the Trustee, are hereby authorized approved and approved, with such minor amendments as the Receiver may deem necessary, ratified, and the Foreign Representatives, the Receiver, the Information Officer and Tthe Receiver is Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser, settlement and transactions contemplated by the Aveos Settlement Agreement.

3. 2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's, in all cases where vesting has not occurred pursuant to Paragraph 5 hereof with respect to Initial Aveos Purchased Assets (as defined in the Aveos Settlement Agreement), upon receipt of payment in full of the Pre-filing Settlement Amount (as defined in the Aveos Settlement Agreement) all of the Foreign Debtors' right, title and interest in and to the Initial Aveos Purchased Assets described in the Sale Agreement [and listed on Schedule B hereto]⁴ shall vest absolutely in the Purchaser Aveos effective retroactively to the date of issuance of an electronic consumption request and removal of each individual Initial Aveos Purchased Asset from a bin at an Aveos Parties Facility, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, prior claims, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the
² In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

³ In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.

⁴ To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.

~~"Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice [NAME] dated [DATE]; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Civil Code of Quebec* or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Initial Aveos Purchased Assets are hereby shall be expunged and discharged as against the Initial Aveos Purchased Assets, immediately upon receipt of payment in full of the Pre-filing Settlement Amount.~~

3. ~~THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the *Land Registration Reform Act* duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*]⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

4. THIS COURT ORDERS AND DECLARES that, in all cases where vesting has not occurred pursuant to Paragraph 5 hereof with respect to Interim Aveos Purchased Assets (as defined in the Aveos Settlement Agreement), upon the delivery of a Foreign Representatives' certificate to Aveos substantially in the form attached as Schedule A hereto (the "**Foreign Representatives' Interim Certificate**"), all of the Foreign Debtors' right, title and interest in and to the Interim Aveos Purchased Assets referenced in the invoice(s) attached to such Foreign Representatives' Interim Certificate shall vest absolutely in Aveos effective retroactively to the date of issuance of an electronic consumption request and removal of each individual Interim

⁵ The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

⁶ Elect the language appropriate to the land registry system (Registry vs. Land Titles).

Aveos Purchased Asset from a bin at an Aveos Parties Facility, free and clear of and from any and all Claims including, without limiting the generality of the foregoing, the Encumbrances and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to those Interim Aveos Purchased Assets shall be expunged and discharged as against those Interim Aveos Purchased Assets upon delivery of the Foreign Representatives' Interim Certificate.

5. THIS COURT ORDERS AND DECLARES that immediately upon installation of any Initial Aveos Purchased Asset or Interim Aveos Purchased Asset upon an Aveos customer's property, all of the Foreign Debtors' right, title and interest in and to that Aveos Purchased Asset shall vest absolutely in Aveos, free and clear of and from any and all Claims including, without limiting the generality of the foregoing, the Encumbrances and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to that Aveos Purchased Asset shall be expunged and discharged as against that Aveos Purchaed Asset immediately upon installation upon an Aveos customer's property.

6. THIS COURT ORDERS AND DECLARES that upon termination of the Aveos Settlement Agreement pursuant to Sections 6.11, 6.12 or 6.18 thereof, if any, all of the Foreign Debtors' right, title and interest in and to the Termination Date Aveos Purchased Assets (as such term is defined in the Aveos Settlement Agreement) shall vest absolutely in Aveos, free and clear of and from any and all Claims including, without limiting the generality of the foregoing, the Encumbrances and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Termination Date Aveos Purchased Assets shall be expunged and discharged as against the Termination Date Aveos Purchased Assets upon such termination.

7. 4-THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ or accounts receivable from the sale of the Aveos Purchased Assets shall stand in the place and stead of the Aveos Purchased Assets, and that from and after the delivery of the Receiver's events prescribed by Paragraph 3 or Paragraph 5 hereof, if applicable, or the delivery of a Foreign Representatives' Interim Certificate for particular Aveos Purchased Assets, all Claims and Encumbrances shall attach to the net proceeds or accounts receivable from

⁷The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

~~the~~those Aveos Purchased Assets immediately prior to the sale⁸, as if ~~the~~those Aveos Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. No proceeds shall be receivable for the sale of the Termination Date Aveos Purchased Assets in accordance with the terms of the Aveos Settlement Agreement.

~~8.~~ ~~5.~~ THIS COURT ORDERS AND DIRECTS the Receiver~~Foreign Representatives~~ to file with the Court a copy of ~~the Receiver's~~each Foreign Representatives' Interim Certificate, forthwith after delivery thereof.

~~6.~~ THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to ~~disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, including personal information of those employees listed on Schedule "•" to the Sale Agreement. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.~~

~~9.~~ THIS COURT ORDERS that each Foreign Representatives' Interim Certificate shall be delivered to Aveos forthwith upon satisfaction of all conditions listed in such Foreign Representatives' Interim Certificate and that the Foreign Representatives may delegate authority to execute and deliver such Foreign Representatives' Interim Certificate to the Information Officer.

~~10.~~ ~~7.~~ THIS COURT ORDERS that, notwithstanding:

(a) the pendency of these proceedings;

⁸ This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the ~~Debtor~~Foreign Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the ~~Debtor~~Foreign Debtors;

the vesting of the Aveos Purchased Assets in the Purchaser~~Aveos~~ pursuant to this Order and the releases contained in Section 2 of the Aveos Settlement Agreement shall be binding on any trustee in bankruptcy that has been, or may be, appointed in respect of the ~~Debtor~~Foreign Debtors, including the Trustee, and shall not be void or voidable by creditors of the ~~Debtor~~Foreign Debtors, nor shall ~~it~~they constitute nor be deemed to be a ~~settlement~~preferences, fraudulent preference, assignment, fraudulent conveyance, transfer~~conveyances, transfers~~ at undervalue, or other ~~reviewable transaction~~challengeable or voidable transactions under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall ~~it~~they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

11. 8. THIS COURT ORDERS AND DECLARES that the ~~Transaction is~~Sale Transactions are exempt from the application of the *Bulk Sales Act* (Ontario).

12. THIS COURT ORDERS AND DIRECTS that the net proceeds from the Aveos Settlement Agreement shall be paid in accordance with the Aveos Settlement Agreement by Aveos and/or Aeroman directly to Aero UK to be dealt with in accordance with the Administration Proceedings (as defined in the Second Report) and any party asserting an interest in such proceeds shall only be entitled to do so in the Administration Proceedings.

13. THIS COURT ORDERS that the Confidential Schedules to the Second Report and the Supplemental Report in its entirety shall be treated as confidential and shall be sealed and segregated from the public record, pending further order of this Court.

14. THIS COURT ORDERS that the Second Report, the First Report, the Supplemental Report and the Receiver's First Report as well as the activities of the Information Officer, the Trustee and the Receiver described therein be and are hereby approved.

15. THIS COURT ORDERS that the R&D Statement be and is hereby approved.

16. ~~9-~~ 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 or elsewhere to give effect to this Order and to assist the ~~Receiver and its~~ Foreign Representatives and the Trustee and their 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 Foreign Representatives, the Trustee, the Receiver and the Information Officer, as an ~~officer~~ officers of this Court, as may be necessary or desirable to give effect to this Order ~~or to assist the Receiver and its agents in carrying out the terms of this Order.~~

Schedule A – Form of Receiver’s Foreign Representatives’ Interim Certificate

Court File No. _____ 09-CL-8456-OOCL

**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 JAMES ROBERT TUCKER, RICHARD HEIS AND ALLAN
WATSON GRAHAM OF KPMG LLP, AS JOINT ADMINISTRATORS**

Applicants

**AND IN THE MATTER OF AERO INVENTORY (UK) LIMITED
and AERO INVENTORY PLC**

Respondents

**APPLICATION UNDER SECTIONS 46 AND FOLLOWING OF THE COMPANIES’
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

~~BETWEEN:-~~

~~PLAINTIFF~~

Plaintiff

~~-and-~~

~~DEFENDANT~~

Defendant

RECEIVER’S FOREIGN REPRESENTATIVES’ INTERIM CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable [~~NAME OF JUDGE~~] Justice Newbould of the Ontario Superior Court of Justice (the "~~Court~~") dated [~~DATE OF ORDER~~], [~~NAME OF RECEIVER~~] was appointed as the receiver (the "Receiver") of the undertaking, property and

assets of [DEBTOR] (the "Debtor") dated November 11, 2009. James Robert Tucker, Richard Heis and Allan Watson Graham were recognized as Foreign Representatives (the "Foreign Representatives") in respect of the administration proceedings of Aero Inventory (UK) Limited and Aero Inventory PLC (the "Foreign Debtors") commenced by order of the High Court of Justice of England and Wales (Chancery Division, Companies Court).

B. Pursuant to an Order of the Court dated [DATE] January 21, 2011 (the "Order"), the Court approved the settlement and labour supply agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser") (the "Aveos Settlement Agreement") between Aero Inventory (UK) Limited (in administration), Aero Inventory plc (in administration) (collectively, the "Foreign Debtors"), Aero Inventory (Canada) Inc./Aero Inventaire (Canada) Inc. ("Aero Canada"), James Robert Tucker, Richard Heis and Allan Watson Graham, in their capacities as Joint Administrators of the Foreign Debtors, Aveos Fleet Performance Inc. ("Aveos"), Aeromantenimiento S.A. ("Aeroman"), and KPMG Inc., in its capacities as trustee in bankruptcy of the Foreign Debtors (the "Trustee") and Receiver and Manager of all of the assets, undertakings and properties of Aero Canada (the "Receiver") dated December 31, 2010 and provided for the vesting in the Purchaser Aveos of the Debtor's Foreign Debtors' right, title and interest in and to the Interim Aveos Purchased Assets, which vesting is to be effective, subject to any earlier vesting pursuant to Paragraph 5 of the Order, with respect to the Interim Aveos Purchased Assets reflected in the invoice(s) attached hereto as Appendix "A" upon the delivery by the Receiver to the Purchaser Foreign Representatives to Aveos of a certificate confirming (i) the payment in full by the Purchaser Aveos of the Purchase Price for the purchase price for those Interim Aveos Purchased Assets in accordance with the terms of the Aveos Settlement Agreement; (ii) that the conditions to Closing as set out in section 14 of the Sale Aveos Settlement Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction Foreign Debtors and/or Aveos and Aeroman, as applicable; (iii) that those Interim Aveos Purchased Assets have ceased to be Disputed Parts under the Aveos Settlement Agreement and have been determined to be owned by Aero; and (iv) the sale of those Interim

Aveos Purchased Assets has been completed to the satisfaction of the Receiver Foreign Representatives.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement Order.

~~THE RECEIVER CERTIFIES~~ FOREIGN REPRESENTATIVES CERTIFY the following:

1. ~~The Purchaser~~ Aveos has paid and the Receiver ~~has~~ Foreign Debtors have received the ~~Purchase Price~~ full purchase price payable for the Interim Aveos Purchased Assets payable on the Closing Date pursuant to the Sale reflected in the invoice(s) attached hereto as Appendix "A" in accordance with the Aveos Settlement Agreement;

2. The conditions ~~to Closing as set out in section 14 of the Sale~~ Aveos Settlement Agreement have been satisfied or waived by the Receiver and the Purchaser; and Foreign Representatives and/or Aveos and Aeroman, as applicable;

3. ~~The Transaction~~ Interim Aveos Purchased Assets reflected in the invoice(s) attached hereto as Appendix "A" have been determined to be owned by Aero; and

4. The transaction for the sale of the Interim Aveos Purchased Assets reflected in the invoice(s) attached hereto as Appendix "A" has been completed to the satisfaction of the Receiver Foreign Representatives.

4. This Certificate was delivered by the Receiver Foreign Representatives at _____ [TIME] on _____ [DATE].

~~[NAME OF RECEIVER], in its capacity as Receiver of the undertaking, property and assets of [DEBTOR], and not in its personal capacity~~

Per: _____
Name: _____
Title: _____

SIGNED by:	
on behalf of THE ADMINISTRATORS , pursuant to powers conferred by their document of appointment and the English Insolvency Act 1986, duly authorized as set out below:	Administrators

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985,
c. C-36 AS AMENDED**

**AND IN THE MATTER OF JAMES ROBERT TUCKER, RICHARD HEIS AND ALLAN
WATSON GRAHAM OF KPMG LLP AS JOINT ADMINISTRATORS (Applicants)**

**AND IN THE MATTER OF AERO INVENTORY (UK) LIMITED and AERO INVENTORY PLC
(Respondents)**

Court File No. 09-CL-8456-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

Ozlyv Remant LLP

Suite 3800

Royal Bank Plaza, South Tower

200 Bay Street, P.O. Box 84

Toronto, Ontario M5S 1Z4

Frank Cobble J. SUC#: 55787N

Tel: (416) 716-1929

Fax: (416) 716-3930

Guardian Counsel to the Applicants

Schedule B — Purchased Assets

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~~Schedule C—Claims to be deleted and expunged from title to Real Property~~

**Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property
(unaffected by the Vesting Order)**

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED
AND IN THE MATTER OF JAMES ROBERT TUCKER, RICHARD HEIS AND ALLAN WATSON
GRAHAM OF KPMG AS JOINT ADMINISTRATORS
AND IN THE MATTER OF AERO INVENTORY (UK) LIMITED and AERO INVENTORY PLC

Court File No: 09-CL-8456-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE -
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**MOTION RECORD
RETURNABLE JANUARY 21, 2011**

OGILVY RENAULT LLP

Suite 3800

Royal Bank Plaza, South Tower

200 Bay Street, P.O. Box 84

Toronto, Ontario M5J 2Z4

Evan Cobb 55787N

Tel: (416) 216-1929

Fax: (416) 216-3930

Lawyers for the Applicants