

Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
Toronto, Ontario, Canada M5X1B8
416.362.2111 MAIN
416.862.6666 FACSIMILE

OSLER

Toronto October 13, 2006

Montréal

Ottawa

Calgary

New York

Sent by Messenger

Ontario Securities Commission
Suite 1800
20 Queen Street West
P.O. Box 55
Toronto, ON M5H 3S8

Donald G. Gilchrist
Direct Dial: (416) 862-6534
dgilchrist@osler.com
Our Matter Number: 1053316

Attention: Mr. John Stevenson

Dear Sirs/Mesdames:

Sears Holdings Corporation

On behalf of Sears Holdings Corporation (“**Sears Holdings**”) and SHLD Acquisition Corp. (collectively, the “**Offeror**”), we hereby apply to the Ontario Securities Commission (the “**OSC**”) for relief by way of granting a stay of the order of the OSC dated August 8, 2006 (the “**Order**”) cease-trading the Offeror’s take-over bid (the “**Offer**”) for all of the common shares of Sears Canada Inc. (“**Sears Canada**”), pursuant to subsection 9(2) of the *Securities Act* (Ontario) (the “**Act**”), to permit Sears Canada to hold a meeting (the “**Meeting**”) of shareholders prior to November 15, 2006 at which the shareholders of Sears Canada will vote on a subsequent acquisition transaction (“**SAT**”). The purpose of the requested stay is to ensure that Sears Holdings’ right of appeal of the Order is preserved, an interest the Commission recognized in an August 29, 2006 Order. As set out below, the Offeror does not believe that a stay is required in order to hold the shareholders meeting but, in light of the position taken by Staff of the OSC that such relief is required, we hereby request the stay on an expedited basis.

As you are aware, on September 19, 2006, the Ontario Superior Court of Justice (Divisional Court) dismissed the appeal of the Offeror from the Order, with reasons to follow. On September 26, 2006, the Offeror commenced a motion for leave to appeal from the decision of the Divisional Court to the Ontario Court of Appeal. Immediately thereafter, counsel for Sears Holdings began to communicate with counsel for the Commission regarding the schedule for expediting the appellate proceedings. With the release of the reasons of the Divisional Court yesterday, the Offeror will now be taking steps to obtain a specific schedule for an expedited determination of its motion for leave to appeal to the Court of Appeal and, if leave is granted, the appeal itself.

The support agreements (“**Support Agreements**”) which Sears Holdings entered into with Bank of Nova Scotia, Scotia Capital and Royal Bank of Canada each provide that Sears Holdings will cause a meeting of the Sears Canada shareholders to approve a SAT to be held prior to



November 15, 2006. Sears Holdings has asked Bank of Nova Scotia and Scotia Capital to amend this date to a date that is 40 days after the appellate process has been completed. However, the Bank of Nova Scotia and Scotia Capital wish to maintain the current date in their Support Agreements, as they do not wish to continue to be subject to a restriction against selling their shares.

Sears Holdings proposes that Sears Canada call and hold the Meeting to approve the SAT on or before November 15, 2006, as required by the Support Agreements. Sears Holdings proposes that Sears Canada will announce the number of votes for and against the resolution regarding the SAT at the Meeting. It will also request that Sears Canada state in its information circular for the Meeting, and in any public announcement of the votes cast at the Meeting, that in determining whether the majority of the minority requirement for the SAT has been satisfied, it will exclude the votes of the shares of Sears Canada held pursuant to the Support Agreements with the banks as well as those acquired by Sears Holdings from Vornado pursuant to the Vornado Deposit Agreement (collectively, the “**Subject Shares**”) unless the votes of the Subject Shares are permitted to be included in accordance with the final judicial determination of this issue at the conclusion of the appellate process. Thus, while the shareholders vote would occur on or before November 15th, the shareholders’ resolution regarding the SAT would not be approved before the conclusion of the appellate process unless a majority of the minority approved the SAT without including the votes of the Subject Shares.

We do not believe that this approach would contravene the Order, since the Order, by its terms, does not in any way restrict Sears Canada from holding a Meeting to vote on the SAT; it speaks rather to which of the votes may be counted toward the majority-of-the-minority determination. Furthermore, from a substantive perspective, under the proposed approach the resolution approving the SAT cannot be approved in a manner that is inconsistent with the Commission’s Order, unless the Order is amended or vacated as result of the appellate process, and no Sears Canada shares will trade under the Offer or the SAT unless either the Order of the Commission or an overriding order of the Court of Appeal is complied with by Sears Holdings. Accordingly, there is not and cannot be any violation of the spirit and intent of the Order.

In its order dated August 29, 2006 pursuant to subsection 9(2) of the Act, the Commission stated that it is in the public interest to stay the Commission’s Order to preserve Sears Holdings’ rights pending the outcome of the appellate process. If Sears Holdings and Sears Canada are not permitted to proceed on the basis that is proposed above and are required to exclude the votes of the Subject Shares at the time of the Meeting regardless of the pending appellate process, this would have the effect of vitiating Sears Holdings’ right of appeal on the issue of whether the votes of the Subject Shares should be excluded or included in the majority of the minority calculation, prior to the conclusion of the appellate process.

Once the outcome of the appellate process is known, Sears Holdings will comply with the Commission’s Order or any order resulting from the appellate process, as the case may be. As a result, Sears Holdings’ rights to completion of the appellate process would be preserved and



there will be compliance by Sears Holdings with whatever order is applicable to it at the end of the appellate process.

As arrangements must be put in place quickly in order to comply with applicable legal requirements to hold the Meeting prior to November 15, 2006, we request on behalf of the Offeror that all steps be taken so that the relief applied for can be provided on an expedited basis. We further request on behalf of the Offeror that this letter and application remain confidential until the earlier of the announcement by Sears Canada of the Meeting or the granting of relief, if such relief is provided.

Please call either me or my partners Don Ross or Mark Gelowitz with any questions you may have concerning the foregoing.

Yours very truly,

“original signed”

Donald G. Gilchrist
DG:

- c. Don Ross, *Osler*
- Mark Gelowitz, *Osler*
- Margo Paul, *Ontario Securities Commission*
- Naizam Kanji, *Ontario Securities Commission*
- Michael Brown, *Ontario Securities Commission*
- Kelley McKinnon, *Ontario Securities Commission*
- Paul Steep, *McCarthy Tetrault, LLP*
- Peter Howard, *Stikeman Elliott LLP*
- Andrew Gray, *Torys LLP*
- Kent Thomson, *Davies Ward Phillips & Vineberg LLP*