



Court file no. 04-CV-263289CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

HONOURABLE
JUSTICE JOAN LAX

) THURSDAY, THE 12th DAY
)
) OF FEBRUARY, 2009

B E T W E E N

PAUL LAWRENCE, ANNE EAGLES and CHARLES SIMON, EVELYN SIMON and
ERICA PRUSSKY, in their capacity as Trustees of the Charles Trust

Plaintiffs

and

ATLAS COLD STORAGE HOLDINGS INC.,
PATRICK GOUVEIA, SUSAN ELIZABETH PETERS, as Executrix of the Estate of
ANDREW W. PETERS, deceased, RONALD PERRYMAN, JOSEPH WILEY,
ROBERT W. MARTIN, ALBRECHT W.A. BELLSTEDT, J. NICHOLAS ROSS,
MICHAEL H. WILSON,
ERNST & YOUNG LLP and BMO NESBITT BURNS INC.

Defendants

Proceeding Under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by Class Counsel for an order pursuant to section
32(2) of the *Class Proceedings Act, 1992* was heard on July 9, 2008 and on August 12,
2008 at Toronto, Ontario.

ON READING the materials filed in support of the motion to approve the
settlement, certify the action as a class proceeding and to approve the fees,
disbursements and applicable taxes of Class Counsel, and the order dated November 4,
2008,

AND ON HEARING the submissions of Class Counsel, the defendants taking no position on this motion,

1. THIS COURT ORDERS AND DECLARES that, for the purposes of this order, the following definitions apply:

- (a) "Administrator" means Deloitte & Touche LLP;
- (b) "Class Counsel" means Sutts, Strosberg LLP, Koskie Minsky LLP and Groia & Company Professional Corporation;
- (c) "Fee Agreement" ^{✓ means ✓} the Contingency Fee Retainer Agreement made as at February 1, 2004 and signed by the plaintiffs on March 3, 2008; and
- (d) "Settlement Amount" means \$40,000,000.

2. THIS COURT ORDERS that in accordance with section 32(2) of the *Class Proceedings Act, 1992*, the Fee Agreement be and is hereby approved.

3. THIS COURT ORDERS that:

- (a) the fees of Class Counsel are fixed at \$6,615,000, being \$6,300,000 on account of fees, plus \$315,000 on account of GST; and
- (b) the disbursements of Class Counsel are approved and fixed at \$451,538.43, being \$434,474.09 on account of disbursements and \$17,064.34 on account of GST.

4. THIS COURT ORDERS that the Administrator shall pay to Sutts, Strosberg LLP, in trust, the sum of \$3,227,675.85, being Class Counsel fees of \$6,615,000, including GST, plus disbursements of \$451,538.43, including GST, less the sum of \$3,838,862.58, being the interim payment to Class Counsel paid pursuant to the order of Justice Lax dated November 4, 2008.

5. THIS COURT ORDERS that, in addition to the amount specified in paragraph 4, the Administrator shall pay \$104,751.49 to Sutts, Strosberg LLP, in trust, as Class Counsel's proportionate share of interest earned on the Settlement Amount to February 25, 2009, plus interest at the per diem rate of \$73.40 from February 26, 2009 to the date of payment.



JUSTICE

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ENTERED AT/INSCRIT À TORONTO
ON/BOOK NO:
I.E/DANS LE REGISTRE NO:

FEB 24 2009

PER/PAR: 

LAWRENCE et al.

Plaintiffs

ATLAS COLD STORAGE HOLDINGS INC. et al.

Defendants

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**ONTARIO
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PROCEEDINGS COMMENCED AT TORONTO

ORDER

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REF: HTS/sw