

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N :

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 Thursday, January 20, 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

- (a) if necessary, an Order abridging the time for and validating the method of service of this Notice of Motion and the Eighth Report of the Receiver to the Court dated January 10, 2011 (the "Eighth Report") and directing that any further service of this Notice of Motion and the Eighth Report be dispensed with such that this motion is properly returnable on January 20, 2011;
- (b) an Order accepting and approving the Eighth Report and approving the activities of the Receiver described therein;

- (c) an Order approving the Receiver's Statement of Receipts and Disbursements for the period May 6, 2010 to December 17, 2010;
- (d) directions from this Honourable Court with respect to the entitlement of customers of ACS during the receivership to receive the net income generated from operations during the receivership;
- (e) an Order approving a settlement between the Receiver and Omex Manufacturing ULC ("Omex");
- (f) an Order approving, *nunc pro tunc*, the return of a forklift to De Lage Landen Financial Services Canada Inc. ("DLL");
- (g) an Order approving a distribution of \$2,797,891.45 to ATS Automation Tooling Systems Inc. ("ATS") in respect of ATS' secured claim;
- (h) an Order approving the following distributions to former employees of ACS in respect of their secured claims under Section 81.4(1) of the *Bankruptcy and Insolvency Act* ("BIA"):
  - (i) amounts owing to the former employees to a maximum of \$2,000 each as set forth on Schedule X to the Eighth Report in respect of unremitted retirement savings plans contributions; and
  - (ii) the sum of \$2,000 to Christopher Park in respect of compensation owed to Mr. Park for overtime hours worked prior to the Receiver's appointment.
- (i) an Order approving the fees and disbursements of the Receiver for the period from August 1, 2010 to October 31, 2010 and the Receiver's legal counsel, Miller Thomson LLP, for the period from August 1, 2010 to October 31, 2010;
- (j) an Order authorizing the Receiver to destroy the records of ACS as described on Schedule AA to the Eighth Report; and
- (k) 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) The Receiver wishes to report to the Court on the status of the receivership, its activities to date and the receipts and disbursements;
- c) The Receiver requires directions from the Court on the entitlement of customers of ACS during the receivership to receive the net income generated from operations during the receivership. Pursuant to paragraph 26 of the Receivership Order, the Receiver may from time to time apply to the Court for advice and directions in the discharge of its powers and duties under the Receivership Order;
- d) The terms of the Settlement Agreement with Omex are fair, reasonable and in the best interests of the stakeholders;
- e) DLL held valid security in respect of the Forklift returned to DLL by the Receiver;
- f) The Receiver is holding funds from the receivership a portion of which the Receiver seeks to distribute as follows:
  - i) the sum of \$2,797,891.45 to ATS, a secured creditor properly entitled thereto;
  - ii) the amounts set forth on Schedule X to the Eighth Report to the former employees of ACS listed on Schedule X in respect of their secured claims under Section 81.4(1) of the BIA for unremitted contributions to the registered retirement savings plans of such employees; and

- iii) the sum of \$2,000 to Christopher Park in respect of a secured claim under Section 81.4(1) of the BIA for compensation owed to Mr. Park for overtime worked prior to the Receiver's appointment.
- g) The Receiver has received legal opinions from Miller Thomson LLP with respect to the proposed distributions;
- h) Pursuant to paragraph 20 of the Receivership Order, the accounts of the Receiver and its legal counsel are to be passed from time to time by a Judge on the Commercial List of the Ontario Superior Court of Justice;
- i) The fees and disbursements of the Receiver and Miller Thomson LLP are fair and reasonable and justified in the circumstances, and accurately reflect the work done by the Receiver and Miller Thomson LLP in connection with the receivership during the relevant periods;
- j) Sections 97, 100 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43;
- k) Rules 1.04, 2.03, 3.02, 16 and 37, 59.06 of the *Rules of Civil Procedure*; and
- l) 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 Eighth Report;
- b) The fees Affidavit of Allan Rutman sworn December 2, 2010;
- c) The fees Affidavit of Sherry Kettle sworn December 2, 2010; and
- d) Such further and other materials as counsel may advise and this Honourable Court may permit.

January 10, 2011

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BANK OF MONTREAL  
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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