

**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**

**REPORT OF THE INFORMATION OFFICER AND TRUSTEE IN BANKRUPTCY**

**FEBRUARY 4, 2010**

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## INTRODUCTION

1. KPMG Inc. is the Information Officer of Aero Inventory (UK) Limited and Aero Inventory plc (the “**Foreign Debtors**”) and receiver and manager of their Canadian affiliate, Aero Inventory Canada Inc./Aero Inventaire (Canada) Inc. (“**Aero Canada**”).
2. James Robert Tucker, Richard Heis and Allan Watson Graham of KPMG LLP (collectively, the “**Foreign Representatives**”) brought a motion before this Honourable Court seeking an order temporarily lifting the stay imposed by the order dated November 11, 2009 (the “**Recognition Order**”) to permit an assignment into bankruptcy of the Foreign Debtors under the *Bankruptcy and Insolvency Act* (“**BIA**”).
3. The express purpose of the proposed bankruptcy filing was to preserve the rights of the trustee in bankruptcy to pursue any reviewable transactions, settlements and preferences or conveyances under value which may have taken place during the statutory time period prescribed by the BIA.
4. On Friday January 22, 2010, the Honourable Justice Morawetz issued an Order (the “**Lift Order**”) temporarily lifting the stay granted in the Recognition Order and authorizing the Foreign Representatives to assign the Foreign Debtors into bankruptcy. The assignment documents, attached hereto as **Appendix A**, were filed with the office of the Superintendent of Bankruptcy on January 22, 2010 and the Certificates of Appointment, attached hereto as **Appendix B**, were issued naming KPMG Inc. as Trustee (the “**Trustee**”) of both Aero Inventory (UK) Limited and Aero Inventory Plc.
5. The purpose of this report by the Trustee is to seek the approval of this Honourable Court for:
  - (a) An extension of the time periods *nunc pro tunc* for the Trustee to perform its statutory obligations as prescribed by sections 16, 21, 22, 24, 27 and 102 of the *BIA* until further Order of this Court and relief from performing such obligations until such Order;
  - (b) An extension of the time periods *nunc pro tunc* for the Foreign Debtors to perform their obligations under section 158 of the BIA until further Order of this Court and relief from performing such obligations until such Order;

- (c) The delivery by the Trustee, by ordinary mail, of a notice to the Foreign Debtors' known creditors in the form attached as **Appendix C** to this Report (the "**Trustee's Letter**"); and
  - (d) The Foreign Representatives to be authorized to provide direction to the Trustee as required, including the authority to direct and supervise the Trustee to pursue a claim under sections 95 and/or 96 of the BIA, subject to the review of this Court.
6. In preparing this report, KPMG Inc. has relied solely on information supplied by the Foreign Representatives and their counsel. KPMG Inc. has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information and accordingly expresses no opinion or other form of assurance on the information contained in this report.

## **BACKGROUND**

7. The Foreign Debtors and their international affiliates, including Aero Canada, form an integrated and inter-dependent group of companies that supply parts to the airline industry.
8. The Foreign Debtors have assets in Canada, and their Canadian operations are administered by Aero Canada. They have two key Canadian customers: Air Canada and Aveos Fleet Performance Inc.
9. The assets of the Foreign Debtors are subject to a security interest in favour of a lending syndicate. At this time, it appears that the secured lenders will suffer a significant shortfall.
10. Pursuant to the Foreign Proceedings, and in accordance with paragraph 49(4)(b) of Schedule B1 to the *Insolvency Act 1986*, on or around January 4, 2010, the Foreign Representatives prepared and sent Form 2.17B to all of the Foreign Debtors' worldwide creditors (in excess of 650 trade and secured creditors with total book debts in excess of \$586,000,000) advising that the secured creditors will suffer a significant shortfall and there will be no funds available for distribution to unsecured creditors with the exception of UK statutory priority claims.

11. The Trustee's role is expected to be limited, given the existence of creditors with security over the property and undertakings of the Foreign Debtors and the expectation that such security will extend to any funds generated from an action under section 95 or 96 of the BIA.

## **TRUSTEE'S STATUTORY REQUIREMENTS**

12. Pursuant to various sections of the BIA, as outlined below, the Trustee is required to perform certain statutory duties in its capacity as Trustee including the following:

### *Notice and First Creditor's Meeting (Section 102):*

- (a) **Notice of Bankruptcy and First Meeting of Creditors** – Pursuant to section 102 of the BIA, within 5 days of its appointment the Trustee is required to send a Notice of Bankruptcy and First Meeting of Creditors to every known creditor and the Superintendent and include with the notice a list of creditors and their claims  $\geq$ \$25, Proof of Claim and Proxy;
- (b) **Notice of Bankruptcy and First Meeting of Creditors in Local Newspaper** – Pursuant to subsection 102 (4), as soon as possible after the bankruptcy, but not later than 5 days before the first meeting of creditors, the Trustee shall publish notice of the bankruptcy in a local newspaper;:
- (c) **Trustee's Report to Creditors on Preliminary Administration** – Prepare the report on the preliminary administration with the prescribed information, discuss at the first meeting of creditors and provide a copy to the Official Receiver at the first meeting of creditors;
- (d) **Meeting** – Conduct meeting in accordance with BIA requirements;
- (e) **Inspectors** – Inspectors should be appointed to give direction to the Trustee;:
- (f) **Claim/Proxy** – coordinate a claims process and maintain a claims register.

### *Other:*

- (g) Take possession and make inventory pursuant to Section 16 of the BIA;
- (h) Verify bankrupt's statement of affairs pursuant to Section 21 of the BIA;
- (i) Duties regarding returns pursuant to Section 22 of the BIA;
- (j) Insuring property pursuant to Section 24 of the BIA; and
- (k) Reports by Trustee pursuant to Section 27 of the BIA.

13. The Trustee believes that there is no value in incurring the expense (including professional fees) associated with the discharge of these statutory obligations in light of:
  - (a) the role of the Foreign Representatives as court officers in the Foreign Proceeding and this Court's recognition of that proceeding under Part IV of the CCAA;
  - (b) the expectation that there are no assets in the estates, and therefore no recoveries to unsecured creditors;
  - (c) the fact that the foregoing information has been previously communicated to all unsecured creditors as described above; and
  - (d) the duplication and potential for confusion among stakeholders in the event that such steps are taken in the circumstances.
14. Similarly, the Trustee believes that there is no value in compelling the Foreign Debtors to satisfy the requirements set out in section 158 of the BIA in circumstances where they are subject to the supervision of the Foreign Proceedings.

#### **TRUSTEE'S ROLE**

15. The Trustee will maintain a website to provide information respecting the bankruptcies;
16. The Trustee will cause the Trustee's Letter in the form attached at Appendix C to be delivered by ordinary mail to all known creditors advising as follows:
  - (a) Aero Inventory (UK) Limited and Aero Inventory Plc have been assigned into bankruptcy;
  - (b) The Trustee has created a website where any further updates on these proceedings will be available, and where the creditors list and the statement of affairs may be found;
  - (c) No creditors' meeting or claims process will be conducted by the Trustee until further Order of this Court; and
  - (d) The security of the lending syndicate will be reviewed.
17. It is not anticipated that any Inspectors will be appointed in these proceedings. Instead, in order to ensure the coordination of these proceedings with the Foreign Proceedings, the Trustee proposes that the Foreign Representatives shall exercise the oversight functions over the Trustee set out in section 30(1) of the BIA, subject to the review of this Court.

**ORDER SOUGHT**

18. We respectfully submit this Report to this Honourable Court in support of a motion requesting this Honourable Court to:
- (a) Extend the time periods *nunc pro tunc* for the Trustee to perform its statutory obligations as prescribed by sections 16, 21, 22, 24, 27 and 102 of the *BIA* until further Order of this Court and relieving the Trustee from performing such obligations until such Order;
  - (b) Extend the time periods *nunc pro tunc* for the Foreign Debtors to perform their obligations under section 158 of the *BIA* until further Order of this Court and relieving the Foreign Debtors from performing such obligations until such Order;
  - (c) Authorize the delivery of a notice, by ordinary mail, to the Foreign Debtors' known creditors in the form attached as Appendix C to this Report; and
  - (d) Authorize the Foreign Representatives to provide direction to the Trustee as required, including to direct and supervise the Trustee to pursue a claim under sections 95 and/or 96 of the *BIA*, subject to the review of this Court.
19. KPMG Inc. has prepared this Report to assist the Court in its deliberations and in doing so understands the role of an officer of the Court and its obligation to act impartially and objectively.

All of which is respectfully submitted this 4<sup>th</sup> day of February, 2010.

**KPMG INC.  
INFORMATION OFFICER AND  
TRUSTEE OF THE ESTATES OF  
AERO INVENTORY (UK) LIMITED AND AERO INVENTORY PLC**



Per: Nicholas Brearton  
*Senior Vice President*

