

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) FRIDAY, THE 21ST
JUSTICE MARROCCO)
DAY OF JANUARY, 2011

**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 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 transactions to Aveos (the “**Sale Transactions**”) contemplated by the Aveos Settlement Agreement and vesting in Aveos the Foreign Debtors’ right, title and interest in and to the Aveos Purchased Assets (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.

and being advised that Air Canada does not oppose,

ON READING the Second Report, the Receiver's First Report and the Supplemental Report and on hearing the submissions of counsel for the 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 affidavits of Marna McGeorge sworn January 18, 2011 filed, ~~and~~ upon the consent of Lloyds TSB Commercial Finance Limited, as agent for the secured lenders to the Foreign Debtors:

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.

and having been advised that the

2. THIS COURT ORDERS AND DECLARES that the 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 Aveos Settlement Agreement by the Receiver and the Trustee, are hereby approved and ratified, and the Foreign Representatives, the Receiver, the Information Officer and the 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 settlement and transactions contemplated by the Aveos Settlement Agreement.

Foreign Debtors, Air Canada and the Trustee agreed to a form of side letter.

3. THIS COURT ORDERS AND DECLARES that, 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 shall vest absolutely in 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 "Claims") including, without limiting the generality of the foregoing: (i) 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 (all of which are collectively referred to as the “**Encumbrances**”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Initial Aveos Purchased Assets 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.

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 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. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds 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 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 the sale of such Aveos Purchased Assets with the same priority as they had with respect to those Aveos Purchased Assets immediately prior to the sale, as if 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. THIS COURT ORDERS AND DIRECTS the Foreign Representatives to file with the Court a copy of each Foreign Representatives' Interim Certificate forthwith after delivery thereof.

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. THIS COURT ORDERS that, notwithstanding:

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

(c) any assignment in bankruptcy made in respect of the Foreign Debtors;

the vesting of the Aveos Purchased Assets in 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 Foreign Debtors, including the Trustee, and shall not be void or voidable by creditors of the Foreign Debtors, nor shall they constitute nor be deemed to be preferences, fraudulent conveyances, transfers at undervalue, or other challengeable or voidable transactions under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

11. THIS COURT ORDERS AND DECLARES that the 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, ^{and, subject to the rights, claims, defences, and positions} be and are hereby approved. ^{taken, or that may be taken,}

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

16. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, in the United States or elsewhere to give effect to this Order and to assist the 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 ^{by Air Canada vis-à-vis the}

Foreign Debtors' estates,

assistance to the Foreign Representatives, the Trustee, the Receiver and the Information Officer ,
as officers of this Court, as may be necessary or desirable to give effect to this Order.

Manoel J

Schedule A – Form of Foreign Representatives’ Interim Certificate

Court File No. 09-CL-8456-OOCL

**ONTARIO
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FOREIGN REPRESENTATIVES’ INTERIM CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Newbould of the Ontario Superior Court of Justice (the “**Court**”) 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 January 21, 2011 (the “**Order**”), the Court approved the settlement and labour supply agreement (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 Aveos of the 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 Foreign Representatives to Aveos of a certificate confirming (i) the payment in full by Aveos of the purchase price for those Interim Aveos Purchased Assets in accordance with the terms of the Aveos Settlement Agreement; (ii) that the conditions as set out in section 14 of the Aveos Settlement Agreement have been satisfied or waived by the 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 Foreign Representatives.

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

THE FOREIGN REPRESENTATIVES CERTIFY the following:

1. Aveos has paid and the Foreign Debtors have received the full purchase price payable for the Interim Aveos Purchased Assets reflected in the invoice(s) attached hereto as Appendix “A” in accordance with the Aveos Settlement Agreement;
2. The conditions set out in section 14 of the Aveos Settlement Agreement have been satisfied or waived by the Foreign Representatives and/or Aveos and Aeroman, as applicable;
3. The 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 Foreign Representatives.

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

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 he so declares)	Administrator
)	
)	

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,
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Court File No: 09-CL-8456-OOCL

**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)**

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

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

Ogilvy Renault LLP

Suite 3800

Royal Bank Plaza, South Tower

200 Bay Street, P.O. Box 84

Toronto, Ontario M5J 2Z4

Evan Cobb LSUC#: 55787N

Tel: (416) 216-1929

Fax: (416) 216-3930

Canadian Counsel to the Applicants