

CANADA

**SUPERIOR COURT
(Commercial Division)
The Canada Business Corporations
Act**

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
No.: 500-11-042912-127

MONTREAL, this 28th day of
June, 2012

IN THE PRESENCE OF:
THE HONOURABLE MANON SAVARD,
J.S.C.

IN THE MATTER OF THE LIQUIDATION
OF:

ACE AVIATION HOLDINGS INC.

Applicant

-and-

ERNST & YOUNG INC.

Liquidator

-and-

THE DIRECTOR UNDER THE CBCA

Mis en cause

ORDER

CONSIDERING the Applicant's "*Application for an Order Appointing a Liquidator and for an Order that the Liquidation Be Continued Under the Supervision of the Court*" (the "**Motion**") and its supporting exhibits;

CONSIDERING that the Motion is consented to by the Proposed Liquidator, Ernst & Young Inc. (hereinafter the "**Liquidator**");

CONSIDERING the submissions of counsel for the Applicant, ACE Aviation Holdings Inc. ("**ACE**");

GIVEN the provisions of the *Canada Business Corporations Act*, (R.S.C., 1985, c. C-44) (the "**CBCA**");

WHEREFORE, THE COURT:

- [1] **GRANTS** the present Motion;
- [2] **ORDERS** that the time for service of this Motion be and the same is hereby abridged;
- [3] **ORDERS** that the liquidation of ACE shall continue under supervision of the Court, pursuant to Section 211(8) of the CBCA;

I. APPOINTMENT & POWERS OF LIQUIDATOR

- [4] **APPOINTS** Ernst & Young Inc. as Liquidator of all the present and future undertakings, property and assets of whatsoever nature and kind and wherever situate of ACE (the "**Property**"), without security;
- [5] **ORDERS** that the powers of the directors and shareholders of ACE are hereby vested in the Liquidator;
- [6] **ORDERS** that the Liquidator is hereby empowered, authorized and directed to take possession of and control the Property, to proceed with the liquidation of ACE's Property (the "**Liquidation**"), to carry out one or more distributions of ACE's remaining assets to its shareholders after providing for outstanding liabilities, contingencies and costs of the liquidation (the "**Liquidation**");

Distribution”), and to effect the dissolution of ACE (the **“Dissolution”**);

- [7] **ORDERS** that the Liquidator may take such steps as, in the opinion of the Liquidator, are necessary or appropriate to receive, preserve, protect, maintain control over, liquidate and realize upon the Property or any part or parts thereof;
- [8] **ORDERS** that the Liquidator shall be at liberty from time to time to pay its reasonable fees and disbursements, in respect of the performance of its duties as Liquidator, whether incurred before or after making this Order, out of the monies in its hands at its standard rates and charges
- [9] **ORDERS** that subject to the content of this Order, the Liquidator has full authority to settle and/or pay all liabilities and expenses that arise out of or in connection with the Property and in respect of its performance of the duties of the Liquidator including, without limitation, legal fees and disbursements of counsel to the Liquidator and counsel to ACE in each case at their standard rates and charges, whether incurred before or after making this Order, and to establish reserves for contingent liabilities and costs associated with the Liquidation, the Liquidation Distribution, and the Dissolution;
- [10] **ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to employ or retain such agents, experts, auditors, advisors, consultants and legal counsel, as it may from time to time consider necessary or desirable for the purposes of receiving, preserving, protecting and realizing upon the Property or any part or parts thereof, or generally in respect of exercising its powers and performing its duties hereunder;

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- [11] **ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to consult with former directors and officers of ACE and to receive and consider the opinions and advice of such former directors and officers as in its discretion it deems appropriate in relation to carrying out the Liquidation, the Liquidation Distribution and Dissolution;
- [12] **ORDERS** that in addition to Liquidator's counsel, the Liquidator may, as necessary and appropriate, continue to engage ACE counsel to assist in carrying out the Liquidation, the Liquidation Distribution and Dissolution;
- [13] Without in any way limiting the generality of the foregoing, and in furtherance thereof, the Liquidator is hereby expressly empowered, authorized and directed to take the following actions:
- (a) to hold and invest Property that is money in bank accounts, term deposits, or cashable guaranteed investment certificates of a Canadian chartered bank or in treasury bills issued by the Government of Canada;
 - (b) to take such steps as, in the opinion of the Liquidator, are necessary or appropriate to maintain control over all receipts and disbursements including, without limiting the generality of the foregoing, taking such steps as are necessary or desirable to control access to and use of all bank accounts, investment or brokerage accounts of ACE or open new bank, investment or brokerage accounts, approve all cheques or other instruments drawn on such accounts, and permit payment of those expenses that, in the opinion of the Liquidator, are necessary to carry out the Liquidation, the Liquidation Distribution and the Dissolution;

- (c) to take such steps as in the opinion of the Liquidator are necessary and appropriate to verify the existence and location of all of the Property, the terms of all agreements or other arrangements relating thereto, whether written or oral, the existence or assertion of any lien, charge, encumbrance or security interest thereon, and any other matters that, in the opinion of the Liquidator, may affect the extent, value, existence, preservation and liquidation of such Property;
- (d) to negotiate, enter into, terminate or settle any agreements in respect of the Property;
- (e) to incur any obligations in the ordinary course of business and of the Liquidation;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to ACE in respect of the Property, and to exercise all rights and remedies of ACE in collecting all such monies;
- (g) to declare and pay distributions and other amounts to the shareholders of ACE, including all distributions permitted by the CBCA, as contemplated by this order, including establishing record dates for distributions and other payments;
- (h) to cause:
 - (i) the preparation and the filing of the tax return(s), forms, notices, and other documents of ACE, and such tax elections as the Liquidator deems advisable (including, without limitation, in connection with distributions referred to in paragraph (g));

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- (ii) ACE to pay any associated tax liability pursuant to any applicable taxation legislation or regulations;
 - (iii) ACE to obtain any certificates, clearance certificates and other authorizations under applicable taxation legislation and regulations which have not already been obtained in connection with any matter affecting or contemplated by the Liquidation and Liquidation Distribution;
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- (i) to cause the preparation and delivery to shareholders and other recipients of payments from the Liquidator of all tax information and slips relating to such payments that is required to be delivered under applicable taxation legislation and regulations;
 - (j) to prepare and deliver to any current and former employees, officers, directors, and independent contractors of ACE records of employment, T4 slips, or other prescribed forms as may be applicable to such persons;
 - (k) to cause the sale or transfer of the shares of Air Canada and the warrants for the purchase of Air Canada shares at a time and for a price in the sole discretion of the Liquidator;
 - (l) to cause the preparation, delivery and filing of all documents and take all actions and measures, on behalf of and in the name of ACE, as are appropriate or necessary in order to comply with the securities laws and regulations applicable to ACE, and the rules of any stock exchange on which the shares of ACE are listed, including continuous disclosure obligations;

- (m) to provide for the preservation or destruction of documents as is necessary for the Liquidation, in the sole discretion of the Liquidator;
- (n) to otherwise carry out the Liquidation and Liquidation Distribution, as contemplated in this Order and in keeping with the provisions of the CBCA applicable to the Dissolution including, without limitation, delivering notices to shareholders and creditors of ACE, filing of Articles of Dissolution with the Director appointed under the CBCA, and completing all other filings and obtaining all consents under the CBCA and any other legislation applicable to the Dissolution; and

[14] **ORDERS** that the Liquidator be and is hereby fully and exclusively authorized and empowered to institute and prosecute and to continue the prosecution of all actions, applications or proceedings in and before both courts and administrative bodies as may in its judgment be necessary or desirable to properly receive, protect, preserve and realize upon the Property or any part or parts thereof and also to defend all actions, applications or proceedings now pending or hereafter instituted against ACE or the Liquidator in respect of the Property or ACE's liabilities, and to appear in and conduct the prosecution or defence of any such actions, applications or proceedings now pending or hereafter instituted in any court or administrative body by or against ACE or the Liquidator, the prosecution or defence of which will in the judgment of the Liquidator be necessary or desirable to properly receive, protect, preserve and realize upon the Property, and to settle or compromise any such actions, applications or proceedings which in the judgment of the Liquidator should be settled, and the authority hereby conferred shall extend to such appeals as the Liquidator

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shall deem proper and advisable in respect of any order or judgment;

- [15] **ORDERS** that when all or part of the Property is sold or otherwise dealt with, ACE shall join in and execute all necessary powers of attorney, conveyances, deeds and documents of whatsoever nature or form. For such purpose, the Liquidator is hereby authorized and empowered to execute such powers of attorney, conveyances, deeds or other documents in the name of and on behalf of ACE. Any such powers of attorney, conveyances, deeds or documents so executed by the Liquidator shall have the same force and effect as if executed by ACE;
- [16] **ORDERS** that the Liquidator shall be empowered to take any steps reasonably incidental to the exercise of its powers or the performance of any statutory obligations and in each case where the Liquidator takes any such actions or steps, it shall do so to the exclusion of all other persons, and without interference from any other persons.

NOTICES AND COMMUNICATIONS

- [17] **ORDERS** that any notice or other communication to be given under this Order by a Creditor to the Liquidator shall be in writing and will be sufficiently given only if given by e-mail, ordinary mail, registered mail, courier, personal delivery or facsimile transmission except where otherwise specifically provided for in the CBCA. Any document sent pursuant to this Order shall be deemed to have been received three (3) Business Days after the document is sent by mail and one (1) Business Day after the document is sent by courier, e-mail or facsimile transmission. E-mail correspondence shall be directed to the following addresses:

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Liquidator:	Ernst & Young Inc.
	Attention: Sharon S. Hamilton
	E-mail: sharon.s.hamilton@ca.ey.com
Liquidator's Counsel	Lenczner Slaght Royce Smith Griffin LLP
	Attention: Monique Jilesen and Jon Laxer
	E-mail : mjilesen@litigate.com jlaxer@litigate.com

ACE Counsel	Stikeman Elliott LLP
	Attention: Jean Fontaine and Matthew Liben
	E-mail : jfontaine@stikeman.com mliben@stikeman.com

- [18] **ORDERS** that any document sent by the Liquidator pursuant to this Order or the CBCA may be sent by e-mail, ordinary mail, registered mail, courier, personal delivery or facsimile transmission except where otherwise specifically provided for in the CBCA. Any document sent pursuant to this Order shall be deemed to have been received three (3) Business Days after the document is sent by mail and one (1) Business Day after the document is sent by courier, e-mail or facsimile transmission;
- [19] **ORDERS** that the Liquidator and any person may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsel to ACE and counsel to the Liquidator.

IV. LIQUIDATION DISTRIBUTIONS

- [20] **ORDERS** that, subject to any other court order or direction to the contrary, the Net Realized Value of the Property (as hereinafter defined) shall be held by the Liquidator to be disposed of pursuant

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to the terms of this Order, the CBCA and, if applicable, further orders of this Court. The "**Net Realized Value of the Property**" means at any time and from time to time, cash held by ACE and cash proceeds actually received by the Liquidator from the disposition of the Property less any claims reserve established by subsequent order and any and all amounts paid to satisfy or settle, or set aside for payment of any excluded claims and the remuneration and expenses of the Liquidator, including, without limitation, the fees and disbursements of the Liquidator's counsel and ACE's counsel;

[21] **ORDERS** that, for the purposes of determining who is entitled to liquidation distributions and what amount should be paid, the Liquidator may rely on information concerning the identity, address, and number of shares held by registered shareholders that is provided by ACE's transfer agent, Canadian Stock Transfer Company Inc., as administrative agent for CIBC Mellon Trust Company ("**CST**"), or any other transfer agent appointed to replace CST (collectively the "**Transfer Agent Information**") and the Liquidator is specifically authorized to determine entitlement to, and make payment of, liquidation distributions and other payments to shareholders in reliance on the Transfer Agent Information. The Liquidator shall not be liable for any errors in the Transfer Agent Information or for any over-payments, under-payments, or failure to make payments that result from the Liquidator's use of and reliance on the Transfer Agent Information;

[22] **ORDERS** that the Liquidator shall then proceed with the Liquidation Distribution by way of one or more distributions to ACE's shareholders from the Net Realized Value of the Property and any balance from any claims reserve pursuant to a Claims Process (as defined in the Motion) order;

- [23] **ORDERS** that, as contemplated in the notice of annual and special meeting and management proxy circular dated March 9, 2012 that led to the approval of the Liquidation Resolution (as defined in the Motion), the final distribution and the cancellation of the shares of ACE will not occur before June 15, 2013;

V. REPORTING TO COURT

- [24] **ORDERS** that the Liquidator shall report periodically to the Court as to the status of the Claims Process (as defined in the Motion), which shall be instituted by subsequent order, the Liquidation, the Liquidation Distribution and the Dissolution;

VI. RELEASES, INSURANCE AND INDEMNIFICATION

- [25] **ORDERS** that, if not already obtained by ACE, the Liquidator shall obtain and maintain for the benefit of ACE's former officers and directors liability insurance, including a tail policy with respect thereto, and such persons shall be named as insured on such policies and the Liquidator is further authorized to obtain policies of insurance covering its acts and omissions;
- [26] **ORDERS** that the Liquidator is a representative of ACE and does not incur any liability except in its capacity as Liquidator of ACE;
- [27] **ORDERS** that the Liquidator shall incur no liability or obligation as a result of its appointment or the fulfillment of its duties in carrying out the provisions of this Order, save and except for any liability or obligation arising from its duty to act with care, diligence and skill pursuant to Section 222 (2) of the CBCA;
- [28] **ORDERS** that no proceeding or enforcement process in any court or tribunal shall be commenced or continued against the Liquidator

except with the written consent of the Liquidator or with leave of this Court;

- [29] **ORDERS** that the indemnification agreements entered into with the current and former directors and officers of ACE listed in Annex A hereto (collectively the "**Indemnification Agreements**") shall continue in full force and effect, and shall be fully enforceable against ACE, in accordance with the respective terms thereof until completion of the final Liquidation Distribution;
- [30] **ORDER** that the Liquidator shall establish a reasonable reserve to cover any potential claims by directors and officers of ACE under the Indemnification Agreements or pursuant to a legal obligation of ACE to indemnify the directors and officers, including under the by-laws of ACE, and that such reserve shall be maintained until immediately before the final Liquidation Distribution;

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR

- [31] **ORDERS** that, upon the written request of the Liquidator, all individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Liquidator of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Liquidator and shall deliver all such Property to the Liquidator;
- [32] **ORDERS** that, upon the written request of the Liquidator, all Persons shall forthwith advise the Liquidator of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of ACE, and any

computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

- [33] **ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall, upon the written request of the Liquidator, provide the Liquidator with all such assistance in gaining immediate access to the information in the Records as the Liquidator may in its discretion require including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator with any and all access codes, account names and account numbers that may be required to gain access to the information, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidator.

PIPEDA

- [34] **ORDERS** that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Liquidator may disclose personal information of identifiable

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individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"), and provided that in each case the parties to whom such personal information is disclosed enter into a confidentiality agreement with the Liquidator which obliges them to preserve and protect the personal nature of the information, to make limited use thereof, and if they do not complete a Sale, to return all such information to the Liquidator, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by ACE, and shall return all other personal information to the Liquidator, or ensure that all other personal information is destroyed.

VII. MISCELLANEOUS

- [35] **ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered from time to time to apply to this Court for directions in the discharge of its powers and duties hereunder;
- [36] **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 Liquidator 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 Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Liquidator and its agents in carrying out the terms of this Order.

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[37] **ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Liquidator is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

THE WHOLE WITHOUT COSTS.

**MONTREAL, this 28th day of
June 2012**


THE HONOURABLE MANON SAVARD, J.S.C.



**ANNEX A
INDEMNIFICATION AGREEMENTS**

Current Directors

Gregory A. Boland

Pierre Marc Johnson

David J. Kassie

Robert F. Maclellan

Robert A. Milton

David I. Richardson

Marvin Yontef

Former Directors

Bernard Attali

Robert E. Brown

Michael M. Green

W. Brett Ingersoll

Richard H. McCoy

Current Officers

Brian Dunne

Carolyn M. Hadrovic

Sydney John Isaacs

Robert A. Milton

Jack McLean

Former Officer

Greg Cote