

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
INDALEX LIMITED,
INDALEX HOLDINGS (B.C.) LTD.,
6326765 CANADA INC. and
NOVAR INC.

the Applicants

MOTION RECORD
(Returnable August 5, 2010)

July 20, 2010

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TO: The Service List

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TAB 1

**ONTARIO
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NOTICE OF MOTION

FTI Consulting Canada ULC, the Court-appointed Monitor (the "**Monitor**") of Indalex Limited, Indalex Holdings (B.C.) Ltd., 6326765 Canada Inc. and Novar Inc. (collectively, the "**Applicants**"), will make a motion to the Court on August 5, 2010 at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An order abridging the time for service of the Notice of Motion and the Motion Record, if necessary, and direction that any further service of the Notice of Motion and Motion Record be dispensed with;

2. An order extending the Stay Period provided under the Amended Amended and Restated Initial Order of the Honourable Mr. Justice Morawetz dated May 12, 2009 until January 31, 2011; and
3. An order approving the Thirteenth Report and the activities of the Monitor described therein.

THE GROUNDS OF THE MOTION ARE:

1. The grounds set forth in the Thirteenth Report of the Monitor;
2. Rules 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;
3. Section 11.02 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36; and
4. Such further grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Thirteenth Report of the Monitor dated July 19, 2010; and
2. Such further and other materials as counsel may advise and this Honourable Court may permit.

July 20, 2010

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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c.C-36, AS AMENDED**

Court File No: CV-09-8122-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and
NOVAR INC.**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

NOTICE OF MOTION

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TAB 2

Court File No. CV-09-8122-00CL

**Indalex Limited
Indalex Holdings (B.C.) Ltd.
6326765 Canada Inc. and
Novar Inc.**

**THIRTEENTH REPORT OF THE MONITOR
July 19, 2010**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
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INDALEX HOLDINGS (B.C.) LTD.
6326765 CANADA INC. and
NOVAR INC.

**THIRTEENTH REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA ULC
IN ITS CAPACITY AS MONITOR**

INTRODUCTION

1. On April 3, 2009, Indalex Limited ("Indalex"), Indalex Holdings (B.C.) Ltd. ("Indalex BC"), 6326765 Canada Inc. ("632") and Novar Inc. ("Novar") (collectively, the "Applicants") made an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") and an Initial Order (the "Initial Order") was made by the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the "Court") granting, *inter alia*, a stay of proceedings against the Applicants until May 1, 2009 (the "Stay Period"), and appointing FTI Consulting Canada ULC as monitor ("FTI Canada" or the "Monitor"). The proceedings commenced by the Applicants under the CCAA will be referred to herein as the "CCAA Proceedings".

2. Indalex's parent is Indalex Holding Corp. ("Indalex Holding"), which is a wholly-owned subsidiary of Indalex Holdings Finance, Inc. ("Indalex Finance"). Indalex BC, 632 and Novar are wholly owned subsidiaries of Indalex. On March 20, 2009, Indalex Holding, Indalex Finance, Indalex Inc., Caradon Lebanon, Inc. and Dolton Aluminum Company, Inc. (collectively, the "US Debtors")

commenced proceedings (the "Ch.11 Proceedings") under chapter 11 of the *United States Bankruptcy Code* (the "USBC") in the United States Bankruptcy Court, District of Delaware (the "US Court"). The case was assigned to Judge Walsh.

3. On April 8, 2009, Justice Morawetz granted the Amended and Restated Initial Order which, *inter alia*, approved the DIP Credit Agreement (as defined in paragraph 33 of the Amended and Restated Initial Order). The Amended and Restated Order was further amended on May 12, 2009, to correct certain references and typographical errors in the Amended and Restated Initial Order, and on June 12, 2009, to increase the Canadian sub-facility borrowing limit.
4. The Stay Period has been extended a number of times and currently expires August 6, 2010 pursuant to the Order of the Honourable Mr. Justice Campbell granted May 4, 2010.
5. On April 22, 2009, Justice Morawetz granted an Order which, *inter alia*, approved the Marketing Process to identify a Stalking Horse bid for Indalex's assets.
6. On July 2, 2009, Justice Morawetz granted an Order which approved the Stalking-Horse Bid of Sapa Holding AB ("Sapa") as a "Qualified Bid" under the Stalking Horse Process and the Bidding Procedures.
7. No additional Qualified Bids were received in connection with the Stalking Horse Process prior to the Bidding Deadline and on July 20, 2009, the sale of substantially all of the assets and business of the Applicants and the US Debtors pursuant to the terms of the Asset Purchase Agreement dated as of June 16, 2009 by and among the US Debtors and the Applicants (other than Novar), as sellers, and Sapa, on its own behalf and on behalf of one or more Canadian Purchasers to be named (the "Sapa Transaction") was approved by the Court pursuant to the Order of Justice Campbell (the "Approval and Vesting Order"). The US Court approved the Sapa Transaction on the same date.

8. On July 30, 2009, a procedure for the submission, evaluation and adjudication of claims against the Applicants and for the submission of claims, if any, against the directors and officers of the Applicants (the “**Claims Procedure**”) was approved pursuant to the Order of Justice Morawetz (the “**Claims Procedure Order**”).
9. The Sapa Transaction closed in Canada and the U.S. on July 31, 2009. On the same date, all of the Applicants’ directors and officers resigned.
10. On October 14, 2009, Judge Walsh of the US Court granted an order converting the Ch.11 Proceedings to proceedings under Chapter 7 of the USBC (the “**Ch.7 Proceedings**”).
11. On October 27, 2009, the Court granted an order (the “**Monitor’s Powers Order**”) increasing the Monitor’s powers in order to facilitate the orderly completion of the CCAA Proceedings and the winding up of the Applicants’ estates, including
 - (a) Completing the Claims Procedure;
 - (b) Completing the working capital calculation and any related purchase price adjustment pursuant to the Sapa Transaction;
 - (c) Responding to the leave to appeal motion of the Retired Executives in connection with the SERP Motion and any resulting appeal. [The Retired Executives’ motion for leave to appeal was dismissed by the Court of Appeal on March 24, 2010.]; and
 - (d) Responding to any matters resulting from the decision of Justice Campbell in relation to the Deemed Trust Motions and the Bankruptcy Leave Motion, including the filing of or responding to any appeal therefrom and the filing of any assignment in bankruptcy of any Applicant.

PURPOSE OF REPORT

12. The purpose of this, the Monitor's Thirteenth Report, is to inform the Court on the following:
 - (a) The status of the Claims Procedure;
 - (b) The status of the SAPA Transaction Working Capital Calculation;
 - (c) The status of the appeal of the Deemed Trust Motions and the Bankruptcy Leave Motion; and
 - (d) The request for an extension of the Stay Period until January 31, 2011.
13. In preparing this report, the Monitor has relied upon unaudited financial information of the Applicants, the Applicants' books and records, certain financial information prepared by the Applicants and discussions with the Applicants' management. The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information. Accordingly, the Monitor expresses no opinion or other form of assurance on the information contained in this report or relied on in its preparation. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
14. Unless otherwise stated, all monetary amounts contained herein are expressed in United States Dollars. Capitalized terms not otherwise defined herein have the meanings defined in prior Monitor's Reports. Copies of the prior Monitor's Reports and the other materials filed with the Court can be obtained from the Monitor's website at: <http://cfcanda.fticonsulting.com/indalex/>.

STATUS OF CLAIMS PROCEDURE

15. In accordance with the Claims Procedure, a Proof of Claim and a copy of the Claims Procedure were sent to each Known Creditor on August 4, 2009, the Notice to Creditors was published in the Globe and Mail on August 6, 2009 and in the Wall Street Journal on August 7, 2009, and a copy of the Notice to Creditors was posted on the Monitor's Website.
16. Any person wishing to assert a Claim or D&O Claim (as those terms are defined in the Claims Procedure Order) was required to submit their Proof of Claim or Proof of D&O Claim, with all relevant supporting documentation, by the Claims Bar Date of 5:00 p.m. (Toronto time) on August 28, 2009.
17. As reported in the Twelfth Report of the Monitor dated April 28, 2010, the Monitor has reviewed the secured claim of Sun Indalex Finance, LLC ("Sun") and is satisfied that the Sun claim represents a valid secured claim against the Applicants the quantum of which is yet to be determined. A determination as to the validity of unsecured Claims is being held in abeyance pending a determination as to whether there will be funds to distribute to such creditors.
18. The Monitor received 17 D&O Proofs of Claim by the Claims Bar Date. The Monitor has received no additional D&O Proofs of Claim. The Monitor has reviewed the 17 D&O Proofs of Claim and based on its review has formed the opinion that the D&O Claims are not covered by the Directors' Charge. The Monitor has previously reported that it intends to bring a motion seeking such a declaration and an order releasing the Directors' Charge. Counsel to certain retired executives of the Applicants (the "Retired Executives") has informed the Monitor and the Court that it intends to oppose the Monitor's motion. The Monitor has provided draft materials to counsel to the Retired Executives in order that it can assess how much time it requires to reply and that the motion can be scheduled.

SAPA TRANSACTION WORKING CAPITAL CALCULATION

19. The Sapa Transaction closed in Canada and the U.S. on July 31, 2009. The Canadian Cash Purchase Price paid by the Purchaser was \$30,902,000, subject to further adjustment in accordance with the provisions of the Asset Purchase Agreement. On Closing, the Canadian Cash Purchase Price was disbursed as follows:

	\$
Cure Costs	445,926
Legal & Professional Fees	1,322,010
Repayment of DIP Lending	17,041,392
Canadian Escrow	2,750,000
Reserves held by Monitor	9,342,672
Canadian Cash Purchase Price	30,902,000

20. Pursuant to the Asset Purchase Agreement, the Canadian Cash Purchase Price will be adjusted based on the difference between the amount of the Canadian Current Assets and Canadian Assumed Liabilities as estimated in the Estimated Closing Date Statements and as calculated as at the Closing Date in the Closing Date Statements, subject to a maximum adjustment in the Purchaser's favour equal to the Canadian Escrow amount, being \$2.75 million.

21. The Asset Purchase Agreement provides for a timetable for the determination of adjustments. The timetable has been extended a number of times.

22. The Monitor is authorized and directed by the Monitor's Powers Order to take such steps as the Monitor considers necessary or appropriate to complete the Sapa Transaction, including the working capital adjustment, in the name of and on behalf of the Applicants. Sun is authorized by order of the US Court in the Ch.7 Proceedings to negotiate the working capital adjustments on behalf of the US Sellers.

23. The Monitor and its counsel met with Sapa and Sun and their counsel on a number of occasions in an effort to settle the working capital calculations and the final purchase price adjustments. The parties have agreed to the terms of a settlement (the "Settlement Agreement") and the settlement was approved by the US Chapter 7 Trustee and the US Court on July 13, 2010.
24. The Settlement Agreement results in recovery by the Applicants of the entire \$2.75 million Canadian deposit currently held in escrow by the Monitor plus an additional \$1.735 million.

DEEMED TRUST MOTIONS AND BANKRUPTCY LEAVE MOTION

25. On August 28, 2009, the Retired Executives and certain members of the United Steelworkers Union (the "USW") brought motions seeking declarations that property of the Applicants is subject to deemed trusts in favour of the beneficiaries of the "Executive Pension Plan" and the "Salaried Pension Plan", respectively (the "Deemed Trust Motions").
26. On the same date, the Applicants brought a motion for leave to lift the stay of proceedings for the purpose of allowing one or more of the Applicants to file an assignment in bankruptcy (the "Bankruptcy Leave Motion").
27. The Deemed Trust Motions and the Bankruptcy Leave Motion were heard by Justice Campbell on August 28, 2009. On February 18, 2010, Justice Campbell released written reasons dismissing the Deemed Trust Motions, holding that no deemed trusts arose with respect to wind up deficiencies under either the Executive Pension Plan or the Salaried Pension Plan (the "Deemed Trust Decision"). Based on the Deemed Trust Decision, Justice Campbell concluded that it was unnecessary to deal with the Bankruptcy Leave Motion.

28. Leave to appeal the Deemed Trust Decision was granted by the Court of Appeal for Ontario on May 20, 2010. The Retired Executives and the USW served their Notices of Appeal on June 1, 2010 and perfected their Appeals on or about July 2, 2010. It is not currently known when the Court of Appeal will schedule the hearing of the appeal (the "Pension Appeal").

EXTENSION OF THE STAY PERIOD

29. The Stay Period currently expires on August 6, 2010. Additional time is required to complete the matters necessary for the completion of the CCAA Proceedings, including the finalization of the working capital calculation and purchase price adjustment pursuant to the Sapa Transaction and responding to the Pension Appeal. It is not known when the Court of Appeal will hear the Pension Appeal. However, assuming that the appeal will be scheduled three to six months after perfection of the appeal (on or about July 2, 2010), the Monitor is seeking an extension of the Stay Period until January 31, 2011.

30. The Applicants' CCAA proceeding cannot be wound up until the Pension Appeal is resolved. The Monitor believes that an extension of the stay of proceedings is necessary to provide stability during that time.

31. The Monitor therefore respectfully requests that this Honourable Court grant an extension of the Stay period until January 31, 2011.

The Monitor respectfully submits to the Court this, its Thirteenth Report.

Dated this 19th day of July, 2010.

FTI Consulting Canada ULC
in its capacity as the Monitor of
Indalex Limited, Indalex Holdings (B.C.) Ltd.,
6326765 Canada Inc. and Novar Inc.



Nigel D. Meakin
Senior Managing Director



TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE M) THURSDAY, THE 5th DAY
)
JUSTICE) OF AUGUST, 2010

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
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**ORDER
(Stay Extension)**

THIS MOTION, made by FTI Consulting Canada ULC, the Court-appointed Monitor (the "**Monitor**") of Indalex Limited, Indalex Holdings (B.C.) Ltd., 6326765 Canada Inc. and Novar Inc. (the "**Applicants**"), for an order extending the Stay Period (as defined below) and an order approving the Thirteenth Report of the Monitor and the activities of the Monitor described therein, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Motion Record of the Monitor, including the Thirteenth Report of the Monitor dated July 19, 2010 (the "**Thirteenth Report**"), and on hearing the submissions of counsel to the Monitor and such other counsel as were present, and on being advised that the Service List was served with the Motion Record herein:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record shall be and is hereby abridged, if necessary, and that the motion is properly returnable today and that service thereof upon any interested party other than the persons served with the Motion Record is hereby dispensed with.

MONITOR'S ACTIVITIES

1. **THIS COURT ORDERS** that the Thirteenth Report and the activities of the Monitor as described therein are approved.

STAY EXTENSION

2. **THIS COURT ORDERS** that the Stay Period (as defined in paragraph 15 of the Amended Amended and Restated Initial Order of the Honourable Mr. Justice Morawetz dated May 12, 2009) is extended until and including January 31, 2011.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED

Court File No: 09-CV-09-8122-00CL

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

ORDER

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**ONTARIO
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Proceeding commenced at Toronto

**MOTION RECORD
(RETURNABLE AUGUST 5, 2010)**

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