

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

ACS PRECISION COMPONENTS PARTNERSHIP

Respondent

NOTICE OF MOTION

Zeifman Partners Inc. (the "Receiver") the receiver of ACS Precision Components Partnership ("ACS") will make a motion, to a Judge presiding over the Commercial List on January 6, 2011 at 10:00 a.m. or as soon after that time as the motion can be heard, at the Court House, 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard

- in writing under subrule 37.12.1(1) because it is on consent or unopposed or made without notice;
- in writing as an opposed motion under subrule 37.12.1(4)
- orally.

THE MOTION IS FOR

1. An Order substantially in the form of Schedule A to this Notice of Motion for the following relief:
 - a) if necessary, abridging the time for and validating the method of service of this Notice of Motion and the Seventh Report of the Receiver to the Court dated December 24, 2010 (the "Seventh Report") and directing that any further service of this Notice of Motion and the Seventh Report be dispensed with such that this motion is properly returnable on January 6, 2011;

- b) accepting and approving the Seventh Report of the Receiver;
 - c) approving the appointment of Raymond Slattery of Minden Gross LLP as representative counsel for the unsecured creditors;
2. granting such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- a) By Order of the Honourable Mr. Justice Campbell dated May 6, 2010 (the "Receivership Order"), the Receiver was appointed as receiver without security of all of the assets, undertakings and properties of ACS acquired for or used in relation to a business carried on by ACS pursuant to Section 243 of the *Bankruptcy and Insolvency Act*;
- b) Following its appointment, the Receiver caused ACS to continue operations and produce parts for customers until September 22, 2010. In a motion scheduled to be heard on January 20, 2011, the Receiver will seek the Court's direction as to whether some or all of the operating income generated from the operations during the receivership should be reimbursed to certain customers (the "Pending Motion");
- c) After payment of all secured claims and accounting for other potential prior claims, the Receiver presently anticipates that there will be sufficient monies available to fund a distribution to the unsecured creditors of at least 40 cents on the dollar;
- d) The distribution of the operating income generated from the operations during the receivership period to the customers will, if approved, reduce the amount otherwise available to the unsecured creditors;
- e) As such, it is the Receiver's view that the unsecured creditors have an interest in the Pending Motion;

- f) According to the books and records of ACS, there are approximately 230 unsecured creditors with claims totalling approximately \$6.7 million. The amount of those claims range from less than \$100 to approximately \$730,000;
- g) A number of the unsecured creditors are out-of-jurisdiction;
- h) The granting of an order approving the appointment of representative counsel to represent the unsecured creditors in the Pending Motion is necessary or desirable because the unsecured creditors have a present, future, contingent or unascertained interest in or may be affected by the proceeding and not all unsecured creditors can be readily ascertained, found or served;
- i) The granting of a representation order will:
 - i) Provide unsecured creditors with a reliable resource for information about the issues that may affect their interests in the Pending Motion;
 - ii) Provide a large group of unsecured creditors, consisting of a wide-range of claims, with a cost-effective method to ensure that their interests in the Pending Motion are properly considered;
 - iii) Provide out-of-jurisdiction unsecured creditors with counsel who is qualified to assist with the issues in question and who is familiar with the process; and
 - iv) Provide to all parties a stream-lined and efficient process for determining the issue of the right to profits from the operations during the receivership;
- j) Raymond Slattery has the necessary qualifications and experience required to represent the unsecured creditors in the Pending Motion;
- k) Paragraphs 3, 26 and 28 of the Receivership Order;
- l) Rules 1.04, 2.03, 3.02, 10, 16 and 37 of the *Rules of Civil Procedure*; and
- m) Such further and other grounds as counsel may advise and this Honourable Court permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- a) The Seventh Report;
- b) Such further and other materials as counsel may advise and this Honourable Court may permit.

December 24, 2010

MILLER THOMSON LLP
One London Place
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London, ON Canada N6A 5R8

Tony Van Klink LSUC#: 29008M
Tel: 519.931-3509
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Solicitors for Zeifman Partners Inc.,
Receiver of ACS Precision Components
Partnership

TO: Service List Attached

SCHEDULE "A"

Court File No. 10-8702-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) THURSDAY , THE 6TH
JUSTICE)
) DAY OF JANUARY, 2011

BETWEEN :

BANK OF MONTREAL

Applicant

- and -

ACS PRECISION COMPONENTS PARTNERSHIP

Respondent

ORDER

THIS MOTION, made by Zeifman Partners Inc. (the "Receiver") in its capacity as Receiver of ACS Precision Components Partnership ("ACS"), for an Order,

- d) if necessary, abridging the time for and validating the method of service of this Notice of Motion and the Seventh Report of the Receiver to the Court dated December 24, 2010 (the "Seventh Report") and directing that any further service of this Notice of Motion and the Seventh Report be dispensed with such that this motion is properly returnable on January 6, 2011;
- e) accepting and approving the Seventh Report of the Receiver;
- f) approving the appointment of Raymond Slattery of Minden Gross LLP as representative counsel for the unsecured creditors; and
- g) granting such further and other relief as counsel may advise and this Honourable Court may deem just.

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

ON READING the Notice of Motion, the Seventh Report and on hearing the submissions of counsel for the Receiver, and the lawyers for such other parties as present:

THIS COURT ORDERS that the time for and method of service of the Notice of Motion and the Receiver's Seventh Report is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

THIS COURT ORDERS that the Seventh Report is hereby accepted and approved.

THIS COURT ORDERS that the appointment of Raymond Slattery of Minden Gross LLP as representative counsel (hereafter the "Representative Counsel") for the unsecured creditors in respect of the issue of the distribution of operating income generated during the receivership, scheduled to be heard by Motion on January 20, 2011, is hereby approved.

THIS COURT ORDERS that the Representative Counsel shall be paid his reasonable fees and disbursements at his standard rate and charges. Subject to the passing of the accounts for same, the Receiver is authorized to pay such fees and disbursements from the funds in the receivership estate.

THIS COURT ORDERS that the Representative Counsel shall pass his accounts from time to time and for this purpose the accounts of the Representative Counsel are hereby referred to a Judge of the Commercial List of the Ontario Superior Court of Justice.

THIS COURT ORDERS that the Receiver shall provide to the Representative Counsel the names, addresses, telephone, facsimile and e-mail information for the unsecured creditors.

THIS COURT ORDERS that Representative Counsel shall provide notice ("Notice") of the granting of this Order to the unsecured creditors by sending a copy of this Order forthwith to the unsecured creditors along with Representative Counsel's contact information.

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

THIS COURT ORDERS that all unsecured creditors who do not wish to be bound by this Order and all other related Orders which may subsequently be made in these proceedings shall notify Representative Counsel of same within five business days of service of the Notice, and at the latest by January 18, 2011, and in the form attached as Schedule "A"

hereto, and shall thereafter not be bound by this Order and shall represent themselves as an independent individual party to the extent they wish to appear in these proceedings.

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 Receiver and its 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 Receiver, as an officer 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"

Court File No. 10-8702-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

BANK OF MONTREAL

Applicant

- and -

ACS PRECISION COMPONENTS PARTNERSHIP

Respondent

OPT-OUT LETTER

Minden Gross LLP
Barristers & Solicitors
145 King Street West
Toronto, ON M5H 4G2
Attention: Raymond Slattery
Tel: 416-369-4149
Fax: 416-864-9223

_____ is an unsecured creditor (the "Unsecured Creditor") of ACS Precision Components Partnership.

Under paragraph ____ of the Order of the Honourable Mr./Madam Justice _____ dated January 20, 2011, unsecured creditors who do not wish Raymond Slattery of Minden Gross LLP to act as their representative counsel ("Representative Counsel") may opt out.

I hereby notify Representative Counsel that I do not wish to be bound by the Order and will be represented as an independent individual party to the extent I wish to appear in these proceedings. I certify that I have authority to bind the Unsecured Creditor to which this Opt-Out Letter applies.

Date

Signature

Title

SERVICE LIST

(December 24, 2010)

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Lawyer for the Unsecured Creditors

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Applicant

ACS PRECISION COMPONENTS
and
Respondent

Court File No: 10-8702-00CL

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Proceeding commenced at Toronto

NOTICE OF MOTION

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