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Release date: May 14, 2008

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ACPM to Seek Leave to Intervene in *Kerry* Case

May 14, 2008 – On January 31, 2008, the Supreme Court of Canada (SCC) agreed to hear an appeal of *Elaine Nolan et al. v. Kerry (Canada) Inc. et al. (Kerry)*. As the issues raised in the *Kerry* appeal are of significant importance to occupational pension plans across Canada, the ACPM will seek leave to intervene in the matter.

The two major questions before the SCC in *Kerry* are:

- Are the ongoing costs of administering a pension plan properly payable from the pension fund ?; and
- Are contribution holidays properly permitted in a pension plan that combines both defined benefit (DB) and defined contribution (DC) provisions ?

In its decision released in June 2007, the Ontario Court of Appeal concluded that plan expenses could be paid from the pension fund in the absence of an explicit prohibition in the plan documents preventing such payment and also condoned contribution holidays taken in respect of a DB/DC arrangement. “The Court of Appeal decision was logical and well-reasoned. Moreover, it provided much needed clarity to plan sponsors and administrators facing similar funding and administration issues”, says Scott Perkin, ACPM President. The

ACPM will argue that the SCC ought to affirm the reasoning and result reached by the Ontario Court of Appeal.”

About the ACPM

The Association of Canadian Pension Management is the informed voice of Canadian pension plan sponsors, administrators and their allied service providers.

Established in 1976, the ACPM advocates for an effective and sustainable Canadian retirement income system through a non-profit organization supported by a growing membership and a team of volunteer experts. The ACPM currently has 570 Individual Members and 23 Institutional Members across Canada, representing more than 300 pension plans with assets of over \$300 billion and over 3 million plan members.

The ACPM promotes its vision for the development of a world leading retirement income system in Canada by championing the following principles:

- Clarity in legislation, regulations and retirement income arrangements
- Balanced consideration of other stakeholders' interests
- Excellence in governance and administration