

CANADA

SUPERIOR COURT
(Commercial Division)
The Canada Business Corporations Act

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

IN THE MATTER OF THE LIQUIDATION OF:

ACE AVIATION HOLDINGS INC.

Applicant

-and-

ERNST & YOUNG INC.

Liquidator

APPLICATION FOR AN ORDER WITH RESPECT TO
STICHTING CARTEL COMPENSATION ET AL.

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN
COMMERCIAL DIVISION FOR THE JUDICIAL DISTRICT OF MONTREAL, THE
APPLICANT, THROUGH THE LIQUIDATOR, RESPECTFULLY SUBMITS THE
FOLLOWING:

INTRODUCTION

1. On April 25th, 2012, at the annual and special meeting of shareholders of ACE Aviation Holdings Inc. ("ACE"), the shareholders of ACE approved a special resolution providing for the voluntary liquidation of ACE pursuant to Section 211 of the *Canada Business Corporations Act* ("CBCA");
2. On May 9th, 2012, ACE filed a statement of its intent to dissolve pursuant to Subsection 211(4) of the CBCA with the Director appointed under the CBCA, and the Director issued a certificate of intent to dissolve;
3. On or about June 27th, 2012, ACE filed an "*Application for an Order Appointing a Liquidator and for an Order that the Liquidation be Continued Under the Supervision of the Court*" with this Honourable Court (the "**Liquidation Motion**");
4. On or about June 28th, 2012, Justice Manon Savard issued an order granting the Liquidation Motion and appointing Ernst & Young Inc. as liquidator of ACE (the "**Liquidation Order**"). Effective June 28, 2012, all of the directors and officers of ACE and its subsidiaries resigned from their positions, and the Liquidator was vested with the powers of the directors of ACE in accordance with the provisions of the CBCA and the Liquidation Order;

THE ACE CLAIMS PROCESS

5. On February 22nd, 2013, ACE filed an *"Application for an Order Establishing a Claims Process"* with this Honourable Court;
6. On February 25th, 2013, the Honourable Justice Mark Schrager issued an order establishing a process for the identification, resolution and barring of claims and other contingent liabilities against ACE (the **"Claims Process Order"**). Pursuant thereto, creditors had until May 13, 2013 (the **"Claims Bar Date"**) to file their proof of claims, failing which their claims would be barred and extinguished;
7. A summary of claims filed in response to ACE's claim process will be included in the Third Report of the Liquidator to be filed forthwith;

CORRESPONDENCE FROM COUNSEL TO STICHTING CARTEL COMPENSATION ET AL.

8. On October 22, 2012, ACE received a letter from counsel acting on behalf of Stichting Cartel Compensation (**"SCC"**), a group that purports to act on behalf of certain air cargo customers. SCC claimed an unspecified amount of compensation from ACE in connection with Air Canada surcharges for fuel and security for the period from January 1, 2000 to December 31, 2006, which surcharges are alleged to have been implemented by certain air cargo carriers, including Air Canada, in violation of European Union competition law. The letter dated October 22, 2012, is attached hereto as **Exhibit P-1**;
9. SCC alleged that it relied on a decision of the European Commission issued on November 9, 2010 pursuant to which the European Commission imposed fines on eleven air cargo carriers, including Air Canada, the former subsidiary of ACE, for such alleged actions. The decision of the European Commission is being appealed by the air cargo carriers;
10. These allegations against ACE have no merit given that
 - (a) ACE was at all relevant times a separate entity from Air Canada; and
 - (b) ACE never operated an air cargo business or sold cargo fares and no penalties, fines, proceedings or other measures were imposed or taken by the European Commission against ACE;
11. On November 6, 2012, counsel to ACE delivered a response letter to counsel to SCC, reminding SCC that ACE is not mentioned in the November 9, 2010 decision of the European Commission and that, accordingly, there is no basis for the allegations made by SCC. A copy of the letter dated November 6, 2012 is attached hereto as **Exhibit P-2**;
12. Counsel to SCC has not replied or otherwise responded to the November 6, 2012 letter from counsel to ACE;
13. On October 14, 2013, counsel to SCC sent an additional letter to ACE reiterating the allegations previously made, and also addressed a separate letter to the Liquidator with respect to these allegations. The letter dated October 14, 2013 is attached hereto as

respect to these allegations. The letter dated October 14, 2013 is attached hereto as **Exhibit P-3**;

14. As appears from Exhibits P-1 and P-3, the requests made by SCC relate to an alleged cargo cartel operating in Europe between 2000 and 2006;
15. Although the facts underlying the alleged right of action took place up to 14 years ago (and ended no less than 8 years ago), at no time have proceedings relating to such facts been brought by SCC against ACE in any jurisdiction;
16. Indeed, a report from the European Commission dated November 9, 2010 about the decision referenced in Exhibits P-1 and P-3 (the "**Decision**") refers to a group of air carriers against which fines were imposed and does not include ACE. The November 9, 2010 decision is attached as **Exhibit P-4**;
17. On November 5, 2013, counsel to ACE responded to Exhibit P-3 that there was no basis for any liability of ACE, the whole as appears from a copy of the response letter attached herewith as **Exhibit P-5**;
18. On February 11, 2014, counsel to the Liquidator sent a letter to counsel to SCC reiterating the responses provided in Exhibit P-5, to the effect that ACE has never operated an airline and is not an party to the decision of the European Commission dated November 9, 2010, and indicated that SCC is barred from advancing a claim against ACE under the Claims Process Order. The letter dated February 11, 2014 is attached hereto as **Exhibit P-6**;
19. Counsel to SCC has not replied to letters at Exhibit P-5 or P-6;
20. Forthwith after filing of this application, counsel to the Liquidator will send a letter to counsel to SCC advising of the Liquidator's intention to present this application to this Court and attaching a copy of this application;

THE POSITION OF ACE AND THE LIQUIDATOR

21. As established by the Claim Process Order, the Claims Bar Date with respect to all claims against ACE was May 13, 2013;
22. Although counsel to SCC was notified in Exhibit P-2 that ACE was winding down and stated in Exhibit P-3 addressed to the Liquidator that it is aware of ACE's liquidation proceedings, neither SCC nor any of the other parties it purports to represent filed a proof of claim on or prior to the Claims Bar Date;
23. Moreover, these parties have not sought the authorization of this Court nor formally requested the authorization of the Liquidator to file a late proof of claim;
24. In view of this, ACE and the Liquidator consider that any claim or right which such parties may have had against ACE is now permanently barred, and that they cannot be permitted to circumvent the Claims Process Order and to delay ACE's liquidation process;

25. In addition, as stated above, the Liquidator considers that there is no basis for any liability of ACE to SCC given that
- (a) ACE was at all relevant times a separate entity from Air Canada; and
 - (b) ACE never operated an air cargo business or sold cargo fares and no penalties, fines, proceedings or other measures were imposed or taken by the European Commission against ACE;

RELIEF SOUGHT

26. For the reasons set forth above, and pursuant to the terms of the Claims Process Order, ACE and the Liquidator hereby seek a declaration that SCC and the parties listed in the Annex forming part of Exhibit P-3 are permanently barred from making any claim or asserting any right against ACE and/or the Liquidator and from receiving any distribution in connection with the liquidation of ACE;
27. In view of the above, it is submitted that the relief sought herein is well founded in fact and in law;

WHEREFORE MAY IT PLEASE THE COURT TO:

GRANT the present "*Application for an Order with respect to Stichting Cartel Compensation et Al.*";

DECLARE that Stichting Cartel Compensation and all parties listed in the Annex forming part of Exhibit P-3 are forever barred from advancing a claim against ACE and shall not be entitled to receive any amount from the Liquidator pursuant to the terms of the Claims Process Order;

THE WHOLE WITHOUT COSTS, save in case of contestation.

MONTREAL, this 8th day of May, 2014


LENCZNER SLAGHT

Attorneys for the Liquidator of ACE Aviation Holdings Inc.
Ernst & Young Inc.


STIKEMAN ELLIOTT LLP
Attorneys for the Applicant
ACE Aviation Holdings Inc.

NOTICE OF PRESENTATION

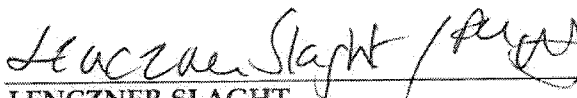
TO: ERNST & YOUNG INC.
Attention: Ms. Sharon Hamilton
Ernst & Young Tower
222 Bay Street
P.O. Box 251
Toronto, Ontario
M5K 1J7

Liquidator

TAKE NOTICE of the foregoing "*Application for an order with respect to Stichting Cartel Compensation et al.*" and that same will be presented for adjudication before this Honourable Court, at 9:15 A.M. on May 20th, 2014, at the **Montreal Courthouse**, located at 1 Notre-Dame Street East, Montreal, Quebec, H2Y 1B6, in room 16.12.

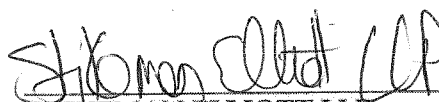
DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, this 8th day of May, 2014



LENCZNER SLAGHT

Attorneys for the Liquidator of ACE Aviation
Holdings Inc.
Ernst & Young Inc.



STIKEMAN ELLIOTT LLP

Attorneys for the Applicant
ACE Aviation Holdings Inc.

AFFIDAVIT

I, the undersigned, SHARON S. HAMILTON, Senior Vice-President of Ernst & Young Inc., in its capacity as Liquidator of the Applicant, doing business at 222 Bay Street, P.O. Box 251, in the City of Toronto, Province of Ontario, M5K 1J7, do solemnly declare as follows:

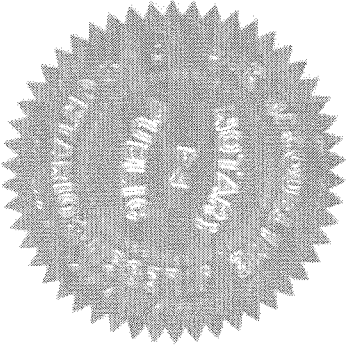
1. I am a duly authorized representative of Ernst & Young Inc., Liquidator of the Applicant;
2. To the best of my knowledge, all the facts alleged in the present motion are true.

AND I HAVE SIGNED:



SHARON S. HAMILTON

SOLEMNLY DECLARED before me on this
8th day of May, 2014


Notary public
MONIQUE OLERON

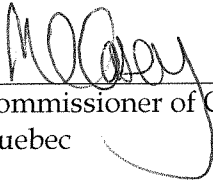
ATTESTATION OF AUTHENTICITY

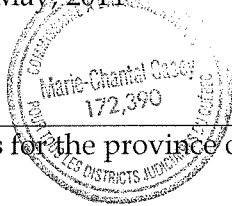
I, the undersigned, MATTHEW LIBEN, attorney, practicing my profession at Stikeman Elliott LLP, located at 1155 René-Lévesque Boulevard West, Suite 4000, in the City and District of Montreal, Province of Quebec, H3B 3V2, do hereby solemnly affirm as follows:

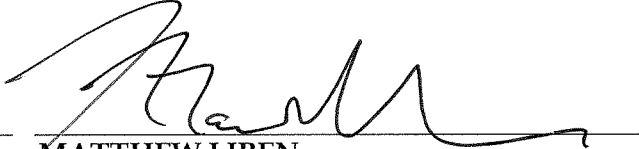
1. I am an attorney at the law firm of Stikeman Elliott LLP;
2. On May 8th, 2014, at 1:18 pm. Eastern time (EDT), I received the Affidavit of Sharon S. Hamilton, dated May 8th, 2014, by email received from Ms. Monique Jilesen of Lenczner Slaght Royce Smith Griffin LLP
3. The copy of the Affidavit attached hereto is a true copy of the said Affidavit of Sharon S. Hamilton received by email today;
4. The facts alleged in this Attestation of Authenticity are true.

Solemnly declared before me, at Montreal,
Quebec, this 8th day of May, 2014:

AND I HAVE SIGNED


Commissioner of Oaths for the province of
Quebec




MATTHEW LIBEN

SUPERIOR COURT
(Commercial Division)
Companies Creditors Arrangement Act

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

IN THE MATTER OF THE LIQUIDATION OF:

ACE AVIATION HOLDINGS INC.

Applicant

and

ERNST & YOUNG INC.

Liquidator

BS0350

Our File: 120000-1071

APPLICATION FOR AN ORDER WITH RESPECT TO
STICHTING CARTEL COMPENSATION ET AL.

ORIGINAL

Me Matthew Liben

(514) 397-3115

Fax: (514) 397-3636

STIKEMAN ELLIOTT LLP
1155 René-Lévesque Boulevard West, 40th floor
Montreal, Quebec, H3B 3V2

CANADA

SUPERIOR COURT
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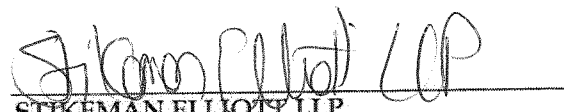
Liquidator

LIST OF EXHIBITS

- EXHIBIT P-1: Copy of the letter from Loyens & Loeff dated October 22, 2012
- EXHIBIT P-2: Copy of the response letter from Hogan Lovells dated November 6, 2012
- EXHIBIT P-3: Copy of the letter from Loyens & Loeff dated October 14, 2013.
- EXHIBIT P-4: Copy of the November 9, 2010 decision.
- EXHIBIT P-5: Copy of the response letter from Hogan Lovells dated November 6, 2013
- EXHIBIT P-6: Copy of the letter from Lenczner Slaght dated February 11, 2014

MONTREAL, this 8th day of May, 2014


LENCZNER SLAGHT
Attorneys for the Liquidator of ACE Aviation
Holdings Inc.
Ernst & Young Inc.


STIKEMAN ELLIOTT LLP
Attorneys for the Applicant
ACE Aviation Holdings Inc.

SUPERIOR COURT
(Commercial Division)
Companies Creditors Arrangement Act

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

IN THE MATTER OF THE LIQUIDATION OF:

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Liquidator

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Our File: 120000-1071

LIST OF EXHIBITS

ORIGINAL

Me Matthew Liben

(514) 397-3115

Fax: (514) 397-3636

STIKEMAN ELLIOTT LLP
1155 René-Lévesque Boulevard West, 40th floor
Montreal, Quebec, H3B 3V2

LOYENS L LOEFF

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OFFICE ADDRESS Blaak 31
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TELEPHONE +31 10 2246187
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INTERNET www.loyensloeff.com

BY COURIER

Ace Aviation Holdings Inc.
Attn. Board of Directors
1155 René-Lévesque Boulevard West
40th Floor
Montreal Quebec H3B 3V2
Canada

FROM J. van den Brande – lawyer
REFERENCE 12540450
DATE 22 October 2012
ENCLOSURE

RE Air Cargo cartel: demand letter

22/10/12 16:39 hrs
Saulnier Robillard Lortie
Huisiers de Justice
Sylvia Desjardins H.J.
[Signature]

Dear Sir, Madam,

We act on behalf of Stichting Cartel Compensation ("**Cartel Compensation Foundation**"), having its offices at The Hague, the Netherlands, and to the extent necessary for all the companies listed in the attached schedule (the "**Schedule**") (all parties hereinafter together referred to as the "**Clients**").

On 9 November 2010, the European Commission ("**EC**") made public that it had fined 11 air cargo carriers a total of EUR 799,445,000 for operating a cartel which affected – amongst others – air cargo services within the European Economic Area (the "**Decision**"). The EC also stated that the Cartel consisted of more members than the 11 air cargo carriers. Ace Aviation Holdings Inc. was a member of this Cartel ("**Cartel**").

The EC stated that the members of the Cartel coordinated for a period of six years surcharges for fuel and security without discount, i.e. from 1 January 2000 up to 31 December 2006. The members of the Cartel prevented competition in relation to these surcharges. The EC concluded that the members of the Cartel committed a severe breach of EU competition law.

The EC also stated that parties that suffered damages as a result of the Cartel can claim compensation of these damages. In relation thereto the EC stated that the case law of the European Court of Justice as well as EU Regulation no.1/2003 confirms that a decision of the EC constitutes binding evidence that a cartel existed and violated EU competition law.

In view hereof we can now only conclude that Ace Aviation Holdings Inc. has committed a tortious act against the Clients, who purchased air cargo services in the period from 1 January 2000 up to 31 December 2006, although we will reach a more definitive conclusion upon public disclosure of

The public limited company Loyens & Loeff N.V. is established in Rotterdam and is registered with the Trade Register of the Chamber of Commerce and Industry under number 24370566. Solely Loyens & Loeff N.V. shall operate as contracting agent. All its services shall be governed by its General Terms and Conditions, including, inter alia, a limitation of liability and a nomination of competent jurisdiction. These General Terms and Conditions have been printed on the reverse side of this page and may also be consulted via www.loyensloeff.com. The conditions were deposited with the Registry of the Rotterdam District Court on 1 July 2009 under number 43/2009.

AMSTERDAM • ARNHEM • BRUSSELS • EINDHOVEN • LUXEMBOURG • ROTTERDAM • ARUBA
CURACAO • DUBAI • FRANKFURT • GENEVA • HONG KONG • LONDON • NEW YORK • PARIS • SINGAPORE • TOKYO • ZURICH

the entire Decision. Pending any different conclusion upon receipt of the Decision, we hold Ace Aviation Holdings Inc. liable for any and all damages which the Clients incurred and will incur as a result of the Cartel. The damages which the Clients incurred consist of the fuel and other surcharges they paid in the aforementioned period, or at least a substantial part of these services. The exact economic amount of damages over the relevant period has not yet been determined completely, but it is definitive that damages have been incurred by the Clients. The damages are to be increased with the statutory interest which is due as of the dates the fuel and other surcharges were paid and in any case fourteen days after the date of this letter if the claim for damages remains unpaid.

Some of the companies listed in the Schedule assigned their claim for damages specified above to the Cartel Compensation Foundation.

By letter dated 3 November 2011 we have already safeguarded our Clients' rights and demanded that Ace Aviation Holdings Inc. accepts liability for compensating the Clients for the damages which they have incurred and will incur as a result of the tortious act(s) committed by Ace Aviation Holdings Inc. Thus far you have refused to comply with this demand. We, therefore, demand that within fourteen days of the date of this letter Ace Aviation Holdings Inc.:

- (i) declares in writing to us that Ace Aviation Holdings Inc. accepts full liability for any and all damages which the Clients have incurred as a result of the Cartel; and
- (ii) pays to the Cartel Compensation Foundation the damages incurred by the Clients (including the statutory interest as specified above), by transferring the relevant amounts to the third party account of Loyens & Loeff N.V. with ABN AMRO Bank N.V. Rotterdam, the Netherlands, account no. 55.88.73.332 (swift code: ABNANL2A, IBAN: NL81ABNA0558873332) in the name of Loyens & Loeff Stichting Derdengelden-Advocatuur, reference no. 70074606.

Our Clients hereby once again explicitly reserve all their rights. If you do not comply with the demand specified above ultimately by **3 November 2012**, our clients reserve the right to take legal action without further notice. The costs of such action will be borne by you.

As the EC has not yet published its full Decision, it is not entirely clear which exact entities it finds liable as members of the Cartel. Also the set of facts which underpin the Decision, including those potentially relevant to the calculation of the damages suffered, are at this stage not entirely clear. Therefore our Clients reserve all rights to claim damages from other members of the Cartel which are yet unidentified and which may only become known after publication of the Decision. We write

LOYENS  LOEFF

this letter to Ace Aviation Holdings Inc. also in the capacity of Ace Aviation Holdings Inc. as director of its group companies that were involved in the Cartel, if any.

Yours sincerely,
Loyens & Loeff N.V.

PP 

Jeroen van den Brande

ANNEX – List of companies

NAMES	Registered address / head offices
1. A&Q Fashion B.V	Databankweg 20-22, 3821AL Amersfoort, The Netherlands
2. AGM Jactex AG	Bahnhofstrasse 21 8212, Neuhausen am Rheinfall, Switzerland
3. Alessi S.p.A.	Via Privata Alessi 6 28882, Omegna, Crusinallo, Italy
4. Antibioticos S.A.U.	Avda. Antibióticos, 59-61 24000 - León, Spain
5. Avio S.p.A.	Strada del Drosso 145 CAP 10135 Torino, Italy
6. Baardse Bloemen BV	Bosch 24, 3331GB Zwijndrecht, The Netherlands
7. Baardse BV	Betula 11, 1424 LH, De Kwakel, The Netherlands
8. Bayer Group, consisting of inter alia (but not exclusively) Bayer HealthCare Aktiengesellschaft	FI-CRM, 51368 Leverkusen, Q 30, Germany
9. Beghelli SpA	Via Mozzeghine, 13/15 I-40050 Monteveglio, Italy
10. Bel Impex BV	Jan van Galenstraat 4 Hal 5-7, 1051KM Amsterdam The Netherlands
11. Belden Wire & Cable BV	Edisonstraat 9, 5928 PG, Venlo, The Netherlands
12. Belt Fashion Eindhoven B.V.	Jan Hilgersweg 7 5657ES Eindhoven, The Netherlands
13. Belt Fashion Industries B.V.	Jan Hilgersweg 7 5657ES Eindhoven, The Netherlands
14. BioMérieux	Chemin de L'Orme 69280 Marcy-L'Etoile, France
15. Bud Holland BV	Transportweg 67, 2576 LM Maasdijk, The Netherlands
16. C&A, consisting of inter alia (but not exclusively) C&A Buying GmbH & Co KG	Wanheimer Straße 70, 40468 Düsseldorf, Germany
17. Debo Eindhoven B.V.	Jan Hilgersweg 7, 5657ES Eindhoven, The Netherlands
18. EFP International B.V.	ABC Westland 334, 2685 DD Poeldijk, The Netherlands
19. Eldor Corporation SpA	Via fermi 93

	22030 Orsenigo, Italy
20. Eli Lilly and Co Ltd	Fleming Road Speke Liverpool L24 9LN, United Kingdom
21. Eli Lilly Group	13 rue Pagès F-92158 Suresnes, France
22. Eli Lilly Italia SpA	Via Antonio Gramsci, 731 50019 Sesto Fiorentino (FI), Italy
23. Eli Lilly SA – Irish Branch	Dunderrow, Kinsale Country, CORK, Ireland
24. EV Group Europe & Asia/Pacific GmbH	DI Erich Thallner Strasse 1. 4782 St. Florian am Inn, Austria
25. Fairchild Semiconductor International, Inc.	3030 Orchard Parkway, San Jose CA 95134, USA
26. Fairchild Semiconductor Ltd.	Sigma Building 120, WindMill Hill Business Park, Whitehall Way, Swindon, Wilts, SN5 6NX
27. Fashion Linq BV	Databankweg 20-22, 3821AL Amersfoort, The Netherlands
28. Florex BV	Industrieweg 52, 1613 KV Grootebroek, The Netherlands
29. Florimex BV	Betula 11, 1424 LH, De Kwakel, The Netherlands
30. Flowex BV	Folkstoneweg 65, 1118 LN Schiphol, The Netherlands
31. Fostag Formenbau AG	Kaltenbacherstrasse 28, 8260 Stein am Rhein, Schaffhausen, Switzerland
32. G. Gherzi & C. SAS	Corso Mazzini, 415 cap 18038 San Remo Italy
33. Garletti SNC di Garletti Giovanni & C.	Via Borgo Palazzo 207, cap 24125, Bergamo, Italy
34. Gebr. Reus BV	De Gouw 61, 1614MB Lutjebroek, The Netherlands
35. Heidelberger Drukmaschinen AG	Kurfürstenlage 52-60, 69115, Heidelberg, Germany
36. Herrenknecht AG	Schlehenweg 2, 77963, Schwanau, Germany
37. Herwi NV	Leuvenstesteeuweg 22 B3, 1910, Kempenhout, Belgium
38. Imax S.R.L.	Via Calvi di Coenzo 5, 42124

	Reggio Emilia, Italy
39. International Flavors & Fragrances I.F.F. (Nederland) B.V.	Zevenheuvelenweg 60 5048AN Tilburg, The Netherlands
40. Lilly France SAS	13 rue Pagès F-92158 Suresnes, France
41. Lilly Pharma Fertigung und Distribution GmbH & Co. KG	Teichweg 3, 35396 Giessen, Germany
42. Lilly SA	Avenida de la Industria 30, Alcobendas (Madrid), Spain
43. Low Land Fashion International B.V.	Databankweg 20-22, 3821AL Amersfoort, The Netherlands
44. Manifatture del Nord S.R.L.	Via Mazzacurati 6, 42122, Reggio Emilia, Italy
45. Marcolin SpA	Villanova 4, 32031 Longarone, Italy
46. Marella S.R.L.	Via Giulia Maramotti 4, 42124 Reggio Emilia, Italy
47. Marina Rinaldi S.R.L.	Via Mazzacurati 4, 42122, Reggio Emilia, Italy
48. Max Mara S.R.L.	Via Giulia Maramotti 4, 42124 Reggio Emilia, Italy
49. New Wave Group AB	Orrekulla Industrigata 61 S-425 36 Hisings Karra, Sweden
50. Perishable Management Company V.O.F. And its managing partners ("vennoten"): M.W van Elderen Import BV; and Direct-By-Air BV (all on the same address)	IJweg 411, 1161 EZ Zwanenburg, The Netherlands
51. Pilatus Flugzeugwerke AG (Pilatus Aircraft Ltd)	Ennetbürgerstrasse 101, CH-6370 Stans, Switzerland
52. Polytex AG	Grundstrasse 1 CH-5012 Schönenwerd, Switzerland
53. Puratos NV/SA	Industrielaan 25, zone Maalbeek, B- 1702 Groot-Bijgaarden, Belgium
54. R. Westerbeek Holding BV	Menneweg 18b, 2172 HE Sassenheim, The Netherlands
55. Salvatore Ferragamo Italia SpA	2 via dei Tornabuoni I-50123, Firenze, Italy
56. Scheepswerf Damen Gorinchem BV	Avelingen West 20 4202 MS Gorinchem, The Netherlands
57. Schneeberger AG Lineartechnik	St. Urbanstrasse 12 CH-4914 Roggwil, Bern, Switzerland

58. Sekkingstad AS	Skaganeset N-5382 Skogsvag, Norway
59. Sensata Technologies Holland B.V. (formerly: Texas Instruments B.V.)	Kolthofsingel 8 7602EM, Almelo, The Netherlands
60. Siae Microelettronica SpA	Michaelangelo Buonarroti 21 I-20093 Cologno Monzese (MI) Italy)
61. Sony Ericsson consisting of inter alia (but not exclusively) Sony Ericsson Mobile Communications AB	Sony Ericsson House 202 Hammersmith Road W6 7DN, United Kingdom
62. Spreafico Francesco & Fratelli S.p.A.	Via Lombroso 54, 20137, Milan, Italy
63. Stahl Europe BV	Sluisweg 10 5145PE Waalwijk, The Netherlands
64. Starflor Distributiecentrum BV	Poelweg 12, 1424 PB, De Kwakel, The Netherlands
65. STMicroelectronics International NV	Schiphol Boulevard 265, 1118 BH Schiphol, The Netherlands
66. T500 Puratos SA	Carretera C-63, km 13,5 - 17410 Sils, Spain
67. Tod's SPA	1 Via Filippo della Valle, I-63019, Sant'Elpido A Mare (FM), Italy
68. W.A. Sanders Papierfabriek "Coldenhove" B.V.	D.W. van Vreeswijklaan 9, 6961 LG Eerbeek, The Netherlands
69. Westerbeek Bulb Company BV	Oude Herenweg 16a, 2215 RZ, Voorhout, The Netherlands
70. Wink Accessories B.V.	Jan Hilgersweg 7 5657ES Eindhoven, The Netherlands
71. ZAP SpA	Via Triumplina 30, I-25123, Brescia, Italy

SUPERIOR COURT
(Commercial Division)
Companies Creditors Arrangement Act

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

IN THE MATTER OF THE LIQUIDATION OF:

ACE AVIATION HOLDINGS INC.

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and

ERNST & YOUNG INC.

Liquidator

BS0350

Our File: 120000-1071

P-1

ORIGINAL

Me Matthew Liben

(514) 397-3115

Fax: (514) 397-3636

STIKEMAN ELLIOTT LLP
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Montreal, Quebec, H3B 3V2

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and by post

Trade Register number 34360441
VAT number NL8100.60.255.B.01

Loyens & Loeff N.V.
Attn. Mr. J. van den Brande
Blaak 31
3011 GA ROTTERDAM

K.A.J. Bisschop
Advocaat
klaas.bisschop@hoganlovells.com
D +31 (0)20 55 33 714

Our ref AMSKBI/855465
Matter ref Y1073.00037

6 November 2012

AIR CARGO – A.C. CARGO L.P., ACE AVIATION HOLDINGS INC., AIR CANADA

Dear colleague,

My clients A.C. Cargo L.P., ACE Aviation Holdings Inc. and Air Canada have requested me to respond to your letters dated 22 October 2012. In these letters you have made certain demands on behalf of your client Stichting Cartel Compensation and on behalf of certain companies listed in a schedule to your letters. These demands are made in connection with an alleged cartel which would have affected air cargo services within the European Economic Area. You have referred to a publication from the European Commission dated 9 November 2010 which refers to a decision taken by the European Commission on the same date (the "**Decision**"). As you correctly state, the Decision has not yet been published.

A.C. Cargo L.P. and ACE Aviation Holdings Inc. are not an addressee of the Decision and already for that reason there is no basis for the allegations and demands made in your letter as regards these companies. Moreover, ACE Aviation Holdings Inc. never operated any airline. This company was only created on 30 September 2004 and is currently winding down.

Air Canada is an addressee of the Decision. Air Canada denies the findings of the European Commission and has challenged the Decision with the General Court of the European Court in Luxembourg. Almost all other addressees of the Decision have also challenged the Decision with the General Court. This case is currently pending.

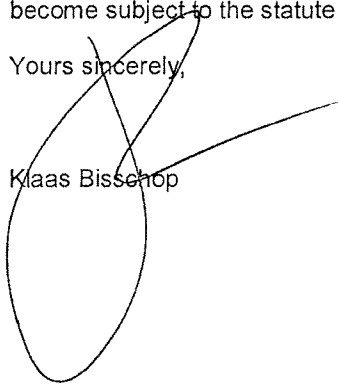
Air Canada (and to the extent necessary AC Cargo L.P. and ACE Aviation Holdings Inc.) deny any liability in respect of the activities described in the Decision, including any liability against Stichting Cartel Compensation and the companies listed in the schedule to your letter. Air Canada (and to the extent necessary A.C. Cargo L.P. and ACE Aviation Holding Inc.) deny that they have acted tortuously against Stichting Cartel Compensation or any of the companies listed in the schedule to your letter. Air Canada (and to the extent necessary A.C. Cargo L.P. and ACE Aviation Holdings Inc.) also deny that any of these entities has suffered any damages. Air

Canada, A.C. Cargo L.P. and ACE Aviation Holdings Inc. deny that they can be held liable in their alleged capacity as director. My clients will vigorously defend any claim brought by Stichting Cartel Compensation and/or any of the companies listed in the schedule to your letter.

This letter may not be construed as any waiver of my clients' rights. My clients reserve all rights including the right to challenge the alleged assignments of claim and to argue that any claim has become subject to the statute of limitation.

Yours sincerely,

Klaas Bisschop



SUPERIOR COURT
(Commercial Division)
Companies Creditors Arrangement Act

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

IN THE MATTER OF THE LIQUIDATION OF:

ACE AVIATION HOLDINGS INC.

Applicant

and

ERNST & YOUNG INC.

Liquidator

BS0350

Our File: 120000-1071

P-2

ORIGINAL

Me Matthew Liben

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BY COURIER

Ernst Young Inc.
Attn. Mr. David Saldanha
222 Bay Street
31st Floor 251
Toronto ON M5K1J7
Canada

FROM J. van den Brande - lawyer
REFERENCE 14692289
DATE 14 October 2013
ENCLOSURE

RE Air Cargo cartel: demand letter

Dear Mr. Saldanha,

We refer to our letters dated 3 November 2011 and 22 October 2012 to ACE Aviation Holdings Inc. We have been informed that ACE Aviation Holdings Inc is in liquidation and you have been appointed as liquidator. Thus far ACE Aviation Holdings Inc has not yet complied with our clients' demand that ACE Aviation Holdings Inc accepts liability and compensate our clients for the damages which they have incurred and will incur as a result of the tortious act(s) committed by ACE Aviation Holdings Inc. For this reason we repeat our demand that within fourteen days of the date of this letter ACE Aviation Holdings Inc:

- (i) declares in writing to us that ACE Aviation Holdings Inc accepts full liability for any and all damages which our clients have incurred as a result of the cartel; and
- (ii) pays to the Cartel Compensation Foundation the damages incurred by our clients (including the statutory interest as specified above), by transferring the relevant amounts to the third party account of Loyens & Loeff N.V. with ABN AMRO Bank N.V. Rotterdam, the Netherlands, account no. 55.88.73.332 (swift code: ABNANL2A, IBAN: NL81ABNA0558873332) in the name of Loyens & Loeff Stichting Derdengelden Advocatuur, reference no. 70074606.

LOYENS  LOEFF

Our clients hereby once again explicitly reserve all their rights. If ACE Aviation Holdings Inc does not comply with the demand specified above ultimately by 28 October 2013, our clients reserve the right to take legal action without further notice. The costs of such action will be borne by ACE Aviation Holdings Inc.

Please find attached a copy of the letter we sent to ACE Aviation Holdings Inc today.

Yours sincerely,
Loyens & Loeff N.V.

PP 

Jeroen van den Brande

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BY COURIER

Ace Aviation Holdings Inc. – in liquidation
Attn. Board of Directors
1155 René-Lévesque Boulevard West
40th Floor
Montreal Quebec H3B 3V2
Canada

FROM J. van den Brande – lawyer
REFERENCE 14660326
DATE 14 October 2013
ENCLOSURE

RE Air Cargo cartel: demand letter

Dear Sir, Madam,

We act on behalf of Stichting Cartel Compensation ("**Cartel Compensation Foundation**"), having its offices at The Hague, the Netherlands, and to the extent necessary for all the companies listed in the attached schedule, which has been updated again (the "**Schedule**") (all parties hereinafter together referred to as the "**Clients**").

On 9 November 2010, the European Commission ("EC") made public that it had fined 11 air cargo carriers a total of EUR 799,445,000 for operating a cartel which affected – amongst others – air cargo services within the European Economic Area (the "**Decision**"). The EC also stated that the Cartel consisted of more members than the 11 air cargo carriers. Ace Aviation Holdings Inc. was a member of this Cartel ("**Cartel**").

The EC stated that the members of the Cartel coordinated for a period of six years surcharges for fuel and security without discount, i.e. from 1 January 2000 up to 31 December 2006. The members of the Cartel prevented competition in relation to these surcharges. The EC concluded that the members of the Cartel committed a severe breach of EU competition law.

The EC also stated that parties that suffered damages as a result of the Cartel can claim compensation of these damages. In relation thereto the EC stated that the case law of the European Court of Justice as well as EU Regulation no.1/2003 confirms that a decision of the EC constitutes binding evidence that a cartel existed and violated EU competition law.

In view hereof we can now only conclude that Ace Aviation Holdings Inc. has committed a tortious act against the Clients, who purchased air cargo services in the period from 1 January 2000 up to

31 December 2006, although we will reach a more definitive conclusion upon public disclosure of the entire Decision. Pending any different conclusion upon receipt of the Decision, we hold Ace Aviation Holdings Inc. liable for any and all damages which the Clients incurred and will incur as a result of the Cartel. The damages which the Clients incurred consist of the fuel and other surcharges they paid in the aforementioned period, or at least a substantial part of these services. The exact economic amount of damages over the relevant period has not yet been determined completely, but it is definitive that damages have been incurred by the Clients. The damages are to be increased with the statutory interest which is due as of the dates the fuel and other surcharges were paid and in any case fourteen days after the date of this letter if the claim for damages remains unpaid.

Some of the companies listed in the Schedule assigned their claim for damages specified above to the Cartel Compensation Foundation.

By letters dated 3 November 2011 and 22 October 2012 we have already safeguarded our Clients' rights and demanded that Ace Aviation Holdings Inc. accepts liability for compensating the Clients for the damages which they have incurred and will incur as a result of the tortious act(s) committed by Ace Aviation Holdings Inc.. Thus far you have refused to comply with this demand. We, therefore, demand that within fourteen days of the date of this letter Ace Aviation Holdings Inc.:

- (i) declares in writing to us that Ace Aviation Holdings Inc. accepts full liability for any and all damages which the Clients have incurred as a result of the Cartel; and
- (ii) pays to the Cartel Compensation Foundation the damages incurred by the Clients (including the statutory interest as specified above), by transferring the relevant amounts to the third party account of Loyens & Loeff N.V. with ABN AMRO Bank N.V. Rotterdam, the Netherlands, account no. 55.88.73.332 (swift code: ABNANL2A, IBAN: NLB1ABNA0558873332) in the name of Loyens & Loeff Stichting Derdengelden Advocatuur, reference no. 70074606.

Our Clients hereby once again explicitly reserve all their rights. If you do not comply with the demand specified above ultimately by **28 October 2013**, our clients reserve the right to take legal action without further notice. The costs of such action will be borne by you.

As the EC has not yet published its full Decision, it is not entirely clear which exact entities it finds liable as members of the Cartel. Also the set of facts which underpin the Decision, including those potentially relevant to the calculation of the damages suffered, are at this stage not entirely clear. Therefore our Clients reserve all rights to claim damages from other members of the Cartel which are yet unidentified and which may only become known after publication of the Decision. We write

LOYENS  LOEFF

this letter to Ace Aviation Holdings Inc. also in the capacity of Ace Aviation Holdings Inc. as director of its group companies that were involved in the Cartel, if any.

Yours sincerely,
Loyens & Loeff N.V.



Jeroen van den Brande

LOYENS L LOEFF

ANNEX-List of companies

NAMES	Registered address /head offices
1. A&Q Fashion B.V	Databankweg 20-22, 3821AL Amersfoort, The Netherlands
2. AGM Jactex AG	Bahnhofstrasse 21 8212, Neuhausen am Rheinfall, Switzerland
3. Alessi S.p.A.	Via Privata Alessi 6 28882, Omegna, Crusinallo, Italy
4. Answers Fashion B.V.	Databankweg 20/22, 3821 AL, Amersfoort, The Netherlands
5. Antibioticos S.A.U.	Avda. Antibioticos, 59-61 24000 - Leon, Spain
6. Avio S.p.A.	Strada del Drosso 145CAP 10135Torino, Italy
7. Baardse Bloemen BV	Bosch 24, 3331GB Zwijndrecht, The Netherlands
8. Baardse BV	Betula 11, 1424 LH, De Kwakel, The Netherlands
9. Bayer Group, consisting of inter alia (but not exclusively) Bayer HealthCare Aktiengesellschaft	FI-CRM, 51368 Leverkusen, Q 30, Germany
10. Beghelli SpA	Via Mozzeghine, 13/15 1-40050 Monteveglio, Italy
11. Bel Impex BV	Jan van Galenstraat 4 Hal 5-7, 1051KM Amsterdam The Netherlands
12. Belden Wire & Cable BV	Edisonstraat 9, 5928 PG, Venlo, The Netherlands
13. Belt Fashion Eindhoven B.V.	Jan Hilgersweg 7 5657ES Eindhoven, The Netherlands
14. Belt Fashion Industries B.V.	Jan Hilgersweg 7 5657ES Eindhoven, The Netherlands
15. BioMerieux	Chemin de L'Orme 69280 Marcy-L'Etoile, France
16. Bud Holland BV	Transportweg 67,2576 LM Maasdijk, The Netherlands
17. C&A, consisting of inter alia (but not exclusively) C&A Buying GmbH & Co KG	Wanheimer StraBe 70,40468 Dusseldorf, Germany
18. Covidien AG	3b Bd Prince Henri, 4 th Floor, 1724, Luxembourg
19. Debo Eindhoven B.V.	Jan Hilgersweg 7, 5657ES Eindhoven, The Netherlands
20. EFP International B.V.	ABC Westland 334, 2685 DD Poeldijk, The Netherlands
21. Eldor Corporation SpA	Via fermi 93 22030 Orsenigo, Italy
22. Eli Lilly and Co Ltd	Fleming Road, Speke Liverpool L249LN, United Kingdom
23. Eli Lilly Group	13 rue Pages F-92158 Suresnes, France

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24. Eli Lilly Italia SpA	Via Antonio Gramsci, 731 50019 Sesto Fiorentino (FI), Italy
25. Eli Lilly SA-Irish Branch	Dunderrow, Kinsale Country, CORK, Ireland
26. EV Group Europe & Asia/Pacific GmbH	DI Erich Thallner Strasse 1. 4782 St. Florian am Inn, Austria
27. Fairchild Semiconductor International, Inc.	3030 Orchard Parkway, San Jose CA 95134, USA
28. Fairchild Semiconductor Ltd.	Sigma Building 120, WindMill Hill Business Park, Whitehall Way, Swindon, Wilts, SN5 6NX
29. Fashion Linq BV	Databankweg 20-22, 3821AL Amersfoort, The Netherlands
30. Florex BV	Industrieweg 52, 1613 KV Grootebroek, The Netherlands
31. Florimex BV	Betula 11, 1424 LH, De Kwakel, The Netherlands
32. Flowex BV	Folkstoneweg 65, 1118 LN Schiphol, The Netherlands
33. Postag Formenbau AG	Kaltenbacherstrasse 28, 8260 Stein am Rhein, Schaffhausen, Switzerland
34. G. Ghersi & C. SAS	Corso Mazzini, 415 cap 18038 San Remo Italy
35. Garletti SNC di Garletti Giovanni & C.	Via Borgo Palazzo 207, cap 24125, Bergamo, Italy
36. Gebr. Reus BV	De Gouw 61, 1614MB Luttjebroek, The Netherlands
37. Heidelberger Druckmaschinen AG	Kurfurstenlage 52-60, 69115, Heidelberg, Germany
38. Herrenknecht AG	Schlehenweg 2, 77963, Schwanau, Germany
39. Herwi NV	Leuvenstesteeuweg 22 B3, 1910, Kempenhout, Belgium
40. Imax S.R.L.	Via Calvi eli Coenzo 5, 42124 Reggio Emilia, Italy
41. Infineon Technologies Asia Pacific Pte Ltd	Singapore
42. Infineon Technologies(Wuxi) Co., Ltd	China
43. Infineon Technologies (Xi'an) Co., Ltd.	China
44. Infineon Technologies China Co., Ltd.	China
45. Infineon Technologies Center of Competence (Shanghai) Co., Ltd.	China
46. Infineon Integrated Circuit (Beijing) Co., Ltd	China

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47. Infineon Technologies (Kulim) Sdn. Bhd.	Malaysia
48. Infineon Technologies (Malaysia) Sdn. Bhd.	Malaysia
49. Infineon Technologies Austria AG	Austria
50. Infineon Technologies Dresden GmbH	Germany
51. Infineon Technologies AG	Am Campeon 1-12, 85579, Neubiberg, Germany
52. International Flavors & Fragrances L.F.F.	Zevenheuvelenweg 60 5048AN Tilburg, The Netherlands
53. Lilly France SAS	13 rue Pages F-92158 Suresnes, France
54. Lilly Pharma Fertigung und Distribution GmbH & Co.KG	Teichweg 3, 35396 Giessen, Germany
55. Lilly SA	Avenida de la Industria 30, Alcobendas (Madrid), Spain
56. Low Land Fashion International B.V.	Databankweg 20-22, 3821AL Amersfoort, The Netherlands
57. Manifatture del Nord S.R.L.	Via Mazzacurati 6, 42122, Reggio Emilia, Italy
58. Marcolin SpA	Villanova 4, 32031 Longarone, Italy
59. Marella S.R.L.	Via Giulia Maramotti 4, 42124 Reggio Emilia, Italy
60. Marina Rinaldi S.R.L.	Via Mazzacurati 4, 42122, Reggio Emilia, Italy
61. Mattel Europa B.V.	Gondel 1, 1186 MJ, Amstelveen, The Netherlands
62. Max Mara S.R.L.	Via Giulia Maramotti 4, 42124 Reggio Emilia, Italy
63. New Wave Group AB	Orrekulla Industrigata 61 S-425 36 Risings Karra, Sweden
64. Perishable Management Company V.O.F. And its managing partners ("vennoten"): M.W van Elderen Import BV; and Direct-By-Air BV (all on the same address)	Uweg 411, 1161 EZ Zwanenburg, The Netherlands
65. Pilatus Flugzeugwerke AG (Pilatus Aircraft Ltd)	Ennetbirgerstrasse 101, CH-6370 Stans, Switzerland
66. Polytex AG	Grundstrasse 1 CH-5012 Schonenwerd, Switzerland
67. Puratos NV/SA	Industrielaan 25, zone Maalbeek, B-1702 Groot-Bijgaarden, Belgium
68. Questions Fashion B.V.	Databankweg 20/22, 3821AL Amersfoort, The Netherlands
69. R. Westerbeek Holding BV	Menneweg 18b, 2172 HE Sassenheim, The Netherlands
70. Salvatore Ferragamo Italia SpA	2 via dei Tornabuoni I-50123, Firenze, Italy

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71. Scheepswerf Damen Gorinchem BV	Avelingen West 20 4202 MS Gorinchem, The Netherlands
72. Schneeberger AG Lincartech	St. Urbanstrasse 12 CH-4914 Roggwil, Bern, Switzerland
73. Sekkingstad AS	Skaganeset N-5382 Skogsvag, Norway
74. Sensata Technologies Holland B.V. (formerly: Texas Instruments B.V.)	Kolthofsingel 8 7602EM, Almelo, The Netherlands
75. Siae Microelettronica SpA	Michaelangelo Buonarroti 21 I-20093 Cologno Monzese (MI) Italy
76. Sony Ericsson consisting of inter alia (but not exclusively) Sony Ericsson Mobile Communications AB	Sony Ericsson House 202 Hammersmith Road W6 7DN, United Kingdom
77. Spreafico Francesco & Fratelli S.p.A.	Via Lombroso 54, 20137, Milan, Italy
78. Stahl Europe BV	Sluisweg 10 5145PE Waalwijk, The Netherlands
79. Starflor Distributiecentrum BV	Poelweg 12, 1424 PB, De Kwakel, The Netherlands
80. STMicroelectronics International NV	Schiphol Boulevard 265, 1118 BH Schiphol, The Netherlands
81. T500 Puratos SA	Carretera C-63, km 13,5 - 17410 Sils, Spain
82. Tod's SPA	I Via Filippo della Valle, I-63019, Sant'Eupido A Mare (FM), Italy
83. W.A. Sanders Papierfabriek "Coldenhove" B.V.	D.W. van Vreeswijklaan 9, 6961 LG Eerbeek, The Netherlands
84. Westerbeek Bulb Company BV	Oude Herenweg 16a, 2215 RZ, Voorhout, The Netherlands
85. Wink Accessories B.V.	Jan Hilgersweg 7 5657ES Eindhoven, The Netherlands
86. ZAP SpA	Via Triumplina 30, I-25123, Brescia, Italy

ME(S): SAULNIER ROBILLARD LORTIE
V/D: 3725442
TELEPHONE: 514-878-3143
CANADA
PROVINCE DE QUÉBEC

IN THE MATTER OF AIR CARGO CARTEL

ATTESTATION D'AUTHENTICITÉ DE DOCUMENTS
(Article 82.1 C.p.C.)

JE, soussigné, **Ginette Bouchard**, Huissier exploitant et personne majeure de la ville d'Ottawa, province de l'Ontario, **ATTESTE ET DIS :**

QUE la copie accompagnant le présent document est conforme au facsimilé reçu par courriel à mon Étude le 15^E jour d'octobre 2013 à 10 :14 heures de l'avant-midi.

La nature des documents ainsi reçus portent la mention :

Demand Letter

Et j'ai signé,



Ginette Bouchard, huissier exploitant
Infiniti Legal Support Services, Huissiers exploitants
346 rue Somerset Ouest, Bureau 100
Ottawa, Ontario K2P 0J9
(613) 225-1808

SUPERIOR COURT
(Commercial Division)
Companies Creditors Arrangement Act

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

IN THE MATTER OF THE LIQUIDATION OF:

ACE AVIATION HOLDINGS INC.

Applicant

and

ERNST & YOUNG INC.

Liquidator

BS0350

Our File: 120000-1071

P-3

ORIGINAL

Me Matthew Liben

(514) 397-3115

Fax: (514) 397-3636

STIKEMAN ELLIOTT LLP
1155 René-Lévesque Boulevard West, 40th floor
Montreal, Quebec, H3B 3V2

Brussels, 9 November 2010

Antitrust: Commission fines 11 air cargo carriers €799 million in price fixing cartel

The European Commission has fined 11 air cargo carriers a total of €799.445.000 for operating a worldwide cartel which affected cargo services within the European Economic area (EEA). Several known airlines are among the 11 undertakings fined, namely Air Canada, Air France-KLM, British Airways, Cathay Pacific, Cargolux, Japan Airlines, LAN Chile, Martinair, SAS, Singapore Airlines and Qantas. The carriers coordinated their action on surcharges for fuel and security without discounts over a six year period. Lufthansa (and its subsidiary Swiss) received full immunity from fines under the Commission's leniency programme, as it was the first to provide information about the cartel.

"It is deplorable that so many major airlines coordinated their pricing to the detriment of European businesses and European consumers" said Vice President for Competition Joaquín Almunia adding: "with today's decision the Commission is sending a clear message that it will not tolerate cartel behaviour".

Today the Commission fined 11 air cargo carriers a total of €799.445.000. The cartel members coordinated various elements of price for a period of over six years, from December 1999 to 14 February 2006. The cartel arrangements consisted of numerous contacts between airlines, at both bilateral and multilateral level, covering flights from, to and within the EEA. Airlines providing airfreight services primarily offer the transport of cargo to freight forwarders, who arrange the carriage of these goods including associated services and formalities on behalf of shippers.

The infringement

The contacts on prices between the airlines concerned initially started with a view to discuss fuel surcharges. The carriers contacted each other so as to ensure that worldwide airfreight carriers imposed a flat rate surcharge per kilo for all shipments. The cartel members extended their cooperation by introducing a security surcharge and refusing to pay a commission on surcharges to their clients (freight forwarders).

The aim of these contacts was to ensure that these surcharges were introduced by all the carriers involved and that increases (or decreases) of the surcharge levels were applied in full without exception. By refusing to pay a commission, the airlines ensured that surcharges did not become subject to competition through the granting of discounts to customers. Such practices are in breach of the EU competition rules.

On the other hand, Commission allegations of collusion on two other surcharges and regarding freight rates in the Statement of Objections have been dropped from the case for insufficient evidence. The Commission also dropped charges against another 11 carriers and one consultancy firm which had previously received the Statement of Objections for the same reason.

The fines

In setting the level of the fines, the Commission took into account the sales of the companies involved in the market concerned, the very serious nature of the infringement, the EEA-wide scope of the cartel and its duration.

All carriers were granted a 50% reduction on sales between the EEA and third countries in order to take into account the fact that on these routes part of the harm of the cartel fell outside the EEA. The Commission increased the fine for SAS by 50% for its previous involvement in a cartel in the airline sector (SAS/Maersk cartel, see [IP/01/1009](#)). All carriers received a reduction of 15% on account of the general regulatory environment in the sector which can be seen as encouraging price coordination. Four carriers were also granted a 10% reduction for limited participation in the infringement. As the fines on two companies would have exceeded the legal maximum of 10% of their 2009 turnover, the amount (before possible leniency considerations) was reduced to this level.

Lufthansa (and its subsidiary Swiss) received full immunity under the Commission Leniency Programme, as it brought the cartel to the Commission's attention and provided valuable information. The fines of the following carriers were also reduced for their cooperation with the Commission under its Leniency Programme: Martinair (50%), Japan Airlines (25%), Air France-KLM (20%), Cathay Pacific (20%), LAN Chile (20%), Qantas (20%), Air Canada (15%), Cargolux (15%), SAS (15%) and British Airways (10%).

Five carriers applied for a reduction claiming inability to pay the fine. However, none of the applications met the conditions for a reduction

The individual fines are as follows:

		Fine (€)*	Includes reduction (%) under the Leniency Notice
1.	Air Canada	21 037 500	15%
2.	Air France	182 920 000	20%
	KLM	127 160 000	20%
3.	Martinair	29 500 000	50%
4.	British Airways	104 040 000	10%
5.	Cargolux	79 900 000	15%
6.	Cathay Pacific Airways	57 120 000	20%
7.	Japan Airlines	35 700 000	25%
8.	LAN Chile	8 220 000	20%
9.	Qantas	8 880 000	20%
10.	SAS	70 167 500	15%
11.	Singapore Airlines	74 800 000	
12.	Lufthansa	0	100%
	Swiss International Air Lines	0	100%

(*) Legal entities within the undertaking may be held jointly and severally liable for the whole or part of the fine imposed.

Action for damages

Any person or firm affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision is binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages may be awarded without these being reduced on account of the Commission fine.

The Commission considers that meritorious claims for damages should be aimed at compensating, in a fair way, the victims of an infringement for the harm done. A White Paper on antitrust damages actions has been published (see [IP/08/515](#) and [MEMO/08/216](#)). More information, including a citizens' summary of the White Paper, is available at:

<http://ec.europa.eu/comm/competition/antitrust/actionsdamages/documents.html>

For more information on the Commission's action against cartels, see [MEMO/10/290](#)

SUPERIOR COURT
(Commercial Division)
Companies Creditors Arrangement Act

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

IN THE MATTER OF THE LIQUIDATION OF:

ACE AVIATION HOLDINGS INC.

Applicant

and

ERNST & YOUNG INC.

Liquidator

BS0350

Our File: 120000-1071

P-4

ORIGINAL

Me Matthew Liben

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By email: jeroen.van.den.brande@loyensloeff.com
and by post

Trade Register number 34360441
VAT number NL8100.60.255.B.01

Loyens & Loeff N.V.
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Our ref	AMSKBI/1110204
Matter ref	Y1073.00037
Your ref	14660595

5 November 2013

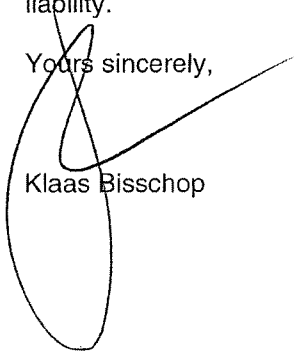
AIR CARGO – A.C. CARGO L.P., ACE AVIATION HOLDINGS INC., AIR CANADA

Dear colleague,

Reference is made to your letter dated 14 October 2013. You attached to this letter three letters sent to A.C. Cargo L.P., ACE Aviation Holdings Inc. and Air Canada also dated 14 October 2013. In these letters you repeated certain demands on behalf of your client Stichting Cartel Compensation and on behalf of certain companies listed in a schedule to these letters.

For A.C. Cargo L.P., ACE Aviation Holdings Inc. and Air Canada, there is no reason to change their earlier position that they deny any liability in respect of the activities described in the decision of European Commission dated 9 November 2010 (the "**Decision**") (of which A.C. Cargo L.P. and ACE Aviation Holdings Inc. are not even an addressee), including any liability against Stichting Cartel Compensation and the companies listed in the schedule to your letters. Reference is made to my letter dated 6 November 2012 in this respect. Inasmuch is required; A.C. Cargo L.P., ACE Aviation Holdings Inc. and Air Canada repeat their refusal to accept any liability.

Yours sincerely,


Klaas Bisschop

SUPERIOR COURT
(Commercial Division)
Companies Creditors Arrangement Act

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

IN THE MATTER OF THE LIQUIDATION OF:

ACE AVIATION HOLDINGS INC.

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Our File: 120000-1071

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ORIGINAL

Me Matthew Liben

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February 11, 2014

Monique Jilesen
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VIA EMAIL

Jeroen van den Brande
Blaak 31
3011 GA Rotterdam
The Netherlands

Dear Mr. van den Brande:

RE: ACE Aviation Holdings Inc.

We are counsel to Ernst & Young Inc., court appointed liquidator (the "Liquidator") for ACE Aviation Holdings Inc. ("ACE"). We are in receipt of your letter dated October 14, 2013. We are writing further to the letter of Klass Bisschop dated November 5, 2013.

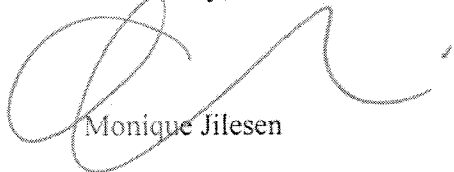
As indicated in K.A.J. Bisschop's letter of November 6, 2012 in response to your letter of October 22, 2012, ACE has never operated an airline and is not an addressee of the decision taken by the European Commission dated November 9, 2010. As a result, there is no basis for the allegations and demands made in your letters.

Further, as you are aware, ACE is in court supervised liquidation in the Superior Court of the Province of Québec. The Claims Process Order made in those proceedings set a Claims Bar Date of May 13, 2013. Any Claims not made by the Claims Bar Date are forever barred from advancing a Claim against ACE.

As a result, the Cartel Compensation Foundation has no claim against ACE and is barred from advancing any such claim.

Any further correspondence to ACE or the Liquidator should be directed to my attention.

Yours truly,


Monique Jilesen

SUPERIOR COURT
(Commercial Division)
Companies Creditors Arrangement Act

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

IN THE MATTER OF THE LIQUIDATION OF:

ACE AVIATION HOLDINGS INC.

Applicant

and

ERNST & YOUNG INC.

Liquidator

BS0350

Our File: 120000-1071

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LIST OF EXHIBITS AND
EXHIBITS P-1 TO P-6

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