

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

BETWEEN:

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 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.

Applicants

**MOTION RECORD**

(Motion for Reinstatement of Supplementary Pension Benefits, returnable July 2, 2009)

June 24, 2009

**KOSKIE MINSKY LLP**

20 Queen Street West  
Suite 900, Box 52  
Toronto, ON M5H 3R3

**Andrew J. Hatnay (LSUC#: 31885W)**

Email: [ahatnay@kmlaw.ca](mailto:ahatnay@kmlaw.ca)  
Tel: 416-595-2083  
Fax: 416-204-2877

**Andrea McKinnon (LSUC#: 55900A)**

Email: [amckinnon@kmlaw.ca](mailto:amckinnon@kmlaw.ca)  
Tel: 416-595-2150  
Fax: 416-204-2874

Lawyers for Keith Carruthers, Leon Kozierok,  
Bertram McBride, Max Degen, Eugene D'Iorio,  
Richard Smith, Robert Leckie and Neil Fraser  
(the "SERP Group")

**TO: ATTACHED SERVICE LIST**

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

BETWEEN:

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 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.

Applicants

**SERVICE LIST**

<b>TO:</b>	<p><b>BLAKE, CASSELS &amp; GRAYDON LLP</b> 199 Bay Street, Suite 2800 Box 25, Commerce Court West Toronto, ON M5L 1A9</p> <p><b>Linc Rogers</b> Tel: (416) 863-4168 E-mail: linc.rogers@blakes.com</p> <p><b>Katherine McEachern</b> Tel: (416) 863-2566 E-mail: katherine.mceachern@blakes.com</p> <p><b>Jackie Moher</b> Tel: (416) 863-3174 Fax: (416) 863-2653 E-mail: jackie.moher@blakes.com</p>
<b>AND TO:</b>	<p><b>McMILLAN LLP</b> Brookfield Place, Suite 4400 181 Bay Street 42<sup>nd</sup> Floor Toronto, ON M5J 2T3</p> <p><b>Wael Rostom</b> Tel: (416) 865-7790 Fax: (647) 722-6736 E-mail: wael.rostom@mcmillan.ca</p> <p><b>Larry Crozier</b> Tel: (416) 865-7178 Fax: (416) 865-7048 E-mail: lawrence.crozier@mcmillan.ca</p>

	<p><b>Tushara Weerasooriya</b>  Tel: (416) 865-7262  Fax: (416) 865-7048  E-mail: tushara.weerasooriya@mcmillan.ca</p> <p><b>Paul Macdonald</b>  Tel: (416) 865-7167  Fax: (416) 865-7048  E-mail: paul.macdonald@mcmillan.ca</p> <p>Lawyers for <b>JPMorgan Chase Bank, N.A.</b></p>
<b>AND TO:</b>	<p><b>STIKEMAN ELLIOTT LLP</b>  Suite 5300, Commerce Court West  199 Bay Street  Toronto, ON M5L 1B9</p> <p><b>Ashley Taylor</b>  Tel: (416) 869-5236  E-mail: ataylor@stikeman.com</p> <p><b>Lesley Mercer</b>  Tel: (416) 869-6859  Fax: (416) 947-0866  E-mail: lmercer@stikeman.com</p> <p>Lawyers for <b>the Monitor, FTI Consulting Canada ULC</b></p>
<b>AND TO:</b>	<p><b>WEIRFOULDS LLP</b>  The Exchange Tower, Suite 1600  Box 480, 130 King Street West  Toronto, ON M5X 1J5</p> <p><b>Paul D. Guy</b>  Tel: (416) 947-5045  Fax: (416) 365-1876  E-mail: pguy@weirfoulds.com</p> <p>Lawyers for <b>Alcoa</b></p>
<b>AND TO:</b>	<p><b>OGILVY RENAULT LLP</b>  Suite 1100  1981 McGill College Avenue  Montreal, QC H3A 3C1</p> <p><b>Sylvian Rigaud</b>  Tel: (514) 847-4702  Fax: (514) 286-5474  E-mail: srigaud@ogilvyrenault.com</p> <p>Lawyers for <b>Rio Tinto Alcan Inc.</b></p>

<b>AND TO:</b>	<b>KOSKIE MINSKY LLP</b> 20 Queen Street West Suite 900, Box 52 Toronto, ON M5H 3R3  <b>Andrew J. Hatnay</b> Tel: (416) 595-2083 Fax: (416) 204-2872 E-mail: ahatnay@kmlaw.ca  <b>Andrea McKinnon</b> Tel: (416) 595-2150 Fax: (416) 204-2874 E-mail: amckinnon@kmlaw.ca
<b>AND TO:</b>	<b>GREAT-WEST LIFE</b> 330 University Avenue Suite 400 Toronto, ON M5G 1R8  <b>Geoff Maier</b> Tel: (416) 552-5575 E-mail: geoff.maier@gwl.ca
<b>AND TO:</b>	<b>GREAT WEST LIFE</b> Great-West Life Centre 100 Osborne Street North Winnipeg, MB R3C 3A5  <b>Gary Senft</b> Tel: (204) 946-2943 Fax: (204) 946-4405 E-mail: gars@gwl.ca
<b>AND TO:</b>	<b>YOUNG CONAWAY STARGATT &amp; TAYLOR LLP</b> The Brandywine Building 1000 West Street, 17 <sup>th</sup> Floor Wilmington, DE 19801  <b>Donald J. Bowman, Jr.</b> Tel: (302) 571-5033 Fax: (302) 576-3504 E-mail: dbowman@ycst.com  <b>Michael R. Nestor</b> Tel: (302) 571-6699 Fax: (302) 576-3321 E-mail: mnestor@ycst.com

<b>AND TO:</b>	<p><b>FASKEN MARTINEAU DUMOULIN LLP</b>  66 Wellington Street West  Suite 4200, Toronto Dominion Bank Tower  Box 20, Toronto Dominion Centre  Toronto, ON M5K 1N6</p> <p><b>Edmond F.B. Lamek</b>  Tel: (416) 865-4506  Fax: (416) 364-7813  E-mail: elamek@fasken.com</p> <p>Lawyers for the <b>Directors of the Applicants</b></p>
<b>AND TO:</b>	<p><b>MILLER THOMSON LLP</b>  One London Place  255 Queens Avenue, Suite 2010  London, ON N6A 5R8</p> <p><b>Alissa K. Mitchell</b>  Tel: (519) 931-3510  Fax: (519) 858-8511  E-mail: amitchell@millerthomson.com</p> <p>Lawyers for <b>GE Capital Canada Leasing Services Inc.</b></p>
<b>AND TO:</b>	<p><b>DEPARTMENT OF JUSTICE</b>  The Exchange Tower  130 King Street West, Suite 3400, P.O. Box 36  Toronto, ON M5X 1K6</p> <p><b>Diane Winters</b>  Tel: (416) 973-3172  Fax: (416) 973-0810  E-mail: diane.winters@justice.gc.ca</p>
<b>AND TO:</b>	<p><b>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE</b>  (Income Tax, PST)  PO Box 620  33 King Street West, 6<sup>th</sup> Floor  Oshawa, ON L1H 8E9</p> <p><b>Kevin J. O'Hara</b>  E-mail: kevin.ohara@ontario.ca</p>
<b>AND TO:</b>	<p><b>MINISTRY OF ATTORNEY GENERAL</b>  Revenue &amp; Taxation Group, Legal Services Branch  601 – 1175 Douglas Street  PO Box 9289 Stn., Provincial Government  Victoria, BC V8W 9J7</p> <p><b>Aaron Welch</b>  Tel: (250) 356-8589  Fax: (250) 387-0700  E-mail: Aaron.Welch@gov.bc.ca</p>

<b>AND TO:</b>	<p><b>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA AS REPRESENTED BY THE MINISTER OF FINANCE</b>  (Income Tax)  The Tax and Revenue Administration  9811-109 Street  Edmonton, AB T5K 2L5</p> <p><b>John Chiarella</b>  Fax: (780) 422-3770</p>
<b>AND TO:</b>	<p><b>MONSIEUR LE MINISTRE</b>  <b>MINISTERE DU REVENU</b> (QST, Income Tax, GST)  Centre de perception fiscale  3800, rue de Marly  Quebec City, QC G1X 4A5</p> <p><b>Claude Provencher</b>  <b>Maryse Boucher</b>  Fax: (514) 215-3672/(416) 643-0381  E-mail: maryse.boucher@mrq.gouv.qc.ca</p>
<b>AND TO:</b>	<p><b>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF SASKATCHEWAN AS REPRESENTED BY THE MINISTER OF FINANCE</b> (PST Saskatchewan)  Revenue Division  2350 Alberta Street, 5<sup>th</sup> Floor  Regina, SK S4P 4A6</p> <p>Fax: (306) 787-0241</p>
<b>AND TO:</b>	<p><b>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA AS REPRESENTED BY THE MINISTER OF FINANCE</b>  (Income Tax), Taxation Division  101-401 York Ave.  Winnipeg, MB R3C 0P8</p> <p><b>Anita Huhn</b>  Tel: (204) 945-4625  Fax: (204) 948-2200  E-mail: anita.huhn@gov.mb.ca</p>
<b>AND TO:</b>	<p><b>ROYAL BANK OF CANADA</b>  Senior Markets, Corporate Accounts  8<sup>th</sup> Floor, 320 Front Street  Toronto, ON M5V 3B7</p> <p><b>Kevin Moore</b>  Tel: (416) 974-5927  Fax: (416) 974-7673  E-mail: kevin.moore@rbc.com</p> <p><b>Fiona Dubsy</b>  Tel: (514) 874-2826  Fax: (514) 874-5315  E-mail: fiona.dubsy@rbc.com</p>

	<p><b>Carla Swansburg</b>  Tel: (416) 974-6712  Fax: (416) 974-2217  E-mail: carla.swansburg@rbc.com</p>
<b>AND TO:</b>	<p><b>FTI CONSULTING CANADA ULC</b>  Suite 2733, TD Canada Trust Tower  161 Bay Street  Toronto, ON M5J 2S1</p> <p><b>Nigel D. Meakin</b>  Senior Managing Director  Tel: (416) 572-2285  Fax: (416) 572-2201  E-mail: nigel.meakin@fticonsulting.com</p>
<b>AND TO:</b>	<p><b>HEENAN BLAIKIE LLP</b>  Suite 2600, 200 Bay Street  South Tower, Royal Bank Plaza  Toronto, ON M5J 2J4</p> <p><b>John J. Salmas</b>  Tel: (416) 360-3570  Fax: (416) 360-8425  E-mail: jsalmas@heenan.ca</p> <p><b>Kenneth Kraft</b>  Tel: (416) 643-6822  Fax: (416) 360-8425  E-mail: kkraft@heenan.ca</p> <p><b>Henry Bertossi</b>  Tel: (416) 643-6862  Fax: (416) 360-8425  E-mail: hbertossi@heenan.ca</p> <p>Lawyers for the <b>Stalking Horse Bidder</b></p>
<b>AND TO:</b>	<p><b>GOODMANS LLP</b>  250 Yonge Street, Suite 2400  Toronto, ON M5B 2M6</p> <p><b>Brian Empey</b> LSUC No. 30640G  Tel: (416) 979-2211  Fax: (416) 979-1234  E-mail: bempey@goodmans.ca</p> <p>Lawyers for the Respondent, <b>Sun Indalex Finance, LLC</b></p>



<b>AND TO:</b>	<p><b>MACLEOD DIXON LLP</b> 3700 Canterra Tower 400 Third Avenue SW Calgary, AB T2P 4H2</p> <p><b>Steven H. Leidl</b> Tel: (403) 267-8140 Fax: (403) 264-5973 E-mail: steven.leidl@macleoddixon.com</p> <p><b>Kyle D. Kashuba</b> Tel: (403) 267-8399 Fax: (403) 264-5973 E-mail: kashuba@macleoddixon.com</p> <p>Lawyers for <b>Constellation NewEnergy Capital Inc.</b></p>
	<b><u>LIST OF PPSA REGISTRANTS:</u></b>
<b>AND TO:</b>	<p><b>Woodbine Truck Centre Ltd. o/a Woodbine Indealease</b> 8240 Woodbine Avenue Markham, ON L3R 2N8</p> <p><b>Greg Kearns</b> E-mail: gkearns@woodbinetruck.com</p>
<b>AND TO:</b>	<p><b>NRB Inc.</b> 115 South Service Road West, P.O. Box 129 Grimsby, ON L3M 4G3</p> <p><b>Richard DiAngelo</b> E-mail: richarddiangelo@nrb-inc.com</p>
<b>AND TO:</b>	<p><b>De Lage Landen Financial Services Canada Inc.</b> 100-1235 North Service Road West Oakville, ON L6M 2W2</p> <p><b>Jacqueline Perron</b> E-mail: jperron@leasedirect.com</p>
<b>AND TO:</b>	<p><b>GE Canada Equipment Financing G.P.</b> 123 Front Street West, 16<sup>th</sup> Floor Toronto, ON M5J 2M2</p> <p><b>Syenny Jeliana</b> Fax: (416) 947-5303</p>
<b>AND TO:</b>	<p><b>Penske Truck Leasing Canada Inc./ Locations de Camions Penske Canada Inc.</b> RT 10 Green Hills, PO Box 791 Reading, PA 19603</p> <p><b>Denise Sanford</b> Tel: (905) 564-2176 E-mail: denise.sanford@penske.com</p>

<b>AND TO:</b>	<p><b>Citicorp Vendor Finance, Ltd.</b> 123 Front Street West, 16<sup>th</sup> Floor Toronto, ON M5J 2M3</p> <p><b>Syenny Jeliana</b> Fax: (416) 947-5303</p>
<b>AND TO:</b>	<p><b>GE Canada Leasing Services Company</b> 2300 Meadowvale Boulevard, Suite 100 Mississauga, ON L5N 5P9</p> <p><b>Dean Langley</b> Tel: (905) 858-4916 E-mail: dean.langley@ge.com</p>
<b>AND TO:</b>	<p><b>VFS Canada Inc.</b> 73 Industrial Parkway North Aurora, ON L4G 4C4</p> <p><b>Murielle Graff</b> E-mail: murielle.graff@vfsc.com</p>
<b>AND TO:</b>	<p><b>PHH Vehicle Management Services Inc.</b> 2233 Argentia Road, Suite 400 Mississauga, ON L5N 2X7</p> <p><b>Dominic Monaco</b> E-mail: dominic.monaco@phh.com</p>
<b>AND TO:</b>	<p><b>CIT Financial Ltd.</b> 5045 South Service Road Burlington, ON L7R 4C8</p> <p><b>Anne Neuert</b> Tel: (888) 563-4321 E-mail: anne.neuert@cit.com</p> <p><b>Isobel Fraser</b> Tel: (905) 633-2097 E-mail: isobel.fraser@cit.com</p>
<b>AND TO:</b>	<p><b>Liftcapital Corporation/Corporation Liftcapital</b> 300 The East Mall, Suite 401 Toronto, ON M9B 6B7</p> <p><b>Doug Chau</b> Tel: (416) 621-5522 ext. 224 or 225 E-mail: dchau@liftcapital.ca</p>
<b>AND TO:</b>	<p><b>IKON Office Solutions Inc.</b> 2300 Meadowvale Boulevard, Suite 200 Mississauga, ON L5N 5P9</p> <p><b>Darlene Milligan</b> Tel: (905) 858-6289 E-mail: Darlene.milligan@ge.com</p>

	<b><u>LIST OF UNIONS:</u></b>
<b>AND TO:</b>	<p><b>United Steelworkers – District 3</b> 150 – 2880 Glenmore Trail S.E. Calgary, AB T2C 2E7</p> <p><b>Keith Turcotte, Area Supervisor</b> Tel: (403) 279-9397 E-mail: kturcotte@usw.ca</p>
<b>AND TO:</b>	<p><b>United Steelworkers 2952</b> Suite 202 9292 – 200<sup>th</sup> Street Langley, BC V1M 3A6</p> <p><b>Steve Dewell</b> Tel: (604) 513-1850 E-mail: sdewell@usw.ca</p> <p><b>R. Gatzka</b> E-mail: rgatzka@usw.ca</p>
<b>AND TO:</b>	<p><b>Syndiat des Metallos</b> 2350, avenue De LaSalle Quebec, QC H1V 2L1</p> <p><b>Pierre Arseneau</b> Tel: (514) 599-2006 E-mail: parseneau@usw.ca</p>
<b>AND TO:</b>	<p><b>United Steelworkers</b> 1158 Aerowood Drive Mississauga, ON L4W 1Y5</p> <p><b>Terry Bea, Staff Representative</b> Tel: (905) 629-4991 ext. 27 E-mail: tbea@usw.ca</p> <p><b>F. Falbo</b> E-mail: ffalbo@usw.ca</p>
<b>AND TO:</b>	<p><b>United Steelworkers</b> 25 Cecil Street Toronto, ON M5T 1N1</p> <p><b>Lawrence Hay, Staff Representative</b> E-mail: lhay@usw.ca</p>
<b>AND TO:</b>	<p><b>United Steelworkers (Counsel)</b></p> <p><b>Rob Champagne</b> E-mail: rchampagne@usw.ca</p>
<b>AND TO:</b>	<p><b>United Steelworkers (Counsel to Local 7785 and 7785-01)</b></p> <p><b>P. Lalonde</b> E-mail: plalonde@usw.ca</p>

	<p><b>WITH A COURTESY COPY TO:</b></p> <p><b>BENNETT JONES LLP</b> Suite 3400 1 First Canadian Place P.O. Box 130 Toronto, ON M5X 1A4</p> <p><b>Raj S. Sahni</b> Tel: (416) 777-4804 E-mail: sahnir@bennettjones.com</p> <p><b>Gavin Finlayson</b> Tel: (416) 777-5762 Fax: (416) 863-1716 E-mail: finlaysong@bennettjones.com</p> <p>Canadian Counsel to US Bank in its capacity as trustee for bondholders</p>
	<p><b>MILLER CANFIELD</b> Suite 300 443 Ouellette Avenue Windsor, ON N9A 6R4</p> <p><b>John D. Leslie</b> Tel: (519) 561-7422 Fax: (519) 977-1565 E-mail: leslie@millercanfield.com</p> <p>Canadian Co-Counsel with McGuire Woods to the Unsecured Creditors Committee</p>

# INDEX

## INDEX

<b>TAB</b>	<b>DOCUMENT</b>	<b>PAGES</b>
1	Notice of Motion	1-16
2	Affidavit of Keith Carruthers, sworn June 23, 2009	17-33
A	<b>Exhibit A</b> – Letters to SERP Group members from Indalex Inc., dated April 9, 2009	34-40
B	<b>Exhibit B</b> – Supplemental Retirement Plan For Executive Employees of Indalex Limited and Associated Companies, effective January 1, 2000	41-76
C	<b>Exhibit C</b> – Retirement Package to Keith Carruthers from William M. Mercer, dated October 6, 1999	77-85
D	<b>Exhibit D</b> – Affidavit of Timothy R.J. Stubbs, sworn April 3, 2009	86-110
E	<b>Exhibit E</b> – Retirement Plan for the Executive Employees of Indalex Limited and Associated Companies, dated January 1, 2008	111-153
F	<b>Exhibit F</b> – Letter to counsel from Koskie Minsky LLP, dated June 17, 2009	154-156
G	<b>Exhibit G</b> – Memorandum from Tim Stubbs, dated June 5, 2009	157-158
H	<b>Exhibit H</b> – Letter to Keith Carruthers from P.G. Shelley, dated January 13, 1993.	159-162
I	<b>Exhibit I</b> – Earnings Statement of Keith Carruthers, dated January 13, 2009	163-164
J	<b>Exhibit J</b> – Earnings Statement of Leon Kozierok, dated March 13, 2009	165-166
K	<b>Exhibit K</b> – Personal Pension Statement of Leon Kozierok, dated 2000	167-168
L	<b>Exhibit L</b> – Earnings Statement of Max Degen, dated March 13, 2009	169-170

TAB	DOCUMENT	PAGES
M	<b>Exhibit M</b> – Letter to Canadian Imperial Bank of Commerce, from Dennis A. Bamber, dated April 25, 1994	171-172
N	<b>Exhibit N</b> – Earnings Statement of Bertram McBride, dated February 13, 2009	173-174
O	<b>Exhibit O</b> – Statement of Election and Benefits of Bertram McBride, dated November 3, 2008	175-179
P	<b>Exhibit P</b> – Earnings Statement of Neil Fraser, dated February 13, 2009	180-181
Q	<b>Exhibit Q</b> – Retirement Package to Neil Fraser from William M. Mercer, dated October 25, 1999	182-190
R	<b>Exhibit R</b> – Letter to Mr. D. Proctor from Neil Fraser, dated November 1, 1999	191-192
S	<b>Exhibit S</b> – Earnings Statement of Eugene D'Iorio, dated January 13, 2009	193-194
T	<b>Exhibit T</b> – Letter to Richard Smith from Indalex USA Pension Plan Administration, dated August 14, 2008	195-196
U	<b>Exhibit U</b> – Letter to Richard Smith from Indalex Inc., dated October 23, 2000	197-204
V	<b>Exhibit V</b> – Email Correspondence between Robert Leckie and Dale Tabinowski	205-207

# **TAB 1**



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

**BETWEEN:**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 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.

Applicants

**NOTICE OF MOTION**

Keith Carruthers, Leon Kozierok, Bertram McBride, Max Degen, Eugene D'Iorio, Richard Smith, Robert Leckie and Neil Fraser (members of the Indalex supplemental executive retirement plan or "SERP", referred to collectively herein as the "SERP Group") will make a motion to a judge of the Commercial List on July 2, 2009 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, if necessary, abridging the time for service of the Notice of Motion and Motion Record and declaring that the motion is properly returnable on July 2, 2009;
2. An Order requiring the Applicants to reinstate payment of supplemental pension benefits to the SERP Group and a payment of arrears from April 2009, plus interest;
3. An Order, if necessary, amending the Amended Amended and Restated Initial Order of May 12, 2009 to require the Applicants to pay supplemental pension benefits to the SERP Group;

4. An Order, if necessary, directing the Applicants, Monitor or any other party to provide to the SERP Group the amount of the fee payable in respect of the DCA Amendment, as described in paragraph 22 in the Monitor's 4<sup>th</sup> Report, which the Applicants and Monitor do not oppose releasing to the SERP Group;
5. An Order directing the amount of \$52,125 representing the amounts owing to the SERP Group for the months of April, May and June 2009, with the exception of Richard Smith, to be paid by the Applicants to the Monitor to be held in trust pending the disposition of this motion, plus an amount of \$21,207 for each subsequent month thereafter that the Applicants do not pay the supplemental benefits to the SERP Group, plus interest; and
6. Such further and other relief as counsel may request and this Honourable Court permit.

**THE GROUNDS FOR THE MOTION ARE:**

1. The SERP Group members are retirees of the Applicants or their predecessor companies who through their employment service became contractually entitled to be paid supplemental pension benefits from the Applicants for their lifetimes;
2. On April 3, 2009, the Applicants applied for and were granted protection from their creditors under the *Companies' Creditors Arrangement Act* R.S.C. 1985, c.C-36 as amended (the "CCAA"). On April 8, 2009, the Initial Order was amended and restated. The Amended and Restated Initial Order was amended and restated again on May 12, 2009 (the "CCAA Order");
3. Immediately after obtaining protection from their creditors under the CCAA on April 3, 2009 and without any prior notice to the SERP Group, the Applicants stopped paying the SERP Group their benefits under the Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Supplemental Plan"). The letter sent by the Applicants to the SERP Group members dated April 9, 2009 states that as a result of the Applicants' post-CCAA filing termination of the supplemental benefits the SERP Group members had all become "unsecured creditors". The last supplemental pension benefit received by the SERP Group members was in the payment owing for March, 2009;

4. The Applicants have breached and/or terminated the contract that exists between the SERP Group and the Applicants post-CCAA filing. This breach and/or termination of contract is without justification and is not necessary for the Applicants' activities (i.e. a sale of the business) while under CCAA protection;
5. Prior to the CCAA filing, the company reassured the members of SERP Group both verbally and in writing that despite the unfunded structure of the Supplemental Plan, the company was committed to meeting its obligations to pay the benefits. The company also reassured members of the SERP Group that their "peace of mind" concerning the safety of their supplemental retirement benefits was of importance to the company;
6. The sudden termination of payments to the SERP Group by the Applicants has created immediate financial hardship for the SERP Group members and their families;
7. The 8 SERP Group members are the only members of the Supplemental Plan. Membership to the Supplemental Plan is closed;
8. The monthly cost of these benefit payments to the company is only \$21,207. The amount of \$21,207 represents monthly supplemental payments owing to all 8 SERP Group members, effective July 1, 2009. Members of the SERP Group also are owed the amount of \$52,125, which represents amounts owing to the SERP Group for the months of April, May and June 2009. The amount of \$52,125 does not include any amounts owed to Richard Smith, who has applied to receive his supplemental benefits from the Supplemental Plan and will become entitled to receive commencement of his monthly benefit payments as of July 1, 2009;
9. The amounts owing from the Applicants to the SERP Group are negligible for the company, yet the benefits provide vital income for the members of the SERP Group;
10. According to the actual cash flow for the month of May 2009 reported by the Monitor in its Fourth Report, Indalex Canada had total disbursements of \$20,591,000, of which \$573,000 were for "benefits" and \$797,000 were for "legal and professional fees" (the latter being more than double the forecasted amount). The approximate \$21,207

monthly Supplemental Plan payment for the supplementary pension benefits thus is a mere .1 of a percent of the company's monthly total disbursements;

11. Despite experiencing liquidity issues in early 2009, the company is moving into its historically more profitable quarters. The Applicants' plants made money in May 2009;
12. Soon after obtaining CCAA protection, the company put itself up for sale and commenced a "Marketing Process". The company is not restructuring, rather, it is selling itself. Cutting the supplemental benefits payable to the SERP Group is not necessary or justified for the sale of the company under the CCAA;
13. The payment of the supplemental benefits would not impede or imperil a restructuring of the company or a sale of the company;
14. The Applicants' liability under the Supplemental Plan is finite and manageable, and the company should be required to continue to pay the pension benefits to which members of the SERP Group contractually are entitled;
15. The SERP Group members may be subject to a further reduction in their monthly pension benefit payments from the Applicants as a result of the underfunded status of the Retirement Plan for the Executive Employees of Indalex Limited and Associated Companies, from which the SERP Group members receive the registered portion of their monthly pension benefits, thus further threatening their retirement income;
16. It is unfair to discriminate against the SERP Group by terminating payment of their supplemental pension benefits while the company continues to make payments to other employee and/or retiree groups;
17. Rules 2.03, 3.02 and 37 of the *Rules of Civil Procedure*; and
18. Such further and other grounds that counsel may advise and this Honourable Court permit.

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

1. The affidavit of Keith Carruthers, sworn June 23, 2009;
2. The affidavits of Timothy R.J. Stubbs, previously filed with this Honourable Court;
3. The Monitors' Reports; and
4. Such further and other material as counsel may advise and this Honourable Court permit.

June 24, 2009

**KOSKIE MINSKY LLP**  
20 Queen Street West  
Suite 900, Box 52  
Toronto, ON M5H 3R3

**Andrew J. Hatnay (LSUC#: 31885W)**  
Email: [ahatnay@kmlaw.ca](mailto:ahatnay@kmlaw.ca)  
Tel: 416-595-2083  
Fax: 416-204-2877

**Andrea McKinnon (LSUC#: 55900A)**  
Email: [amckinnon@kmlaw.ca](mailto:amckinnon@kmlaw.ca)  
Tel: 416-595-2150  
Fax: 416-204-2874

Lawyers for Keith Carruthers, Leon Kozierok,  
Bertram McBride, Max Degen, Eugene D'Iorio,  
Richard Smith, Robert Leckie and Neil Fraser  
(the "SERP Group")

**TO: ATTACHED SERVICE LIST**

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

B E T W E E N :

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 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.

Applicants

**SERVICE LIST**

<b>TO:</b>	<p><b>BLAKE, CASSELS &amp; GRAYDON LLP</b>  199 Bay Street, Suite 2800  Box 25, Commerce Court West  Toronto, ON M5L 1A9</p> <p><b>Linc Rogers</b>  Tel: (416) 863-4168  E-mail: linc.rogers@blakes.com</p> <p><b>Katherine McEachern</b>  Tel: (416) 863-2566  E-mail: katherine.mceachern@blakes.com</p> <p><b>Jackie Moher</b>  Tel: (416) 863-3174  Fax: (416) 863-2653  E-mail: jackie.moher@blakes.com</p>
<b>AND TO:</b>	<p><b>McMILLAN LLP</b>  Brookfield Place, Suite 4400  181 Bay Street  42<sup>nd</sup> Floor  Toronto, ON M5J 2T3</p> <p><b>Wael Rostom</b>  Tel: (416) 865-7790  Fax: (647) 722-6736  E-mail: wael.rostom@mcmillan.ca</p> <p><b>Larry Crozier</b>  Tel: (416) 865-7178  Fax: (416) 865-7048  E-mail: lawrence.crozier@mcmillan.ca</p>

	<p><b>Tushara Weerasooriya</b>  Tel: (416) 865-7262  Fax: (416) 865-7048  E-mail: tushara.weerasooriya@mcmillan.ca</p> <p><b>Paul Macdonald</b>  Tel: (416) 865-7167  Fax: (416) 865-7048  E-mail: paul.macdonald@mcmillan.ca</p> <p>Lawyers for <b>JPMorgan Chase Bank, N.A.</b></p>
<p><b>AND TO:</b></p>	<p><b>STIKEMAN ELLIOTT LLP</b>  Suite 5300, Commerce Court West  199 Bay Street  Toronto, ON M5L 1B9</p> <p><b>Ashley Taylor</b>  Tel: (416) 869-5236  E-mail: ataylor@stikeman.com</p> <p><b>Lesley Mercer</b>  Tel: (416) 869-6859  Fax: (416) 947-0866  E-mail: lmercer@stikeman.com</p> <p>Lawyers for <b>the Monitor, FTI Consulting Canada ULC</b></p>
<p><b>AND TO:</b></p>	<p><b>WEIRFOULDS LLP</b>  The Exchange Tower, Suite 1600  Box 480, 130 King Street West  Toronto, ON M5X 1J5</p> <p><b>Paul D. Guy</b>  Tel: (416) 947-5045  Fax: (416) 365-1876  E-mail: pguy@weirfoulds.com</p> <p>Lawyers for <b>Alcoa</b></p>
<p><b>AND TO:</b></p>	<p><b>OGILVY RENAULT LLP</b>  Suite 1100  1981 McGill College Avenue  Montreal, QC H3A 3C1</p> <p><b>Sylvian Rigaud</b>  Tel: (514) 847-4702  Fax: (514) 286-5474  E-mail: srigaud@ogilvyrenault.com</p> <p>Lawyers for <b>Rio Tinto Alcan Inc.</b></p>

<b>AND TO:</b>	<p><b>KOSKIE MINSKY LLP</b>  20 Queen Street West  Suite 900, Box 52  Toronto, ON M5H 3R3</p> <p><b>Andrew J. Hatnay</b>  Tel: (416) 595-2083  Fax: (416) 204-2872  E-mail: ahatnay@kmlaw.ca</p> <p><b>Andrea McKinnon</b>  Tel: (416) 595-2150  Fax: (416) 204-2874  E-mail: amckinnon@kmlaw.ca</p>
<b>AND TO:</b>	<p><b>GREAT-WEST LIFE</b>  330 University Avenue  Suite 400  Toronto, ON M5G 1R8</p> <p><b>Geoff Maier</b>  Tel: (416) 552-5575  E-mail: geoff.maier@gwl.ca</p>
<b>AND TO:</b>	<p><b>GREAT WEST LIFE</b>  Great-West Life Centre  100 Osborne Street North  Winnipeg, MB R3C 3A5</p> <p><b>Gary Senft</b>  Tel: (204) 946-2943  Fax: (204) 946-4405  E-mail: gars@gwl.ca</p>
<b>AND TO:</b>	<p><b>YOUNG CONAWAY STARGATT &amp; TAYLOR LLP</b>  The Brandywine Building  1000 West Street, 17<sup>th</sup> Floor  Wilmington, DE 19801</p> <p><b>Donald J. Bowman, Jr.</b>  Tel: (302) 571-5033  Fax: (302) 576-3504  E-mail: dbowman@ycst.com</p> <p><b>Michael R. Nestor</b>  Tel: (302) 571-6699  Fax: (302) 576-3321  E-mail: mnestor@ycst.com</p>



<b>AND TO:</b>	<p><b>FASKEN MARTINEAU DUMOULIN LLP</b>  66 Wellington Street West  Suite 4200, Toronto Dominion Bank Tower  Box 20, Toronto Dominion Centre  Toronto, ON M5K 1N6</p> <p><b>Edmond F.B. Lamek</b>  Tel: (416) 865-4506  Fax: (416) 364-7813  E-mail: elamek@fasken.com</p> <p>Lawyers for the <b>Directors of the Applicants</b></p>
<b>AND TO:</b>	<p><b>MILLER THOMSON LLP</b>  One London Place  255 Queens Avenue, Suite 2010  London, ON N6A 5R8</p> <p><b>Alissa K. Mitchell</b>  Tel: (519) 931-3510  Fax: (519) 858-8511  E-mail: amitchell@millertomson.com</p> <p>Lawyers for <b>GE Capital Canada Leasing Services Inc.</b></p>
<b>AND TO:</b>	<p><b>DEPARTMENT OF JUSTICE</b>  The Exchange Tower  130 King Street West, Suite 3400, P.O. Box 36  Toronto, ON M5X 1K6</p> <p><b>Diane Winters</b>  Tel: (416) 973-3172  Fax: (416) 973-0810  E-mail: diane.winters@justice.gc.ca</p>
<b>AND TO:</b>	<p><b>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE</b>  (Income Tax, PST)  PO Box 620  33 King Street West, 6<sup>th</sup> Floor  Oshawa, ON L1H 8E9</p> <p><b>Kevin J. O'Hara</b>  E-mail: kevin.ohara@ontario.ca</p>
<b>AND TO:</b>	<p><b>MINISTRY OF ATTORNEY GENERAL</b>  Revenue &amp; Taxation Group, Legal Services Branch  601 – 1175 Douglas Street  PO Box 9289 Stn., Provincial Government  Victoria, BC V8W 9J7</p> <p><b>Aaron Welch</b>  Tel: (250) 356-8589  Fax: (250) 387-0700  E-mail: Aaron.Welch@gov.bc.ca</p>

<b>AND TO:</b>	<p><b>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ALBERTA AS REPRESENTED BY THE MINISTER OF FINANCE</b> (Income Tax) The Tax and Revenue Administration 9811-109 Street Edmonton, AB T5K 2L5</p> <p><b>John Chiarella</b> Fax: (780) 422-3770</p>
<b>AND TO:</b>	<p><b>MONSIEUR LE MINISTRE</b> <b>MINISTERE DU REVENU (QST, Income Tax, GST)</b> Centre de perception fiscale 3800, rue de Marly Quebec City, QC G1X 4A5</p> <p><b>Claude Provencher</b> <b>Maryse Boucher</b> Fax: (514) 215-3672/(416) 643-0381 E-mail: maryse.boucher@mrq.gouv.qc.ca</p>
<b>AND TO:</b>	<p><b>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF SASKATCHEWAN AS REPRESENTED BY THE MINISTER OF FINANCE (PST Saskatchewan)</b> Revenue Division 2350 Alberta Street, 5<sup>th</sup> Floor Regina, SK S4P 4A6</p> <p>Fax: (306) 787-0241</p>
<b>AND TO:</b>	<p><b>HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF MANITOBA AS REPRESENTED BY THE MINISTER OF FINANCE</b> (Income Tax), Taxation Division 101-401 York Ave. Winnipeg, MB R3C 0P8</p> <p><b>Anita Huhn</b> Tel: (204) 945-4625 Fax: (204) 948-2200 E-mail: anita.huhn@gov.mb.ca</p>
<b>AND TO:</b>	<p><b>ROYAL BANK OF CANADA</b> Senior Markets, Corporate Accounts 8<sup>th</sup> Floor, 320 Front Street Toronto, ON M5V 3B7</p> <p><b>Kevin Moore</b> Tel: (416) 974-5927 Fax: (416) 974-7673 E-mail: kevin.moore@rbc.com</p> <p><b>Fiona Dubsy</b> Tel: (514) 874-2826 Fax: (514) 874-5315 E-mail: fiona.dubsy@rbc.com</p>

	<p><b>Carla Swansburg</b>  Tel: (416) 974-6712  Fax: (416) 974-2217  E-mail: carla.swansburg@rbc.com</p>
<b>AND TO:</b>	<p><b>FTI CONSULTING CANADA ULC</b>  Suite 2733, TD Canada Trust Tower  161 Bay Street  Toronto, ON M5J 2S1</p> <p><b>Nigel D. Meakin</b>  Senior Managing Director  Tel: (416) 572-2285  Fax: (416) 572-2201  E-mail: nigel.meakin@fticonsulting.com</p>
<b>AND TO:</b>	<p><b>HEENAN BLAIKIE LLP</b>  Suite 2600, 200 Bay Street  South Tower, Royal Bank Plaza  Toronto, ON M5J 2J4</p> <p><b>John J. Salmas</b>  Tel: (416) 360-3570  Fax: (416) 360-8425  E-mail: jsalmas@heenan.ca</p> <p><b>Kenneth Kraft</b>  Tel: (416) 643-6822  Fax: (416) 360-8425  E-mail: kkraft@heenan.ca</p> <p><b>Henry Bertossi</b>  Tel: (416) 643-6862  Fax: (416) 360-8425  E-mail: hbertossi@heenan.ca</p> <p>Lawyers for the <b>Stalking Horse Bidder</b></p>
<b>AND TO:</b>	<p><b>GOODMANS LLP</b>  250 Yonge Street, Suite 2400  Toronto, ON M5B 2M6</p> <p><b>Brian Empey</b> LSUC No. 30640G  Tel: (416) 979-2211  Fax: (416) 979-1234  E-mail: bempey@goodmans.ca</p> <p>Lawyers for the Respondent, <b>Sun Indalex Finance, LLC</b></p>

<b>AND TO:</b>	<p><b>MACLEOD DIXON LLP</b>  3700 Canterra Tower  400 Third Avenue SW  Calgary, AB T2P 4H2</p> <p><b>Steven H. Leidl</b>  Tel: (403) 267-8140  Fax: (403) 264-5973  E-mail: steven.leidl@macleoddixon.com</p> <p><b>Kyle D. Kashuba</b>  Tel: (403) 267-8399  Fax: (403) 264-5973  E-mail: kashuba@macleoddixon.com</p> <p>Lawyers for <b>Constellation NewEnergy Capital Inc.</b></p>
	<b><u>LIST OF PPSA REGISTRANTS:</u></b>
<b>AND TO:</b>	<p><b>Woodbine Truck Centre Ltd. o/a Woodbine Indealease</b>  8240 Woodbine Avenue  Markham, ON L3R 2N8</p> <p><b>Greg Kearns</b>  E-mail: gkearns@woodbinetruck.com</p>
<b>AND TO:</b>	<p><b>NRB Inc.</b>  115 South Service Road West, P.O. Box 129  Grimsby, ON L3M 4G3</p> <p><b>Richard DiAngelo</b>  E-mail: richarddiangelo@nrb-inc.com</p>
<b>AND TO:</b>	<p><b>De Lage Landen Financial Services Canada Inc.</b>  100-1235 North Service Road West  Oakville, ON L6M 2W2</p> <p><b>Jacqueline Perron</b>  E-mail: jperron@leasedirect.com</p>
<b>AND TO:</b>	<p><b>GE Canada Equipment Financing G.P.</b>  123 Front Street West, 16<sup>th</sup> Floor  Toronto, ON M5J 2M2</p> <p><b>Syenny Jeliana</b>  Fax: (416) 947-5303</p>
<b>AND TO:</b>	<p><b>Penske Truck Leasing Canada Inc./  Locations de Camions Penske Canada Inc.</b>  RT 10 Green Hills, PO Box 791  Reading, PA 19603</p> <p><b>Denise Sanford</b>  Tel: (905) 564-2176  E-mail: denise.sanford@penske.com</p>

<b>AND TO:</b>	<p><b>Citicorp Vendor Finance, Ltd.</b> 123 Front Street West, 16<sup>th</sup> Floor Toronto, ON M5J 2M3</p> <p><b>Syenny Jeliana</b> Fax: (416) 947-5303</p>
<b>AND TO:</b>	<p><b>GE Canada Leasing Services Company</b> 2300 Meadowvale Boulevard, Suite 100 Mississauga, ON L5N 5P9</p> <p><b>Dean Langley</b> Tel: (905) 858-4916 E-mail: dean.langley@ge.com</p>
<b>AND TO:</b>	<p><b>VFS Canada Inc.</b> 73 Industrial Parkway North Aurora, ON L4G 4C4</p> <p><b>Murielle Graff</b> E-mail: murielle.graff@vfsc.com</p>
<b>AND TO:</b>	<p><b>PHH Vehicle Management Services Inc.</b> 2233 Argentia Road, Suite 400 Mississauga, ON L5N 2X7</p> <p><b>Dominic Monaco</b> E-mail: dominic.monaco@phh.com</p>
<b>AND TO:</b>	<p><b>CIT Financial Ltd.</b> 5045 South Service Road Burlington, ON L7R 4C8</p> <p><b>Anne Neuert</b> Tel: (888) 563-4321 E-mail: anne.neuert@cit.com</p> <p><b>Isobel Fraser</b> Tel: (905) 633-2097 E-mail: isobel.fraser@cit.com</p>
<b>AND TO:</b>	<p><b>Liftcapital Corporation/Corporation Liftcapital</b> 300 The East Mall, Suite 401 Toronto, ON M9B 6B7</p> <p><b>Doug Chau</b> Tel: (416) 621-5522 ext. 224 or 225 E-mail: dchau@liftcapital.ca</p>
<b>AND TO:</b>	<p><b>IKON Office Solutions Inc.</b> 2300 Meadowvale Boulevard, Suite 200 Mississauga, ON L5N 5P9</p> <p><b>Darlene Milligan</b> Tel: (905) 858-6289 E-mail: Darlene.milligan@ge.com</p>

	<b><u>LIST OF UNIONS:</u></b>
<b>AND TO:</b>	<p><b>United Steelworkers – District 3</b> 150 – 2880 Glenmore Trail S.E. Calgary, AB T2C 2E7</p> <p><b>Keith Turcotte, Area Supervisor</b> Tel: (403) 279-9397 E-mail: kturcotte@usw.ca</p>
<b>AND TO:</b>	<p><b>United Steelworkers 2952</b> Suite 202 9292 – 200<sup>th</sup> Street Langley, BC V1M 3A6</p> <p><b>Steve Dewell</b> Tel: (604) 513-1850 E-mail: sdewell@usw.ca</p> <p><b>R. Gatzka</b> E-mail: rgatzka@usw.ca</p>
<b>AND TO:</b>	<p><b>Syndiat des Metallos</b> 2350, avenue De LaSalle Quebec, QC H1V 2L1</p> <p><b>Pierre Arseneau</b> Tel: (514) 599-2006 E-mail: parseneau@usw.ca</p>
<b>AND TO:</b>	<p><b>United Steelworkers</b> 1158 Aerowood Drive Mississauga, ON L4W 1Y5</p> <p><b>Terry Bea, Staff Representative</b> Tel: (905) 629-4991 ext. 27 E-mail: tbea@usw.ca</p> <p><b>F. Falbo</b> E-mail: ffalbo@usw.ca</p>
<b>AND TO:</b>	<p><b>United Steelworkers</b> 25 Cecil Street Toronto, ON M5T 1N1</p> <p><b>Lawrence Hay, Staff Representative</b> E-mail: lhay@usw.ca</p>
<b>AND TO:</b>	<p><b>United Steelworkers (Counsel)</b></p> <p><b>Rob Champagne</b> E-mail: rchampagne@usw.ca</p>
<b>AND TO:</b>	<p><b>United Steelworkers (Counsel to Local 7785 and 7785-01)</b></p> <p><b>P. Lalonde</b> E-mail: plalonde@usw.ca</p>

**WITH A COURTESY COPY TO:****BENNETT JONES LLP**

Suite 3400  
1 First Canadian Place  
P.O. Box 130  
Toronto, ON M5X 1A4

**Raj S. Sahni**

Tel: (416) 777-4804  
E-mail: sahnir@bennettjones.com

**Gavin Finlayson**

Tel: (416) 777-5762  
Fax: (416) 863-1716  
E-mail: finlaysong@bennettjones.com

Canadian Counsel to US Bank in its capacity as trustee for bondholders

**MILLER CANFIELD**

Suite 300  
443 Ouellette Avenue  
Windsor, ON N9A 6R4

**John D. Leslie**

Tel: (519) 561-7422  
Fax: (519) 977-1565  
E-mail: leslie@millercanfield.com

Canadian Co-Counsel with McGuire Woods to the Unsecured Creditors  
Committee

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 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.

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

Applicants

**ONTARIO**

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

Proceeding commenced at **Toronto**

**NOTICE OF MOTION  
(MOTION FOR REINSTATEMENT OF  
SUPPLEMENTARY PENSION BENEFITS,  
RETURNABLE JULY 2, 2009)**

**KOSKIE MINSKY LLP**  
20 Queen Street West  
Suite 900, Box 52  
Toronto, ON M5H 3R3

**Andrew J. Hatnay (LSUC#: 31885W)**  
Email: [ahatnay@kmlaw.ca](mailto:ahatnay@kmlaw.ca)  
Tel: 416-595-2083  
Fax: 416-204-2877

**Andrea McKinnon (LSUC#: 55900A)**  
Email: [amckinnon@kmlaw.ca](mailto:amckinnon@kmlaw.ca)  
Tel: 416-595-2150  
Fax: 416-204-2874

Lawyers for Keith Carruthers, Leon Kozierok,  
Bertram McBride, Max Degen, Eugene D'Iorio,  
Richard Smith, Robert Leckie and Neil Fraser  
(the "SERP Group")



# **TAB 2**

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

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 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.

Applicants

**AFFIDAVIT OF KEITH B. CARRUTHERS  
(sworn June 23, 2009)**

I, KEITH B. CARRUTHERS, of the City of London, in the Province of Ontario, MAKE  
OATH AND SAY:

1. I am a former executive employee of the Indalex Division of Indal Limited, which is a predecessor company to Indalex Limited and/or one of its affiliated companies, (collectively, "Indalex Canada" or the "company"), who are the Applicants in these proceedings.
2. I am currently 67 years of age. I have been retired for 10 years. When I retired, I was President and CEO of Indalex Division of Caradon Limited.

3. I worked with the Indalex group of companies for over 27 years. As a former employee and current retiree of Indalex Canada, I have knowledge of the matters to which I hereinafter depose, except where stated to be based upon information and belief.

4. This Affidavit is sworn in support of a motion brought by me and fellow retirees Leon Kozierok, Bertram McBride, Max Degen, Eugene D'Iorio, Richard Smith, Robert Leckie and Neil Fraser (members of the Indalex supplemental executive retirement plan or "SERP", referred to collectively herein as the "SERP Group"). We seek an order that the company reinstate the payment of our monthly supplemental pension benefits that we have been receiving and to which we are entitled, that the company terminated immediately after it obtained protection from its creditors under the *Companies' Creditors Arrangement Act* (the "CCAA") on April 3, 2009.

5. By letter dated April 9, 2009, the company sent a letter to me, Mr. Kozierok, Mr. McBride, Mr. Degen, Mr. D'Iorio, Mr. Fraser announcing that the payment of our supplemental pension benefits was being stopped and that we would become "unsecured creditors". Prior to obtaining protection under the CCAA, Indalex Canada was making a total monthly payment of approximately \$15,675 in respect of our supplemental pension benefit payments, in accordance with the terms of the supplemental pension plan arrangement. I, and the other SERP Group members are suddenly not being paid a significant portion of our retirement pension benefits. Attached hereto as **Exhibit A** are copies of the letters sent by Indalex to each of us dated April 9, 2009.

6. The last monthly benefit payment I received from the Supplemental Plan was in March, 2009. No member of the SERP Group has received a monthly supplemental benefit since March, 2009.

7. Two other individuals in the SERP Group, Richard Smith and Robert Leckie, are similarly entitled to receive supplemental pension benefits from Indalex Canada. I am advised that Mr. Smith and Mr. Leckie both have recently applied to receive their pensions, but that their applications are pending with the company. Further, I am advised by Mr. Smith and Mr. Leckie that they have been told by Indalex Canada that they will not be receiving the supplemental portion of their pension to which they are entitled. The monthly supplemental pension benefits owing to Mr. Smith and Mr. Leckie by the company are \$3,832 and approximately \$1,700 respectively, for a total monthly payment of approximately \$5,532.

8. Based on my discussions with the members of the SERP Group, the total monthly supplemental benefit amounts payable by the company to the SERP Group is approximately \$21,207.

### **Background**

9. I was hired by Indal Limited on September 8, 1972 as Sales Manager for the Toronto operations of Indalex Division of Indal Limited. Prior to my employment with Indalex Canada, I was a salesman for Kaiser Aluminium and had been involved in the aluminium extrusion industry for approximately six years.

10. During my 27 years of service with the company, I became a member of the management team responsible for the company's Canadian operations, and eventually, I became a member of the management team responsible for the company's entire North American operations.

11. I worked as Sales Manager for the Toronto operations for approximately 5 years before moving into positions as General Manager of Toronto, then Vice-President of Eastern Region and then President of Indalex Canada, at which point I became responsible for overseeing all

four plants in Canada. For the last 8 to 10 years of my employment with the company, I was President and Chief Executive Officer of the Indalex Division of Caradon Limited (which the division had been re-named after it was acquired by Caradon Limited).

12. In my position as President and CEO of Indalex Division, I was responsible for all North American extrusion operations, which included seven extrusion operations and one ladder manufacturing plant.

13. During my years as a manager and then as an executive employee of Indalex Division, my team and I worked very hard to build up the company. While I was President and CEO of Indalex Division, the company experienced significant growth in size and in profitability. We built four state-of-the-art manufacturing facilities, making the company one of the most modern aluminium extrusion operations in North America. In 1998, my last year with the company, Indalex Division had sales of approximately USD \$300,000,000 and profits of approximately USD \$30,000,000.

**The SERP Group earned pension benefits during our employment service**

14. During my employment with the company, I was a member of the company's pension plans. Through my 27 years of employment service, I earned an entitlement to pension benefits on my retirement to be paid to me for my lifetime from three sources:

a) the Retirement Plan for the Executive Employees of Indalex Limited and Associated Companies (previously entitled the Retirement from the Retirement Plan for Executive Employees of Caradon Limited and Associated Companies (CRA Registration Number: 0455626), hereinafter the "Executive Plan"). The Executive Plan is a defined benefit pension plan and the benefits are paid from a separate pension trust fund; and

b) the Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Supplemental Plan"). The Supplemental Plan is also a defined benefit pension plan but does not have a separate pension trust fund. It is my understanding that the amount of my pension benefit that can be paid from the Executive Plan is capped by a maximum stipulated by the *Income Tax Act* (Canada) ("ITA"). The Supplemental Plan was established to provide pension benefits in addition to the benefits from the Executive Plan which are limited by the ITA. The Supplemental Plan the benefits are paid by the company.

c) I am entitled to a supplemental pension from the RTZ Supplemental Retirement Plan, which is being paid by a separate company and is not the subject of this motion. This pension benefit is also unfunded and unsecured.

Attached hereto as **Exhibit B** is a copy of the Supplemental Plan and amendments. I have never been provided with a copy of the Supplemental Plan text until yesterday when it was provided to me by my counsel. The other members of the SERP Group also did not have a copy of the Supplemental Plan text.

15. In 1999, I accepted an early retirement package from the company. Under the option that I selected under this package, I became entitled to receive monthly pension benefits of \$3958.35 from the Executive Plan and monthly pension benefits of \$3570.50 from the Supplemental Plan. Attached hereto as **Exhibit C** is a copy of the retirement package documents that I received from the company's actuary (William M. Mercer) dated October 6, 1999, which outlines my pension benefit entitlements and provided me with my Statement of Election Forms.

16. On December 17, 1999, I signed and submitted my pension Election Forms. I chose to receive my pension as a Joint & Survivor 60% (reduced upon first death with survivor benefits paid to my beneficiary). My wife, Margaret Carruthers, is my beneficiary under both the Executive Plan and the Supplemental Plan. On my death, Margaret is entitled to a surviving spouse pension benefit for her lifetime, payable at a reduced amount of 60%. **Exhibit C** includes a copy of my signed Statement of Election and Benefits on Retirement.

17. According to the terms of the Executive Plan and the Supplemental Plan and as reflected in my Statement of Election and Benefits on Retirement from the company's actuary, my wife and I are entitled to receive the above-described pension benefits for our lifetime. My Statement of Election forms for both the base Executive plan and the supplemental plan indicate that I have earned pension benefits which are *payable for my life* and that on my death, a percentage of this amount will be *payable to my spouse for her lifetime*. Accordingly, I am contractually entitled to receive my monthly pension benefits for my lifetime.

**The Executive Plan is underfunded. If wound up, benefits will be reduced**

18. I have reviewed the Affidavit of Timothy J. Stubbs, the current President and Chief Executive Officer of Indalex Limited, sworn on April 3, 2009 in the CCAA proceedings (the "Stubbs Affidavit"). Paragraph 62 of the Stubbs Affidavit states that the Executive Plan is a defined benefit pension plan which was closed by the company to new members, effective September 1, 2005. The Stubbs Affidavit also indicates that there are currently 14 retirees receiving benefits under the Executive Plan. Attached hereto as **Exhibit D** is a copy of the Stubbs Affidavit, without exhibits.

19. According to paragraph 62 of the Stubbs Affidavit, the Executive Plan is underfunded. As of January 1, 2008, the Executive Plan had a funding deficiency on an ongoing basis of \$2,535,100, on a solvency basis of \$1,102,800 and on a wind-up basis of \$2,996,400. Given the recent drop in the bond and equity markets in Canada, I am very concerned that the Executive Plan is now even more underfunded. This means that if the Executive Plan is wound up, which is real possibility given the status of the company, there are insufficient assets in the fund of the plan to pay all the pension benefits to all the retirees, including the members of the SERP Group. It means that the pension benefits paid to me and the SERP Group, as well as all the retirees in the Executive Plan will be reduced. Attached hereto as **Exhibit E** is a copy of the Actuarial Valuation Report of the Executive Plan as of January 1, 2008.

20. We do not have information about the current funded status of the plan, nor do we know whether the company is making the required special payments as set out in the above-noted Valuation Report since commencing its CCAA proceedings. Our counsel Koskie Minsky LLP has requested this information (among other things) from counsel for the Applicants and the Monitor, however, as of my swearing of this affidavit, they have not yet received a response. Attached hereto as **Exhibit F** is a letter from Koskie Minsky LLP to counsel for the Applicants and the Monitor, dated June 17, 2009.

**Supplemental Plan benefits were terminated by the company post CCAA**

21. To my best knowledge, there are only 8 individuals who are members of the Supplemental Plan and who are in the SERP group. As I will discuss further below, I am aware of 6 individuals, including myself, who were in receipt of our benefits from the Supplemental Plan prior to the commencement of the company's CCAA proceedings. Two others, Richard



Smith and Robert Leckie, are also members of the Supplemental Plan. Mr. Smith and Mr. Leckie have requested the commencement of the pension benefits to which they are entitled from both the Executive Plan and the Supplemental Plan. They have not yet started to receive their monthly pension benefits at the date of the commencement of the CCAA proceedings, and have since been told by the company that they will be not receiving any of the benefits from the Supplementary Plan to which they are entitled.

22. According to paragraph 63 of the Stubbs Affidavit, , the Applicants' liabilities under the Supplemental Plan totalled \$2,966,244 as at December 31, 2008, based on the present value of the projected future benefit payments.

#### **Indalex Canada's CCAA Proceedings**

23. On April 3, 2009, Indalex Canada obtained protection from its creditors under the CCAA, pursuant to an Order of this Honourable Court (the "CCAA Proceedings"). FTI Consulting Canada was appointed as Monitor.

24. I understand that Indalex Canada's CCAA Proceedings were brought in conjunction with proceedings under Chapter 11 of the United States Bankruptcy Code, commenced by way of voluntary petition filed on March 20, 2009 in the United States Bankruptcy Court for the District of Delaware (the "Chapter 11 Proceedings").

25. The Stubbs Affidavit at paragraphs 6-7 states that Indalex Canada requested relief under the CCAA in order to stabilize the business and seek a strategy that would maximize value for stakeholders and allow the company to identify a viable going concern solution.

26. I have been advised by my counsel Andrea McKinnon of Koskie Minsky LLP that Indalex Canada obtained debtor-in-possession financing in the amount of \$24,360,000. The interim financing facility was later increased to the amount of \$29,500,000. This is reflected in the Monitor's Fourth Report, dated June 11, 2009 and the subsequent Endorsement and Order of the Honourable Justice Morawetz, dated June 12, 2009.

27. Based on my 27 years of experience with Indalex Canada and my 32 years of experience in the aluminium extrusion industry, I am not surprised by the Applicants' liquidity issues during the fourth quarter of 2008 and the first quarter of 2009. Historically, December, January and February are difficult months of operation for Indalex Canada, and its affiliated companies in the United States, due to a decrease in demand for the company's products during these months.

28. In my experience as CEO of Indalex Canada, however, profitability and cash flow tend to improve during the months of April and May. These positive trends typically continue through the summer months and into the beginning of the fourth quarter. I am of the opinion that Indalex Canada's cash flow should continue to improve during 2009, as the company moves into its historically more profitable quarters. This is supported by the memo from Timothy Stubbs dated June 5, 2009 which is attached hereto as **Exhibit G** which states, among other things, that "all our plants made money in May".

**Company assured me and the SERP Group that our supplemental benefits were secure**

29. During the time I was the President of Indalex Division of Indal Limited, concerns were expressed by me and several executive employees of Indal Limited with regard to the security of the pension benefits to be paid to us under the Supplemental Plan. At that time, I (and other members of the SERP Group) were assured by P.G. Selley, the Executive Vice-President,

Finance & Administration of Indal Limited, that the company was "absolutely committed to meeting all such obligations as they fall due". The letter also states to members of the SERP Group that "your peace of mind with respect to your future retirement income is important to us". Attached hereto as **Exhibit H** is a copy of the letter that I received from P.G. Shelley of Indal Limited, dated January 13, 1993

30. The amount of the pension benefit that I am entitled to receive from the Supplemental Plan is approximately \$3,570.50 (gross) or \$2,499.35 (net) per month. The last supplemental pension benefit payment that I received from the Supplemental Plan was in March, 2009. Attached hereto as **Exhibit I** is a copy the monthly Earnings Statement I receive in respect of my pension benefits from the Supplemental Plan, dated January 31, 2009.

#### **Company terminates benefits for all SERP Group Members**

31. After the Applicants commenced proceedings under the CCAA, I contacted other former employees whose monthly supplemental benefits from the Supplemental Plan had also been stopped by the company after it obtained CCAA protection. Their circumstances are set out below.

32. I am advised by Leon Kozierok (former President of Indalloy Division, Indalex Limited), age 67, that he receives a monthly pension benefit from the Executive Plan in the amount of \$3,600.14 and that he is entitled to receive a monthly benefit payment from the Supplemental Plan in the amount of \$4,325.80. The company has stopped paying his supplemental pension benefits. Attached hereto as **Exhibit J** is a copy of Leon Kozierok's Earnings Statement from ADP, dated March 13, 2009. Attached hereto as **Exhibit K** is a copy of Leon Kozierok's Employee Pension Statement for the year 2000, outlining his estimated entitlement in the

Executive Plan and the Supplemental Plan. See also the letter attached at **Exhibit A**, which informs Leon Kozierok that the supplemental pension benefits owing to him from Indalex Canada have been suspended.

33. I am advised by Max Degen (former Vice-President, Manufacturing Services), age 76, that he receives a monthly pension benefit from the Executive Plan in the amount of \$3,981.98 and that he is entitled to receive a monthly benefit payment from the Supplemental Plan in the amount of \$645.59. The company has stopped paying his supplemental pension benefits. Attached hereto as **Exhibit L** is a copy of Max Degen's Earnings Statement from ADP, dated March 13, 2009. Attached hereto as **Exhibit M** is a copy of a letter to the Canadian Imperial Bank of Commerce from Dennis A. Bamber of Indalex Division of Caradon Limited, dated April 25, 1994, outlining Max Degen's entitlement to a supplementary pension benefit from the company. See letter attached at **Exhibit A**, which informs Max Degen that the supplemental pension benefits owing to him from Indalex Canada have been suspended.

34. I am advised by Bertram McBride (former Account Manager, Indalex Limited), age 61, that he is entitled to receive a monthly pension benefit from the Executive Plan in the amount of \$5,833.33 and a monthly benefit payment from the Supplemental Plan in the amount of \$2,082.92. The company has stopped paying his supplemental pension benefits. Attached hereto as **Exhibit N** is a copy of Bertram McBride's Earnings Statement from ADP, dated February 13, 2009. Attached hereto as **Exhibit O** is a copy of Bertram McBride's Statement of Election and Benefits on Retirement from both Executive Plan and the Supplemental Plan, dated November 3, 2008. See letter attached at **Exhibit A**, which informs Bertram McBride that the supplemental pension benefits owing to him from Indalex Canada have been suspended.

35. I am advised by Neil Fraser (former President and CEO of Caradon Windows and Doors Ltd.), age 70, that he is entitled to receive a monthly pension benefit from the Executive Plan in the amount of \$1,722.22 and a monthly benefit payment from the Supplemental Plan in the amount of \$2,800.73. The company has stopped paying his supplemental pension benefits. Attached hereto as **Exhibit P** is a copy of Neil Fraser's Earnings Statement from ADP, dated February 13, 2009. Attached hereto as **Exhibit Q** is a copy of the retirement package that Neil Fraser received from the company's actuarial firm (William M. Mercer) dated October 25, 1999, which outlines his pension benefit entitlements and includes a copy of Mr. Fraser's Statement of Election and Benefit on Retirement. Attached as **Exhibit R** is a copy of the letter from Neil Fraser which confirms the amount of monthly pension benefits payable to Mr. Fraser and his wife that are payable for life. See letter attached at **Exhibit A**, which informs Neil Fraser that the supplemental pension benefits owing to him from Indalex Canada have been suspended..

36. I am advised by Eugene D'Iorio (former President, Indalex South Region of Indalex Limited), age 64, that he is entitled to receive a monthly pension benefit from the Executive Plan in the amount of \$1,583.33 and that he is entitled to receive a monthly benefit payment from the Supplemental Plan in the amount of \$2,249.23. The company has stopped paying his supplemental pension benefits. Attached hereto as **Exhibit S** is a copy of Eugene D'Iorio's Earnings Statement from ADP, dated January 13, 2009. See letter attached at **Exhibit A**, which informs Eugene D'Iorio that the supplemental pension benefits owing to him from Indalex Canada have been suspended.

37. I am advised by Richard Smith (former President of Mideast Aluminium, a division of Caradon), age 59, that he is a member of the Supplemental Plan and will be entitled to receive a monthly supplemental benefit of \$3,831.74 from the Supplemental Plan, as of July 1, 2009. It is

my understanding that Mr. Smith became entitled to receive an unreduced pension and supplemental pension benefit from Indalex Canada as of the date he reached the age of 60, and that these benefits were to become payable starting July 1, 2009. It is also my understanding that when Mr. Smith requested his pension paperwork from Indalex Canada, Mr. Smith was told that he was no longer entitled to receive an unreduced registered pension, and that he would not receive supplemental pension benefits from the Supplemental Plan. Attached hereto as **Exhibit T** is a letter to Richard Smith from the Indalex USA Pension Plan Administration, dated August 14, 2009, which outlines Mr. Smith's entitlements in the Executive Plan and the Supplemental Plan. Attached also at **Exhibit U** is a letter to Richard Smith dated October 23, 2000, which outlines Mr. Smith's termination package and his entitlement to pension benefits from the company.

38. I am advised by Robert Leckie (Vice-President, General Counsel of Indal Limited) age 61, that he is a member of the Supplemental Plan. I am advised by my counsel Andrea McKinnon of Koskie Minsky LLP, that Mr. Leckie is entitled to receive a monthly benefit payment from the Supplemental Plan in the amount of approximately \$1,700. I am advised by my counsel that Mr. Leckie has now reached the age of 60 and is eligible to receive monthly pension benefits from the Executive Plan and the Supplemental Plan. Mr. Leckie has requested to start receiving his monthly pension benefit payments, but has not yet received a monthly pension payment from either the Executive Plan or the Supplemental Plan. I am advised by my counsel that Indalex Canada told Mr. Leckie that he will not be paid the benefits from the company of his monthly benefits from the Supplemental Plan to which he is entitled. Attached hereto as **Exhibit V** is a copy of email correspondence between Robert Leckie and Dale

Tabinowski, of Indalex Limited, which informs Mr. Leckie that he is a member of the Supplemental Plan.

39. As I mentioned before, the aggregate monthly cost to the company of the Supplemental Plan benefits to the eight individuals in the SERP Group is approximately \$21,207. According to the applicable contractual arrangements between the company and the members of the SERP Group, these benefits are payable for our lifetimes, and for the lives of our beneficiaries, unless the survivor benefit has been waived.

#### **Hardship Caused by the Termination of our Supplemental Benefits**

40. I, along with the other members in the SERP Group, are very concerned that the company has suddenly terminated payment of our monthly benefits from the Supplemental Plan. The members of the SERP Group and I were contractually promised that our supplemental pension benefit payments would continue to be paid by the company for our lifetimes, and in some cases with survivor benefits to be paid to our surviving spouses.

41. My wife has no income. My wife and I are entirely reliant on the pension benefits that I earned for the work I performed for Indalex Division. The cessation of these payments has caused a significant and sudden drop in our monthly retirement income and has caused immediate hardship to my family. My wife and I require these benefits in order to cover our living and health expenses.. My wife Margaret is dependent on my supplementary pension benefits and will require these funds to cover her living expenses on my passing. Margaret will have no independent source of income with the exception of a basic pension from the Canada Pension Plan.

42. I am currently 67 years of age. I am too old to find new employment that would compensate me for the termination of my supplemental pension benefits.

43. Further, I and the other members of the SERP Group were reassured verbally and by letter from Indal Limited that the company was "committed to meeting all such obligations" for the payment of our supplemental pension benefits. The company even indicated that my and the others' "peace of mind" regarding our supplemental retirement benefits was of importance to the company.

44. After constant assurance by the company that we would receive these benefits for the remainder of our lifetime, my wife and I believed that my supplemental pension benefits were safe. We relied on these benefits being paid when planning our retirements.

45. Yet, contrary to the company's statements, immediately after obtaining protection from its creditors under the CCAA on April 3, 2009, the company proceeded to terminate the payment of our supplemental benefits.

46. After 27 years of service with the company, I am disappointed and shocked by the company's decision to stop paying our benefits from the Supplemental Plan. At the date of my retirement as President and CEO in 1999, Indalex Division, was a growing and vibrant company, with a bright future. It is my view that the parties responsible for the company's success are now being unfairly penalized and without justification.

47. It is unfair to discriminate against me and the other members of the SERP Group by terminating payment of our supplemental pension benefits while the company continues to make payments to other employee groups. According to paragraph 66 of the Stubbs Affidavit, Indalex



Canada has maintained its obligations for “payroll, source deductions, current pension liabilities and GST, and was not in arrears in respect of these items”. Further, according to paragraphs 64 and 65 of the Stubbs Affidavit, Indalex Canada “is current on all payments” to the Canada-Wide Industrial Plan for its unionized employees and to the Group Registered Retirement Savings Plan for its union employees at the Port Coquitlam facility.

48. Furthermore, membership to the Supplemental Plan is closed. To my best knowledge, the 8 SERP Group members are the only members of the Supplemental Plan. The amount of the company's supplementary benefit payment obligations is finite. The monthly cost of these benefits payments to the company is only \$21,207. This is a negligible amount for the company, yet these benefits provide vital income for me and the SERP Group.

49. The payment of our supplemental benefits would not impede or imperil a restructuring of the company or more likely, a sale of the company.


50. According to the actual cash flow for the month of May 2009 reported by the Monitor in its Fourth Report, Indalex Canada had total disbursements of \$20,591,000, of which \$573,000 were for “benefits” and \$797,000 were for “legal and professional fees” (the latter being more double the forecasted amount). The approximate \$21,207 monthly Supplemental Plan payment for our pension benefits thus is a mere .1 of a percent of the company's monthly total disbursements.

51. In my opinion, Indalex Canada's liability under the Supplemental Plan is finite and readily manageable and the company should be required to continue to pay us the pension benefits to which we are entitled.

52. I am advised by my counsel that very soon after obtaining CCAA protection, the company put itself up for sale and commenced a "Marketing Process". The company is not restructuring, rather, it is selling itself. Cutting the supplemental benefits owing to the SERP Group is not necessary for the sale of the company under the CCAA.

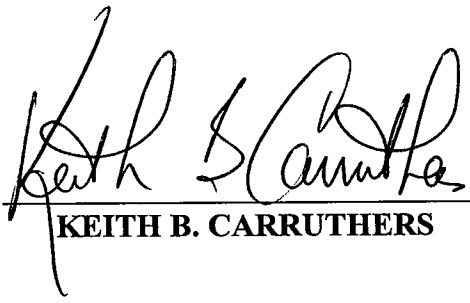
53. I swear this Affidavit in good faith and in support of a motion to reinstate my Supplemental Plan pension benefit payments and those of the SERP Group, retroactive to April 3, 2009 and for no improper purpose.

SWORN BEFORE ME at the  
City of Toronto of Toronto in the  
Province of Ontario, on June  
23, 2009.



Commissioner for Taking Affidavits  
K:\2009\090776\Carruthers - Affidavit\_final.doc

ANDREW HATWAY

  
**KEITH B. CARRUTHERS**

This is Exhibit "A" referred to in the  
affidavit of Keith Camthers  
sworn before me, this 23  
day of June 2009  
[Signature]  
A COMMISSIONER FOR TAKING AFFIDAVITS

Received  
APRIL 17<sup>th</sup>  
2009



Indalex Limited  
5675 Kennedy Road  
Mississauga, Ontario  
Telephone: 905-890-8821  
Web site: indalex.com

April 9, 2009

K.B. Carruthers  
1270 SandySomerville Drive,  
London, ON  
N6K5R2

Subject: Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan")

Dear Mr. Carruthers,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Mr. Carruthers, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.fticonsulting.com/indalex..](http://www.cfcanada.fticonsulting.com/indalex..)

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

Dale Tabinowski  
SVP, Human Resources  
Indalex, Inc.



Indalex Limited  
5675 Kennedy Road  
Mississauga, Ontario  
Telephone: 905-890-8821  
Web site: indalex.com

April 9, 2009

Leon Kozierok  
260 Heath St West, Suite 1801  
York, ON  
M5P3L6

Subject: Supplemental Retirement Plan for Executive Employees of Indalex Limited and  
Associated Companies (the "Plan")

Dear Leon,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Leon, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.fticonsulting.com/indalex](http://www.cfcanada.fticonsulting.com/indalex).

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dale Tabinowski', written over a horizontal line.

Dale Tabinowski  
SVP, Human Resources  
Indalex, Inc.



Indalex Limited  
5675 Kennedy Road  
Mississauga, Ontario  
Telephone: 905-890-8821  
Web site: [indalex.com](http://indalex.com)

April 9, 2009

Mr. M. Degen  
3 Rowntree Road, Apt #2311  
Etobicoke, ON  
M9V5G8

**Subject: Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan")**

Dear Mr. Degen,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Mr. Degen, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.fticonsulting.com/indalex](http://www.cfcanada.fticonsulting.com/indalex).

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Dale Tabinowski'.

Dale Tabinowski  
SVP, Human Resources  
Indalex, Inc.



Indalex Limited  
 5675 Kennedy Road  
 Mississauga, Ontario  
 Telephone: 905-890-8821  
 Web site: indalex.com

April 9, 2009

Bert McBride  
 568 Khyber Lane,  
 Venice, FL  
 34293

**Subject:** Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan")

Dear Bert,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Bert, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanda.fticonsulting.com/indalex..](http://www.cfcanda.fticonsulting.com/indalex..)

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. Tabinowski', is written over a horizontal line.

Dale Tabinowski  
 SVP, Human Resources  
 Indalex, Inc.



Indalex Limited  
5675 Kennedy Road  
Mississauga, Ontario  
Telephone: 905-890-8821  
Web site: indalex.com

F13

April 9, 2009

Neil Fraser  
715 Lake Placid Se  
Calgary, AB  
T2J4B9

Subject: Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan")

Dear Neil,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Neil, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.fticonsulting.com/indalex..](http://www.cfcanada.fticonsulting.com/indalex..)

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dale Tabinowski', with a stylized flourish at the end.

Dale Tabinowski  
SVP, Human Resources  
Indalex, Inc.




Indalex Limited  
5675 Kennedy Road  
Mississauga, Ontario  
Telephone: 905-890-8821  
Web site: [indalex.com](http://indalex.com)

April 9, 2009

Eugene D'lorio  
20 N. Village Dr.,  
Palm Coast, FL  
32137

**Subject: Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan")**

Dear Eugene,

As you may know, Indalex Limited commenced proceedings under the Companies' Creditors Arrangement Act on April 3, 2009 in the Ontario Superior Court of Justice through which we can reorganize our debt under court supervision. While this was a difficult decision, management determined this course is necessary to undertake a restructuring of the Company's indebtedness.

Eugene, I must regretfully inform you that with this action benefit payments to participants in the Plan are suspended immediately.

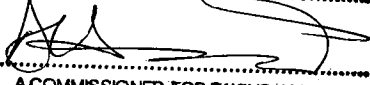
As set forth in Article 4.1 of the Plan document the Plan is unfunded. The rights of Participants and their Surviving Spouses and Beneficiaries shall be solely those of a general unsecured creditor of the Company. As a general unsecured creditor, any claim you may have will be dealt with in the CCAA proceedings. You may obtain more information about the filing by visiting the Company's website at [www.indalex.com](http://www.indalex.com) or [www.cfcanada.fticonsulting.com/indalex](http://www.cfcanada.fticonsulting.com/indalex).

On behalf of the Company, let me again express regret that this action became necessary. Should you have questions, please contact me at 847.612.2091.

Sincerely,



Dale Tabinowski  
SVP, Human Resources  
Indalex, Inc.

This is Exhibit "B" referred to in the  
affidavit of Keith B. Camthers  
sworn before me, this 23  
day of June 2009  
  
A COMMISSIONER FOR TAKING AFFIDAVITS

SUPPLEMENTAL RETIREMENT PLAN  
FOR  
EXECUTIVE EMPLOYEES  
OF  
INDALEX LIMITED AND ASSOCIATED COMPANIES

Effective January 1, 2000

October 2001

## TABLE OF CONTENTS

---

TABLE OF CONTENTS .....	2
ARTICLE 1 – ESTABLISHMENT OF THE SUPPLEMENTAL RETIREMENT PLAN	1
ARTICLE 2 – DEFINITIONS.....	2
ARTICLE 3 – ELIGIBILITY AND MEMBERSHIP .....	9
ARTICLE 4 – UNFUNDED AND UNREGISTERED PLAN.....	10
ARTICLE 5 – ACCRUAL DURING SPECIAL LEAVE OF ABSENCE .....	11
ARTICLE 6 – TRANSFER OF EMPLOYEES.....	12
ARTICLE 8 – PAYMENT OF SUPPLEMENTAL PENSION.....	18
ARTICLE 9 – TERMINATION OF EMPLOYMENT .....	19
ARTICLE 10 – DEATH BENEFITS.....	20
ARTICLE 11 – ADMINISTRATION OF SUPPLEMENTAL RETIREMENT PLAN.	22
ARTICLE 12 – RIGHT TO AMEND OR TERMINATE THE SUPPLEMENTAL RETIREMENT PLAN.....	23
ARTICLE 13 – GENERAL PROVISIONS .....	25
APPENDIX A .....	29

## ARTICLE 1 – ESTABLISHMENT OF THE SUPPLEMENTAL RETIREMENT PLAN

---

- 1.1 Indalex Limited (the “Company”) hereby establishes the Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the “Supplemental Retirement Plan”), effective January 1, 2000.
- 1.2 The Supplemental Retirement Plan applies to persons:
- (1) who are members of the Retirement Plan for Executive Employees of Indalex Limited and Associated Companies, as amended from time to time (the “Executive Retirement Plan”);
  - (2) who are actively employed by an Employer on or after January 1, 2000; and
  - (3) whose benefits under the Executive Retirement Plan are limited by the *Income Tax Act*.
- 1.3 The Supplemental Retirement Plan provides benefits, under the terms set out herein, in respect of service with an Employer.

## ARTICLE 2 – DEFINITIONS

---

For purposes of the Plan, the following words and phrases shall have the meanings set forth below, unless the context indicates otherwise:

- 2.1 **Actuarial Equivalent** means “Actuarial Equivalent” as defined in the Executive Retirement Plan.
- 2.2 **Actuary** means the person or firm who is the “Actuary” as defined in the Executive Retirement Plan.
- 2.3 **Affiliate Company** means “Affiliate Company” as defined in the Executive Retirement Plan.
- 2.4 **Beneficiary** means the person, or persons, designated in accordance with Article 12 of the Executive Retirement Plan.
- 2.5 **Commuted Value** means the actuarial present value of a deferred or immediate annuity determined on the basis of assumptions adopted by the Company on the recommendation of the Actuary for the purposes of the Executive Retirement Plan.
- 2.6 **Company** means Indalex Limited. Where any reference in the Supplemental Retirement Plan is made to any action to be taken, consent, approval or opinion to be given, discretion or decision to be exercised by the Company, “Company” means Indalex Limited acting through the board of directors of Indalex Limited or any person authorized by that board of directors for purposes of the Supplemental Retirement Plan.

- 2.7 ***Continuous Employment*** means “Continuous Employment” as defined in the Executive Retirement Plan.
- 2.8 ***Early Retirement Date*** means a Member’s retirement date on or after age 55 but before Normal Retirement Date.
- 2.9 ***Earnings*** means “Earnings” as defined in the Executive Retirement Plan.
- 2.10 ***Effective Date*** means January 1, 2000.
- 2.11 ***Employee*** means “Employee” as defined in the Executive Retirement Plan.
- 2.12 ***Employer*** means a corporation which is an “Employer” as defined in the Executive Retirement Plan.
- 2.13 ***Executive Retirement Plan*** means the Retirement Plan for Executive Employees of Indalex Limited and Associated Companies, as amended from time to time, and registered with the Financial Service Commission of Ontario under the *Pension Benefits Act* (Ontario) and the Canada Customs and Revenue Agency under the *Income Tax Act* with Registration Number 0455626.
- 2.14 ***Final Average Earnings***, in respect of a Member, means the Member’s “Final Average Earnings” for purposes of the Executive Retirement Plan.
- 2.15 ***Government Benefit Base***, in respect of a Member, means the Member’s “Government Benefit Base” for purposes of the Executive Retirement Plan.
- 2.16 ***Income Tax Act*** means “*Income Tax Act*” as defined in the Executive Retirement Plan.

- 2.17 **Member** means a person described in Section 3.1(1) and who continues to be entitled to benefits under the Plan.
- 2.18 **Normal Retirement Date** means the first day of the month coincident with or next following the Member's 65th birthday.
- 2.19 **Pension Commencement Date** means the date on which a Member's pension commences under the Executive Retirement Plan.
- 2.20 **Postponed Retirement Date** means the earlier of:
- (1) the first day of the month coincident with or next following the date the Member terminates Continuous Employment after Normal Retirement Date; and
  - (2) the first day of December of the calendar year in which the Member attains age 69 while still employed by the Employer.
- 2.21 **Pensionable Service**, in respect of a Member, means the Member's "Pensionable Service" for purposes of the Executive Retirement Plan including any service as a Member of the Retirement Plan for Salaried Employees of Indalex Limited and Associated Companies.
- 2.22 **Plan Year** means "Plan Year" as defined in the Executive Retirement Plan.
- 2.23 **Prior Supplemental Plan** means "RTZ Supplemental Retirement Plan".
- 2.24 **Special Leave of Absence** has the meaning set out in Article 5 of the Executive Retirement Plan.



2.25 *Spouse* has the following meanings:

- (1) For a Member employed in **Alberta**, “Spouse” means, in relation to the Member,
  - (a) a person who, at the relevant time, was married to the Member and had not been living separate and apart from the Member for 3 or more consecutive years, or
  - (b) if there is no person to whom paragraph (a) applies, a person who had lived with the Member in a marriage-like relationship for the 3-year period immediately preceding the relevant time.
  
- (2) For a Member employed in **British Columbia**, “Spouse” means, in relation to the Member,
  - (a) a person who, at the relevant time, was married to the Member and not living separate and apart from the Member for the 2-year period immediately preceding the relevant time, or
  - (b) if paragraph (a) does not apply,
    - (i) a person who, at the relevant time, lived with that other person as husband and wife for the 2-year period immediately preceding the relevant time, or
    - (ii) a person of the same gender who, at the relevant time, lived in a marriage-like relationship with that other person for the 2-year period immediately preceding the relevant time.

- (3) For a Member employed in **New Brunswick**, “Spouse” means a person of the opposite sex who, at the relevant time:
- (a) is married to the Member;
  - (b) is married to the Member in a marriage that is voidable and has not been voided by a declaration of nullity;
  - (c) has gone through a form of marriage with the Member in good faith that is void and has cohabited with the Member within the preceding year; or
  - (d) not being married to the Member, has cohabited with the Member:
    - (i) continuously for a period of not less than 3 years in a conjugal relationship in which one person has been substantially dependent upon the other for support, or
    - (ii) in a relationship of some permanence where there is a child born of whom the person and the Member are natural parents, andthe person and the Member have cohabited within the preceding year.
- (4) For a Member employed in **Ontario**, “Spouse” means, at the relevant time, a person to whom the Member is:
- (a) legally married, provided the Member is not living separate and apart from that person;

- (b) not legally married, but the Member and that person are and have been cohabiting continuously in a conjugal relationship for at least 3 years; or
  - (c) not legally married, but the Member and that person are cohabiting in a conjugal relationship of some permanence and are jointly the natural or adoptive parents of a child, both as defined in the *Family Law Act* (Ontario).
- (5) For a Member employed in **Québec**, “Spouse” means, at the relevant time, a person who is,
- (a) married to the Member; or
  - (b) has been living in a conjugal relationship with the unmarried Member, whether the person is of the opposite or the same sex, for a period of not less than 3 years, or for a period of not less than 1 year if:
    - (i) at least one child is born, or to be born, of their union;
    - (ii) they have adopted, jointly, at least one child while living together in a conjugal relationship; or
    - (iii) one of them has adopted at least one child who is the child of the other, while living together in a conjugal relationship.
- (6) For a Member employed in **Saskatchewan**, “Spouse” means
- (a) a person who is married to the Member; or

- (b) if the Member is not married, a person with whom the Member is cohabiting in a conjugal relationship at the relevant time and who has been cohabiting continuously with the Member in a conjugal relationship for at least one year prior to the relevant time.

- 2.26 ***Supplemental Pension*** means the pension payable under the Supplemental Retirement Plan determined in accordance with Article 7 hereof.
- 2.27 ***Supplemental Retirement Plan*** means the Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies, established effective January 1, 2000, as set out herein and as amended from time to time.
- 2.28 ***U.S. Plan*** means a pension plan as listed from time to time in Appendix A.
- 2.29 ***YMPE*** means, in respect of any Plan Year, “YMPE” as defined in the Executive Retirement Plan.

## ARTICLE 3 – ELIGIBILITY AND MEMBERSHIP

---

### 3.1 Conditions of Membership

(1) **Participation**

An Employee shall automatically participate in the Supplemental Retirement Plan on or after the Effective Date; provided that:

- (a) the Employee is a member of the Executive Retirement Plan.;  
and
- (b) the Employee's benefits under the Executive Retirement Plan are limited by the maximum lifetime retirement benefits under the *Income Tax Act*.

(2) **Termination of Participation**

A Member shall cease to accrue benefits under the Supplemental Retirement Plan when:

- (a) the Member ceases to accrue benefits under the Executive Retirement Plan; or
- (b) the Member's benefits under the Executive Retirement Plan are no longer limited by the maximum lifetime retirement benefits under the *Income Tax Act*.

## ARTICLE 4 – UNFUNDED AND UNREGISTERED PLAN

---

### 4.1 Status of Plan

(1) **Plan is Not Funded**

The Company is not obligated to fund any of the benefits provided under the Supplemental Retirement Plan. The benefits under the Supplemental Retirement Plan may be paid out of the general revenues of the Employer.

(2) **Plan is Not a Registered Pension Plan Nor a Retirement Compensation Arrangement**

The Supplemental Retirement Plan is neither a registered pension plan nor a retirement compensation arrangement within the meaning of the *Income Tax Act* or the *Pension Benefits Act* (Ontario) or the pension legislation of any other province.

## ARTICLE 5 – ACCRUAL DURING SPECIAL LEAVE OF ABSENCE

---

### 5.1 Determination of Supplemental Pension During Special Leave of Absence – Deemed Earnings

(1) **Pensionable Service During a Special Leave of Absence**

For purposes of calculating the Member's Supplemental Pension during a Special Leave of Absence, a Member shall accrue Pensionable Service during a Special Leave of Absence under the terms and conditions set out in Article 5 of the Executive Retirement Plan.

(2) **Deemed Earnings**

For purposes of calculating the Member's Supplemental Pension during a Special Leave of Absence, the Member's Earnings shall be equal to the deemed rate of Earnings under Article 5 of the Executive Pension Plan.

## ARTICLE 6 – TRANSFER OF EMPLOYEES

---

### 6.1 Transfer To the Supplemental Retirement Plan

If an employee of an Employer or Affiliate Company is transferred to a category of employment with an Employer such that the employee becomes a member of the Executive Retirement Plan, such employee shall automatically become a Member of the Supplemental Retirement Plan if the employee's benefits under the Executive Retirement Plan are limited by the maximum lifetime retirement benefits under the *Income Tax Act*.

Any benefit paid from the Supplemental Retirement Plan will be calculated on the basis of the Member's

- (1) Pensionable Service; and
- (2) Final Average Earnings.

### 6.2 Transfers From the Supplemental Retirement Plan

Subject to Section 6.3, if a Member of the Supplemental Retirement Plan is transferred to other employment with an Employer or to an Affiliate Company and as a result of the transfer, under the terms of the Executive Retirement Plan, the Member's accrual of benefits under the Executive Retirement Plan ceases, then the Member's accrual of benefits under the Supplemental Retirement Plan will cease at the same time. No benefit will be payable from the Supplemental Retirement Plan until the Member retires, dies or terminates employment with the Employer or Affiliate



Company. Any benefit paid from the Supplemental Retirement Plan will be calculated on the basis of:

- (1) the Member's Pensionable Service as at the date the Member transfers employment; and
- (2) the Member's deemed Final Average Earnings and deemed Government Benefit Base determined at the Member's subsequent date of retirement, termination of employment with the new Employer or Affiliated Company, or death, which is equal to the Member's Final Average Earnings and Government Benefit Base determined as at the date of the Member's transfer of employment ( as if the Member's Continuous Employment terminated at that date).

### 6.3 Transfers To a U.S. Plan After April 1, 1998

If a Member of the Supplemental Retirement Plan is transferred to other employment with an Employer in the U.S. after April 1, 1998 and, as a result of the transfer, under the terms of the Executive Retirement Plan, the Member's accrual of benefits under the Executive Retirement Plan ceases, then the Member's accrual of benefits under the Supplemental Retirement Plan will cease at the same time.

The Member's benefit will be payable from the Supplemental Retirement Plan at the time the Member retires, dies or terminates employment with the Employer in the U.S. (unless the Member is transferred back to employment with an Employer in Canada). Any benefit paid from the Supplemental Retirement Plan will be calculated on

the basis of:

- (1) the Member's Pensionable Service as at the date the Member transfers employment; and
- (2) the Member's deemed Final Average Earnings and deemed Government Benefit Base determined at the Member's subsequent date of retirement, termination of employment or death which will be equal to the Member's Final Average Earnings and Government Benefit Base determined as at the date the Member transfers employment (as if the Member's Continuous Employment terminated at that date) increased by the percentage of annual increase to the transferred Member's U.S. earnings effective after the transfer.

## ARTICLE 7 – AMOUNT OF SUPPLEMENTAL PENSION BENEFIT

---

### 7.1 Normal Retirement Supplemental Pension

A Member who retires at Normal Retirement Date shall be entitled to receive an annual Supplemental Pension, payable in equal monthly instalments commencing on the Member's Normal Retirement Date in an amount equal to

A minus B

where:

A is:

- (1) 1.25% of the Member's Final Average Earnings up to the Government Benefit Base; plus
- (2) 2% of the Member's Final Average Earnings in excess of the Government Benefit Base,

multiplied by the Member's Pensionable Service; and

B is the annual pension payable to the Member under the Executive Retirement Plan and the Prior Supplemental Plan at the Member's Normal Retirement Date, in the normal form of pension determined under the Executive Retirement Plan.

## 7.2 Early Retirement Supplemental Pension

A Member who retires at an Early Retirement Date shall be entitled to receive an annual Supplemental Pension, payable in equal monthly instalments commencing on the Member's Early Retirement Date, in an amount equal to:

$$A \text{ minus } B$$

where

A is the amount determined under "A" in Section 7.1, based on the Member's Pensionable Service as at the Member's Early Retirement Date, but reduced by either:

- (1) 0.4% for each month by which the Member's Early Retirement Date precedes the Member's Normal Retirement Date; or
- (2) if the Continuous Employment of a Member terminates while employed in Canada after he has attained age 55 and has completed 10 or more years of Continuous Employment, 1/6 of 1% for each month by which the Member's Pension Commencement Date precedes the date on which the Member would have completed 20 years of Continuous Employment and attained age 60 had the Member continued in Continuous Employment; and

B is the annual pension payable to the Member under the Executive Retirement Plan and the Prior Supplemental Plan at the Member's Early Retirement Date, in the normal form of pension determined under the Executive Retirement Plan.

### 7.3 Postponed Retirement Supplemental Pension

A Member who retires at a Postponed Retirement Date shall be entitled to receive an annual Supplemental Pension, payable in equal monthly instalments, equal to one of the following amounts as applicable in accordance with the Member's retirement election under the Executive Retirement Plan:

- (1) If the Member elects the Normal Retirement Date as Pension Commencement Date, the Member's Supplemental Pension shall be determined in accordance with Section 7.1.
- (2) If the Member elects a Postponed Retirement Date as Pension Commencement Date, the Member shall receive a Supplemental Pension commencing on the Member's Pension Commencement Date equal to the pension determined in accordance with Section 7.1, based on the Member's Final Average Earnings at Pension Commencement Date and taking into account the Member's Pensionable Service after Normal Retirement Date.

## ARTICLE 8 – PAYMENT OF SUPPLEMENTAL PENSION

---

### 8.1 Form of Payment

At retirement, a Member is entitled to receive the Member's Supplemental Pension in equal monthly instalments in accordance with the normal, legislated or optional form of pension payment applicable or elected by the Member in accordance with the terms and conditions of the Executive Retirement Plan. Such Supplemental Pension shall be paid to the Member on the first day of every month in accordance with the provisions of the Executive Retirement Plan which would apply if it were being paid under that plan.

The form of pension payment under the Supplemental Retirement Plan and the related conditions of payment shall be the same as the form of pension payment and related conditions of payment applicable to the Member under the Executive Retirement Plan. The amount of payment payable in a form other than the normal form shall be the Actuarial Equivalent of the normal form of pension as described in the Executive Retirement Plan.

### 8.2 Payments made in Error

If at any time the Employer pays a Member, or the Member's Spouse or Beneficiary, an amount in excess of the amount otherwise due and payable under the Supplemental Retirement Plan, the Member, or if applicable, the Member's Spouse or Beneficiary, shall return such amount on the request of the Company. Alternatively, the Company may elect to deduct such amount from any future payment out of the Supplemental Retirement Plan.

## ARTICLE 9 – TERMINATION OF EMPLOYMENT

---

### 9.1 Vested Entitlement

If, at the date the Member's Continuous Employment terminates other than by death or retirement, a Member has attained vested status under Article 11 of the Executive Retirement Plan, the Member may elect to receive:

- (1) an annual deferred vested Supplemental Pension, payable in equal monthly instalments, commencing at the Members' Normal Retirement Date, equal to the amount of the Supplemental Pension determined in accordance with Section 7.1; or
- (2) the Commuted Value of the annual deferred vested Supplemental Pension, determined in accordance with section 7.1, paid to the Member in a lump sum.

For purposes of attaining vested status continuous employment under a U.S. Plan or a plan maintained by an Affiliate Company shall be considered Continuous Employment.

### 9.2 Early Commencement of Deferred Supplemental Pension

Upon proper application to the Company, a Member may elect to have the Member's deferred vested Supplemental Pension commence on an Early Retirement Date, in which case, the amount of the Member's Supplemental Pension shall be as determined in accordance with Section 7.2.

## ARTICLE 10 – DEATH BENEFITS

---

### 10.1 Death Benefits Prior to Supplemental Pension Commencement

(1) **With a Spouse**

If a Member dies after attaining vested status under Article 11 of the Executive Retirement Plan, but prior to Pension

Commencement Date, a death benefit in the form of an annuity is payable to the Member's Spouse equal to:

- (a) 100% the Commuted Value of the Member's Supplemental Pension accrued to the date of death for Members employed in **Ontario, Québec and Saskatchewan;**
- (b) 60% of the Commuted Value of the Member's Supplemental Pension accrued to the date of death for Members employed in **British Columbia and New Brunswick;** and
- (c) 60% of the Commuted Value in respect of Continuous Employment prior to January 1, 2000 and 100% of the Commuted Value in respect of Continuous Employment on and after January 1, 2000, of the Member's Supplemental Pension accrued to the date of death for Members employed in **Alberta.**



(2) **Without a Spouse**

If at the date of death, the Member does not have a Spouse, or the death benefit has been waived in accordance with Section 10.2, the Commuted Value of the Member's Supplemental Pension accrued to the date of death shall, at the Company's discretion, be paid to the Member's Beneficiary in a lump sum.

## 10.2 Waiver of Spousal Death Benefits

The Spouse of a Member who is employed in **Ontario** or **Quebec** may waive the Spouse's entitlement to receive a death benefit under Section 10.1 above by completing and filing a waiver with the Company on a form prescribed by the Company prior to the death of the Member. In such event, death benefits payable under the Supplemental Retirement Plan shall be paid to the Member's Beneficiary.

## 10.3 Death After Supplemental Pension Commencement

If a Member dies after payment of the Member's Supplemental Pension has commenced, the determination and payment of any benefits due under the Supplemental Retirement Plan following the Member's death shall be in accordance with the form of pension payment applicable to such Member pursuant to Article 10 of the Executive Retirement Plan.

## ARTICLE 11 – ADMINISTRATION OF SUPPLEMENTAL RETIREMENT PLAN

---

### 11.1 General Administration

- (1) The administrator of the Supplemental Retirement Plan is the Company.
- (2) The Company is entitled to deal conclusively with all matters relating to the administration, interpretation or application of the Supplemental Retirement Plan subject to and consistent with the terms thereof.
- (3) The Company is entitled to rely conclusively on tables, valuations, certificates, opinions and reports furnished by any actuary, accountant, controller, counsel or other persons who may be employed or retained for such purposes.

### 11.2 Employee Disclosure

- (1) **Supplemental Retirement Plan Document**  
A copy of the Supplemental Retirement Plan will be made available to the Members by the Company.
- (2) **Notice of Amendment**  
The Company shall provide notice and written explanation of any amendment to the Supplemental Retirement Plan to a Member, or any other person entitled to a payment from the Supplemental Retirement Plan who is affected by the amendment.

## ARTICLE 12 – RIGHT TO AMEND OR TERMINATE THE SUPPLEMENTAL RETIREMENT PLAN

---

### 12.1 Continuation and Amendment of the Supplemental Retirement Plan

The Company intends to maintain the Supplemental Retirement Plan indefinitely and until all of its obligations thereunder have been discharged, but reserves the sole right to amend, discontinue, segregate or merge the Supplemental Plan in whole or in part at any time.

### 12.2 Termination of the Supplemental Retirement Plan

In the event of the termination of the Supplemental Retirement Plan, benefits accrued to the Member under the Supplemental Retirement Plan to the date of termination shall continue to be provided by the Company in accordance with the terms of the Supplemental Retirement Plan. The Supplemental Pension to which a Member is entitled shall be determined in accordance with the terms of the Supplemental Retirement Plan on the date of termination based on the Member's Pensionable Service and Final Average Earnings at that date. Benefits under the Supplemental Retirement Plan shall be determined assuming that the Executive Retirement Plan is also terminated on the date that the Supplemental Retirement Plan terminated.

### 12.3 Wind-Up or Bankruptcy of the Company

If the Company winds-up or becomes bankrupt, the Supplemental Retirement Plan shall be deemed fully terminated and the provisions of Section 12.2 above shall apply.

Notwithstanding any other provision of the Supplemental Retirement Plan, if at any time the Company is insolvent, there shall be no liability whatsoever on the part of any director or officer of the Company to fund the Supplemental Retirement Plan or otherwise provide for the benefits hereunder.

## ARTICLE 13 – GENERAL PROVISIONS

---

### 13.1 Right to Employment

Membership in the Supplemental Retirement Plan shall not confer upon any Member or Employee the right to be retained in Continuous Employment with the Employer nor will it interfere in any manner with the right of the Employer to discharge any person, nor shall participation in the Supplemental Retirement Plan give a Member, or the Member's Spouse, personal representative, estate or Beneficiary any claim or legal right to any benefit hereunder except as expressly set forth herein.

### 13.2 Non-Alienation of Benefits

No benefit under the Supplemental Retirement Plan is subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge to attachment or legal process for debts of the person entitled to receive a benefit except as provided by statute, nor shall any such benefit be capable of surrender or being given as security, except as provided in the Supplemental Retirement Plan.

### 13.3 Assignment of Benefits on Marriage Breakdown

Notwithstanding Section 13.2, a benefit payable under the Supplemental Retirement Plan is subject to execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in a court of competent jurisdiction in Ontario or another relevant jurisdiction.

### 13.4 Non-Commutation of Benefits

A vested Supplemental Pension or deferred Supplemental Pension payable under the Supplemental Retirement Plan is not capable of being commuted into a lump sum cash settlement except:

- (1) as permitted under Section 9.1; or
- (2) if such commutation is at the option of the Company and with its specific consent, and is in respect of:
  - (a) a death benefit payable to a Spouse or Beneficiary in accordance with Section 10; or
  - (b) shortened life expectancy as described in Section 15.4(d) of the Executive Retirement Plan.

### 13.5 Information to be Provided Before Payment of Benefits

Each Member shall be required to file satisfactory proof of the Member's age and spousal status with the Company and the Supplemental Pension payments shall not commence until such proof of age and spousal status has been received and acknowledged by the Company. A Member who is required to receive the pension under the Executive Retirement Plan in the legislated form of pension pursuant to Article 10 of the Executive Retirement Plan is required to file with the Company satisfactory proof of the age of the Member's joint annuitant. The Company is entitled to rely upon the representations made by a Member in respect to age or other pertinent facts.

### 13.6 Payment to Incompetents

If the Company receives evidence that a person entitled to receive any payment under the Supplemental Retirement Plan is physically, mentally or legally incompetent to receive such payment and to give a valid receipt therefor, the payment may be made to:

- (1) the guardian, committee or other representative of the person; or
- (2) a court or authorized government agency of the jurisdiction to which the pension is subject, for the credit of the person, in accordance with the laws of the jurisdiction governing such payment.

Any such payment will operate as a complete discharge of liability under the Supplemental Retirement Plan.

### 13.7 Severability

If any provision of the Supplemental Retirement Plan is held to be invalid or unenforceable by a court of competent jurisdiction, its invalidity or unenforceability shall not affect any other provision of the Supplemental Retirement Plan and the Supplemental Retirement Plan shall be construed and enforced as if such provision had not been included therein.

### 13.8 Evidence of Survival

The Company shall have the right to require satisfactory evidence that a retired Member, Spouse or Beneficiary under the Supplemental Retirement Plan is living on each day a Supplemental Pension benefit is due to such Member, Spouse or Beneficiary. In the absence of such evidence when required by the Company, the benefits otherwise due shall not be paid until such evidence has been received.

### 13.9 Records

Whenever the records of the Company are used for the purposes of the Supplemental Retirement Plan, such records shall be conclusive of the facts with which they are concerned, unless they are proven to be in error.

### 13.10 Elections and Applications

Any election, option or application in respect of the Supplemental Retirement Plan shall be in such form as the Company shall determine from time to time. Without limiting the generality of the foregoing, any person entitled to any benefit under the Supplemental Retirement Plan shall be responsible for notifying the Company in writing of the person's mailing address and subsequent change of mailing address.

### 13.11 Currency

All payments from the Supplemental Retirement Plan will be made in lawful Canadian currency provided, however, that in the case where a Member's Earnings are paid in other than Canadian currency, the Company may from time to time in its discretion, fix the rate of exchange to be used for the purpose of the Supplemental Retirement Plan in converting to Canadian currency the Member's Earnings and benefits under the Supplemental Retirement Plan.

### 13.12 Construction

The Supplemental Retirement Plan, and all rights thereunder, shall be governed, construed and administered in accordance with the laws of Ontario.



APPENDIX A

AFFILIATED UNITED STATES PENSION PLANS

---

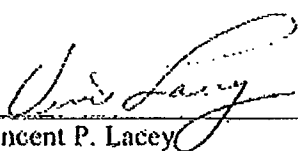
c:\documents and settings\lahatna\local settings\temporary internet files\olk125\serpdescription.doc


INDALEX LIMITED  
WRITTEN CONSENT OF THE MANAGEMENT COMMITTEE  
OF THE BOARD OF DIRECTORS

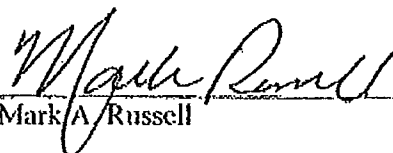
The undersigned, being all the members of the Management Committee of the Board of Directors of Indalex Limited (formerly Caradon Limited), an Alberta corporation, hereby unanimously consent to the adoption of the resolutions annexed hereto as follows:


Exhibit A: Amendment No. 1 to the Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies

DATED this 26th day of November, 2002.

  
\_\_\_\_\_  
Vincent P. Lacey

  
\_\_\_\_\_  
Robert B. Leckie

  
\_\_\_\_\_  
Mark A. Russell

  
\_\_\_\_\_  
A. Graham Thayer

*EXHIBIT A*

## AMENDMENT NO. 1

to the

**Supplemental Retirement Plan for Executive Employees of  
Indalex Limited and Associated Companies**

**WHEREAS:**

- A. the Corporation maintains the Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "Plan") for its employees; and
- B. the Corporation has reserved the right to amend the Plan pursuant to Section 12.1; and
- C. the Corporation desires to grant portability rights to members of the Plan who retire and are entitled to an immediate pension under the Plan.

**NOW THEREFORE IT IS RESOLVED THAT**, effective September 15, 2002, the Plan is amended as follows:

- 1. New Section 7.4 is added to the Plan as follows:

**"7.4      Receipt of Commuted Value of Pension**

- (1) In lieu of receiving a Supplemental Pension payable to the Member in equal monthly instalments under this Article 7, the Member may elect, before pension payments commence, to receive the Commuted Value of such Supplemental Pension in a lump sum.
- (2) If the Member elects a lump sum Commuted Value transfer of the pension payable to the Member under Article 9 of the Executive Retirement Plan, the Member must receive the Supplemental Pension payable under this Article 7 in a lump sum in accordance with subsection (1)."

*EXHIBIT A*

2. Section 9.1 is amended by adding the following paragraph after subsection (2):  
"If the Member elects a lump sum Commuted Value transfer of the deferred pension payable to the Member under Article 11 of the Executive Retirement Plan, the Member must receive the deferred Supplemental Pension in a lump sum in accordance with subsection (2)."
  
3. Any one of the directors or officers of the Corporation is hereby authorized to sign such documents, under the Corporation's seal or otherwise, and perform such acts as may be necessary to give effect to the foregoing resolutions.

This is Exhibit 11C11 referred to in the  
affidavit of Keith B. Camethe  
sworn before me, this 23  
day of June 2009  
[Signature]  
A COMMISSIONER FOR TAKING AFFIDAVITS

Direct (416) 868-7975

**Private and Confidential**

October 6, 1999

**Revised**

Mr. Keith Carruthers  
4186 Arbourfield Drive  
Burlington, Ontario  
L7M 4A5

Dear Keith:

**Re: Retirement Plan for Executive Employees of Caradon Limited and Associated Companies (the "Plan")  
Supplemental Retirement Plan for Executive Employees of Caradon Limited and Associated Companies (the "Supplemental Plan")**

As per Mr. Fred Granville's instructions, we have recalculated your retirement benefits payable from the above-named retirement plans based on final average earnings of \$268,000.00.

Enclosed are copies of the revised Statement and Election of Benefits on Retirement forms (in duplicate) regarding the alternative forms of benefit payable on your early retirement from the plans.

Your retirement benefits under the Supplemental Plan are based on projected Credited Service and Final Average Earnings at May 1, 2000 and fact that you are entitled to a retirement benefit payable from the RTZ Supplemental Retirement Plan (\$3,950.76 per month payable at age 65). Please note that we have instructed the administrator of the RTZ Supplemental Retirement Plan to prepare information to be provided to you that is required for the commencement of this pension.

We have used the following Yearly Maximum Pensionable Earnings (YMPE) under the Canada Pension Plan to calculate your retirement benefits under both plans.

<u>Year</u>	<u>YMPE</u>	<u>Number of Months</u>
1997	\$35,800.00	12
1998	\$36,900.00	12
1999	\$37,400.00	12
2000	\$12,566.67*	4

\* estimated YMPE in year 2000 is equal to \$37,700 (12 months)

October 6, 1999  
Page 2

Your total pension entitlement is \$ 11,683.15/month (including the RTZ supplemental pension) payable at age 65.

Your combined early retirement pensions payable from the Caradon plans at May 1, 2000 (less the RTZ supplemental pension) are calculated based on an early retirement reduction of 3.5% (i.e., 96.5% of your normal retirement pension as a result of a 1/6% reduction for each month that early retirement precedes an age 60 retirement date). The early retirement optional forms of pension are calculated on an actuarial equivalent basis to your early retirement pension based on the Joint and Survivor Pension Reducing to 50% on the Member's Death.

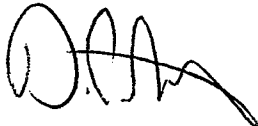
Your monthly pension options as at May 1, 2000 are described below:

<u>Form of Pension</u>	<u>Monthly Pension under the Plan</u>	<u>Monthly Pension under the Supplemental Plan</u>	<u>Total Monthly Pension</u>
Joint & Survivor 50% (reduced upon member death)	\$3,958.35	\$3,503.41	\$7,461.76
Joint & Survivor 60% (reduced upon first death)	<del>\$3,958.35</del>	<del>\$3,570.50</del>	\$7,528.85
Joint & Survivor 60% (reduced upon member death)	\$3,958.35	\$3,378.75	\$7,337.10
Joint & Survivor 100%	\$3,760.28	\$3,117.24	\$6,877.52
Life Only	\$3,958.35	\$4,196.11	\$8,154.46
Life Guaranteed 5 years	\$3,958.35	\$4,133.17	\$8,091.52
Life Guaranteed 10 years	\$3,958.35	\$3,959.78	\$7,918.13
Life Guaranteed 15 years	\$3,958.35	\$3,701.03	\$7,659.38

Please note that you must elect the same option under both plans.

Once you have made your election, please forward the completed forms to my attention. If you have any questions, please do not hesitate to contact me.

Sincerely yours,



Dave Proctor, F.S.A., F.C.I.A.

/hmb

Enclosures

Copies to: Mr. Fred Granville, Caradon Indalex  
Mr. Robert Leckie, Caradon Inc.  
Mr. Kelvin Cheng, William M. Mercer Limited




**RETIREMENT PLAN FOR EXECUTIVE EMPLOYEES OF CARADON LIMITED AND ASSOCIATED COMPANIES**

**Registration Number: 0455626**

**STATEMENT AND ELECTION OF BENEFITS ON RETIREMENT**

---

Member's Name:	Keith Carruthers
Division:	Caradon Indalex
Social Insurance Number:	
Date of Birth:	January 8, 1942
Date of Employment:	September 8, 1972
Plan Membership Date:	October 1, 1972
Normal Retirement Date:	February 1, 2007
Actual Retirement Date:	May 1, 2000
Credited Service at Actual Retirement Date:	27.5808 Years
Final Average Earnings:	\$268,000.00
Final Average Yearly Maximum Pensionable Earnings:	\$36,911.11
Contributions with Interest:	\$29,228.55
Member's Spouse:	Margaret Carruthers
Spouse's Date of Birth:	September 1, 1942
Beneficiary:	Margaret Carruthers
Province:	Ontario

---

This statement advises you of the amount of your monthly pension benefit and the various forms of payment available to you. Please read the information carefully and complete this form where indicated below.

**BENEFIT ENTITLEMENT**

You have earned a pension benefit of \$3,958.35 per month commencing on May 1, 2000, payable for your lifetime. On your death, 50% of this amount will be payable to your spouse for her lifetime.

**PENSION PAYMENT CONDITIONS**

If you have a spouse when your pension payments commence, your pension will be paid in a Joint and Survivor form. Under the Joint and Survivor form, you will receive an actuarially adjusted monthly pension and after either your death or the death of your spouse, the survivor will receive a pension payable for his/her lifetime of at least 60% of the amount being paid before the death.

If you and your spouse do not wish to have your pension paid in the Joint and Survivor form, or if you wish to provide for continuation of less than 60% to your spouse, the attached "Spousal Waiver of Joint and Survivor Pension Form" must be completed and returned with this form.

**OPTIONAL FORMS OF PENSION**

The options available to you are described below.

**Option 1: Single Life Pension**

Under this option you will receive a pension of \$3,958.35 per month payable for your lifetime and ceasing on your death.

**Option 2: Single Life Pension - Guaranteed 60 Months**

Under this option you will receive a pension of \$3,958.35 per month payable for your lifetime. If you should die within 60 months of your pension commencement date, payments will continue to your beneficiary for the balance of the 60 month guarantee period.

**Option 3: Single Life Pension - Guaranteed 120 Months**

Under this option you will receive a pension of \$3,958.35 per month payable for your lifetime. If you should die within 120 months of your pension commencement date, payments will continue to your beneficiary for the balance of the 120 month guarantee period.

**Option 4: Single Life Pension - Guaranteed 180 Months**

Under this option you will receive a pension of \$3,958.35 per month payable for your lifetime. If you should die within 180 months of your pension commencement date, payments will continue to your beneficiary for the balance of the 180 month guarantee period.

**Option 5: Joint and Survivor Pension Continuing In the Same Amount**

Under this option you will receive a pension of \$3,760.28 per month payable for your lifetime; after your death your spouse will continue to receive a monthly pension of \$3,760.28 for her lifetime.

**Option 6: Joint and Survivor Pension Reducing to 60% on Member Death**

Under this option you will receive a pension of \$3,958.35 per month payable for your lifetime; after your death your spouse will continue to receive a monthly pension of \$2,375.01 for her lifetime.

**Option 7: Joint and Survivor Pension Reducing to 50% on Member Death**

Under this option you will receive a pension of \$3,958.35 per month payable for your lifetime; after your death your spouse will continue to receive a monthly pension of \$1,979.18 for her lifetime.

**Option 8: Joint and Survivor Pension Reducing to 60% on First Death**

Under this option you will receive a pension of \$3,958.35 per month payable until the earlier of your death or the death of your spouse; after your death or the death of your spouse, the survivor will continue to receive a monthly pension of \$2,375.01 for his/her lifetime.

---

**ELECTION OF PENSION BENEFITS AND RETIREMENT OPTION**

(to be completed by employee)

1. I, **Keith Carruthers**, hereby elect Option 8, which is called JOINT & SURVIVOR PENSION  
REDUCING TO 60% ON FIRST DEATH. I have studied the various options and conditions and fully understand that if I have a spouse, I must receive my pension under a **Spousal Joint and Survivor form**. After my death, if the same spouse is still living, that spouse will receive a pension payable for her lifetime of at least 60% of the amount I was receiving at the date of my death unless a completed and signed Spousal Waiver of Joint and Survivor Pension form was delivered to the Plan Administrator. I confirm Margaret Carruthers to be my spouse in accordance with the attached and completed **Declaration of Marital Status**.

2. (TO BE COMPLETED by employee if applicable)

I hereby confirm Margaret Carruthers, who is my WIFE,  
(Name) (Relationship)

as my beneficiary (if I elect a single life guarantee option) or my joint annuitant (if I elect a joint and survivor option) to receive any death benefits under the plan.

Keith B Carruthers  
Signature of Member

[Signature]  
Signature of Witness

Dec 17 1999  
Date

ALES GRANVILLE  
Name of Witness (Please print)

**Please provide, along with the completed options, a copy of your birth certificate and your spouse's birth certificate.**

**If you do not elect Option 5, 6 or 8, please complete the attached Spousal Waiver form.**

**If you would like your payments deposited directly to your bank account, please complete the attached Canada Trust direct deposit form.**

**SUPPLEMENTAL RETIREMENT PLAN FOR EXECUTIVE EMPLOYEES OF CARADON LIMITED  
AND ASSOCIATED COMPANIES**

**STATEMENT AND ELECTION OF BENEFITS ON RETIREMENT**

---

Member's Name:	Keith Carruthers
Division:	Caradon Indalex
Social Insurance Number:	[REDACTED]
Date of Birth:	January 8, 1942
Date of Employment:	September 8, 1972
Plan Membership Date:	October 1, 1972
Normal Retirement Date:	February 1, 2007
Actual Retirement Date:	May 1, 2000
Credited Service at Actual Retirement Date:	27.5808 Years
Final Average Earnings:	\$268,000.00
Final Average Yearly Maximum Pensionable Earnings:	\$36,911.11
Member's Spouse:	Margaret Carruthers
Spouse's Date of Birth:	September 1, 1942
Beneficiary:	Margaret Carruthers
Province:	Ontario

---

This statement advises you of the amount of your monthly pension benefit and the various forms of payment available to you. Please read the information carefully and complete this form where indicated below.

**BENEFIT ENTITLEMENT**

You have earned a pension benefit of \$3,503.41 per month commencing on May 1, 2000, payable for your lifetime. On your death, 50% of this amount will be payable to your spouse for her lifetime.

**OPTIONAL FORMS OF PENSION**

The options available to you are described below.

**Option 1: Single Life Pension**

Under this option you will receive a pension of \$4,196.11 per month payable for your lifetime and ceasing on your death.

**Option 2: Single Life Pension - Guaranteed 60 Months**

Under this option you will receive a pension of \$4,133.17 per month payable for your lifetime. If you should die within 60 months of your pension commencement date, payments will continue to your beneficiary for the balance of the 60 month guarantee period.

**Option 3: Single Life Pension - Guaranteed 120 Months**

Under this option you will receive a pension of \$3,959.78 per month payable for your lifetime. If you should die within 120 months of your pension commencement date, payments will continue to your beneficiary for the balance of the 120 month guarantee period.

**Option 4: Single Life Pension - Guaranteed 180 Months**

Under this option you will receive a pension of \$3,701.03 per month payable for your lifetime. If you should die within 180 months of your pension commencement date, payments will continue to your beneficiary for the balance of the 180 month guarantee period.

**Option 5: Joint and Survivor Pension Continuing In the Same Amount**

Under this option you will receive a pension of \$3,117.24 per month payable for your lifetime; after your death your spouse will continue to receive a monthly pension of \$3,117.24 for her lifetime.

**Option 6: Joint and Survivor Pension Reducing to 60% on Member Death**

Under this option you will receive a pension of \$3,378.75 per month payable for your lifetime; after your death your spouse will continue to receive a monthly pension of \$2,027.25 for her lifetime.

**Option 7: Joint and Survivor Pension Reducing to 50%**

Under this option you will receive a pension of \$3,503.41 per month payable for your lifetime; after your death your spouse will continue to receive a monthly pension of \$1,751.71 for her lifetime.

**Option 8: Joint and Survivor Pension Reducing to 60% on First Death**

Under this option you will receive a pension of \$3,570.50 per month payable until the earlier of your death or the death of your spouse; after your death or the death of your spouse, the survivor will continue to receive a monthly pension of \$2,142.30 for his/her lifetime.

---

**ELECTION OF PENSION BENEFITS AND RETIREMENT OPTION**  
(to be completed by employee)

1. I, **Keith Carruthers**, hereby elect Option 8, which is called JOINT & SURVIVOR PENSION. I have studied the various options and fully understand the election I have made.  
REDUCING to 60% ON FIRST DEATH

2. (TO BE COMPLETED by employee if applicable)

I hereby confirm Margaret Carruthers, who is my Wife,  
(Name) (Relationship)

as my beneficiary (if I elect a single life guarantee option) or my joint annuitant (if I elect a joint and survivor option) to receive any death benefits under the plan.

Keith B Carruthers  
Signature of Member

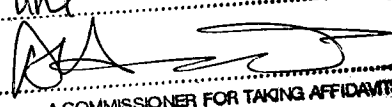
[Signature]  
Signature of Witness

Dec 17 1999  
Date

FRED GRANVILLE  
Name of Witness (Please print)

**Please provide, along with the completed options, a copy of your birth certificate and your spouse's birth certificate .**

**A Spousal Waiver is not required under any option that you elect under this plan.**

This is Exhibit "D" referred to in the  
affidavit of Keith B. Carnethers  
sworn before me, this 23  
day of June 2009  
  
A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No.

**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.

Applicants

**AFFIDAVIT OF TIMOTHY R.J. STUBBS**  
(Sworn April 3, 2009)

I, Timothy R.J. Stubbs, of the City of Lincolnshire, in the State of Illinois, United States of America, **MAKE OATH AND SAY AS FOLLOWS:**

**Introduction**

1. I am the President and Chief Executive Officer of Indalex Limited ("**Indalex Canada**"), Indalex Holdings (B.C.) Ltd. ("**Indalex BC**"), 6326765 Canada Inc. ("**632**"), and Novar Inc. ("**Novar**") (collectively, the "**Applicants**"), and as such have knowledge of the matters deposed to in this affidavit. Where this affidavit is not based on my direct personal knowledge, it is based on information and belief and I verily believe such information to be true.

**Nature of Application and Overview of Relief Sought**

2. This affidavit is sworn in support of the Applicants' application for protection from their creditors under the *Companies' Creditors Arrangement Act* (Canada)



(the “CCAA”). As a result of the pervasive decline in the global economy and the decline in the demand for extruded aluminum products, the Applicants’ business, of aluminum extrusion (a process which forms and strengthens aluminum for use by end-users), is facing serious financial challenges and the Applicants are facing a looming liquidity crisis.

3. This Application is brought in conjunction with a parallel proceeding commenced urgently, by way of a voluntary petition filed on March 20, 2009, in the United States Bankruptcy Court for the District of Delaware (the “**U.S. Bankruptcy Court**”) by the Applicants’ U.S. direct and indirect parents, Indalex Holdings Finance, Inc. (“**Indalex Finance**”), and Indalex Holding Corp. (“**Indalex Holding**”), and certain of their U.S. subsidiaries (collectively with Indalex Finance and Indalex Holding, “**Indalex U.S.**”) pursuant to Chapter 11 of the United States Bankruptcy Code (the “**Chapter 11 Proceedings**”).
4. The Applicants require relief under the CCAA in order to stabilize their business and seek a long term strategic solution for their business operations.
5. The relief requested includes a request for:
  - (a) immediate relief in the form of a stay of proceedings; and
  - (b) the appointment of FTI Consulting Canada ULC (“**FTI Canada**”) as Monitor of the Applicants.
6. It is the intention of the Applicants to return to Court within a short period of time to seek approval for debtor in possession financing (“**DIP Financing**”) from the

Applicants' primary secured lenders (the "**DIP Lenders**"), on behalf of whom JP Morgan Chase Bank N.A. ("**JP Morgan**") is acting as the administrative agent (in such capacity, the "**DIP Administrative Agent**") and to seek approval of restructuring powers for the Applicants that will enable them to obtain a going concern solution with the assistance of the Monitor.

7. In the view of the Applicants, these proceedings present the best opportunity for the Applicants to maximize value for their stakeholders and seek a viable going concern solution.

#### **Business Overview**

8. The Applicants comprise, together with Indalex U.S. and their related affiliates (collectively, the "**Indalex Group**"), the second largest aluminum extruder in the United States and Canada.
9. Indalex Canada is a Canadian corporation and the entity through which the Indalex Group operates its Canadian business. It is the parent company of Indalex BC, a British Columbia corporation, 632, a Canadian corporation, and Novar, an Ontario corporation, none of which are operating entities.<sup>1</sup>
10. Indalex Canada is a direct wholly-owned subsidiary of its U.S. parent, Indalex Holding, which is in turn a wholly-owned subsidiary of Indalex Finance.

---

<sup>1</sup> Indalex BC owns the property on which Indalex Canada operates in Port Coquitlam, B.C. 632 owns the property on which Indalex Canada operates in Ontario. Novar is a dormant company with no assets or liabilities other than the guarantee of Indalex Canada's indebtedness to JP Morgan.

11. Indalex Finance is beneficially owned by Sun Capital Partners III, L.P., Sun Capital Partners, III QP, LP, Sun Capital Partners IV, LP, Sun Indalex, LLC, as well as certain management co-investors. Attached hereto as Exhibit "A" is a copy of the corporate chart.
12. Approximately 94% of the products of the Indalex Group are customized, made-to-order aluminum extrusions. Aluminum is a durable, light weight metal and can be strengthened through the extrusion process, which involves pushing aluminum through a die and forming it into strips, which can then be customized for a wide array of end-user markets.
13. Indalex Canada produces a portion of the raw material used in the extrusion process, called aluminum extrusion billets, through its casting division, Indalloy, located in Toronto. It also processes the raw extrusion billets into extruded product at its Canadian extrusion plants, for sale to end-users.
14. The end-user markets include transportation, residential building and construction, electrical and cable, commercial building and construction, consumer durables, machinery, and equipment. In addition, the Indalex Group offers a wide array of services, including fabrication, painting, and anodizing.
15. The Indalex Group has in excess of 3,600 customers worldwide, including a broad spectrum of national, regional, and local accounts. In 2008, Indalex Canada accounted for approximately 32% of the Indalex Group's total sales to third parties.

16. Indalex Canada supplies to three major groups of customers:
- (a) finished extruded product to Canadian customers directly (approximately 70% of Indalex Canada's sales in 2008);
  - (b) finished extruded product to U.S. customers directly (approximately 30% of Indalex Canada's sales in 2008); and
  - (c) billets to Indalex U.S. for use in its extrusion processing. In 2008, Indalex Canada supplied Indalex U.S. with 20% of its aluminum extrusion billet requirements.

### **Operational Facilities**

17. The Indalex Group operates eleven extrusion facilities and billet cast houses throughout the United States, Canada and China. The United States operations are run primarily out of six facilities, with headquarters located in Lincolnshire, Illinois.
18. Six of the U.S. facilities are operational. The Indalex Group also has five facilities in the U.S. which are not currently operating, due to low demand.
19. The Canadian operations are run out of five Canadian facilities, located in Port Coquitlam, B.C.<sup>2</sup>, Calgary, Alberta<sup>3</sup>, Montreal, Quebec<sup>4</sup>, Toronto, Ontario<sup>5</sup>, and

---

<sup>2</sup> 1765 Coast Meridian Road, Port Coquitlam, B.C.

<sup>3</sup> 3016 58<sup>th</sup> Avenue, S.E., Calgary, AB

<sup>4</sup> 325 Rue Avro, Point Claire, Quebec

<sup>5</sup> 7 Alloy Court, Toronto, ON

Mississauga, Ontario<sup>6</sup>, with its headquarters located at 5675 Kennedy Road, Mississauga, Ontario. All of these facilities are currently operating.

20. Indalex Canada's business is not an independent, stand alone operation. It is fully integrated with, and mutually interdependent with, the larger North American enterprise, sharing financial resources, management services, infrastructure, suppliers and customers. This integration allows Indalex Canada to access greater operational support and allows its customers to gain logistics benefits and dual sourcing capability. As noted above, Indalex U.S. is heavily dependent, in turn, on the supply of raw material inventory from Indalex Canada.

#### **Current Status**

21. The Applicants' profitability depends, in large part, on the varying economic and other conditions of the end-user markets they serve. All of the end-user markets the Applicants serve are subject to volatility. The demand for the Applicants' products has declined by approximately 35% since 2006 due to economic conditions which have negatively impacted this demand, the decline in the U.S. housing market, a decline in purchasing and consumer confidence, and an increase in fuel and energy prices and other input prices. This impact has been compounded by a nearly 50% decline in aluminum prices since July of 2008.
22. The lower demand has negatively impacted Indalex Canada's shipment volume and operating profitability. The decline in the price of aluminum has subjected the Indalex Group to margin calls on metal hedging contracts and has restricted

---

<sup>6</sup> 5675 Kennedy Road, Mississauga, ON

the ability of Indalex Canada to borrow cash to fund operations through the down-cycle.

23. As a result of difficulties in connection with a decline in demand for its products arising from the pervasive economic crisis impacting Indalex Canada's key customers and a decline in the price of aluminum, Indalex Canada is running out of cash and is facing an immediate liquidity crisis. The Applicants are insolvent.
24. Suppliers have stopped supplying on credit, including Indalex Canada's main supplier of aluminum, Alcan. Certain suppliers have discontinued supply altogether. Indalex Canada's other main supplier of aluminum, Alcoa Inc., commenced legal proceedings against Indalex U.S. in the State of Illinois without notice to collect amounts outstanding and owing to it by Indalex U.S. On February 24, 2009, Alcoa obtained judgment without notice against Indalex U.S. in the amount of approximately U.S.\$6 million. Alcoa then executed on the judgment restricting Indalex U.S.'s ability to make disbursements, including to critical suppliers. This action was a factor precipitating the need to commence the Chapter 11 Proceedings on an emergency basis.
25. Alcoa was also a supplier to Indalex Canada. On March 27, 2009, it issued a demand letter against Indalex Canada for US\$2.6 million alleged to be owing for payment arrears and threatened to commence legal action in Ontario.
26. On March 27, 2009, the provider of Indalex Canada's Group Insurance Policies, Great West Life Assurance Company, issued a termination notice, resulting from

alleged premium arrears in the approximate amount of US\$720,000. The termination notice is effective as of April 6, 2009.

27. The Applicants are also in default to their Revolving Lenders (as defined below), for whom JP Morgan is the administrative agent (in such capacity, the “**Administrative Agent**”). The Applicants have entered into an agreement entitled Amendment No. 2, Waiver and Agreement (the “**Forbearance Agreement**”) with Indalex U.S., the Revolving Lenders, the Term Lender and the Administrative Agent as of March 6, 2009, pursuant to which the Revolving Lenders have agreed to temporarily waive certain conditions to funding set forth in the Amended Credit Agreement (as defined below) and which permits continued use of the Revolving Credit Facility (as defined below) on certain conditions.
28. In summary, the Applicants need relief under the CCAA to prevent any further precipitous creditor action and to give the Applicants the opportunity to secure additional financing and identify a going concern solution. In addition, the integrated nature of the business of the Applicants with Indalex U.S., and the integrated nature of their financing, discussed below, now make the commencement of these proceedings in Canada necessary in order to maintain coordination and stability.
29. With the assistance of FTI Canada, the proposed Monitor, and in coordination with the Chapter 11 Proceedings, the Applicants intend to commence a process to identify a going concern solution, with the goal of preserving the business,

protecting and preserving the livelihood of employees, and maximizing stakeholder value (the “**Restructuring Process**”).

30. It is intended that the Indalex Group will continue operations as a going concern during these CCAA proceedings.

### Financial Position

31. Copies of Indalex Canada’s interim internal financial statements for the month ended February 2009 and December 2008 are attached hereto as Exhibit “**B**”.

### Assets

32. The Company’s assets, as disclosed in its interim internal financial statements as of February 28, 2009, consist of the following:

Current Assets:.....	(Canadian dollars in thousands)
Cash and cash equivalents.....	\$ 404
Receivable from affiliates .....	\$ 52,361
Receivables, net.....	\$ 25,013
Inventories, net.....	\$ 10,324
Prepays/Other current assets .....	\$ 2,577
Total current assets.....	<u>\$ 90,679</u>
Capital .....	<u>\$ 98,086</u>
Total assets	<u>\$188,765</u>

The foregoing figures represent book value of the Company’s assets.

33. As noted above, the Applicants own the real property on which their facilities are located, at 5675 Kennedy Road, Mississauga, Ontario, 7 Alloy Court, Toronto,



Ontario, 3016 58<sup>th</sup> Avenue S.E., Calgary, Alberta, 1765 Coast Meridian Road, Port Coquitlam, B.C., and 325 Rue Avro, Point Claire, Quebec.

34. Indalex Canada is the registered owner of some of the intellectual property relating to the manufacturing processes used by the Indalex Group.

### **Secured Debt of the Company**

35. As of December, 2008, the Indalex Group, collectively, had existing secured indebtedness in the approximate aggregate amount of \$305.8 million pursuant primarily to a certain Revolving Credit Facility, an Initial Term Loan, an Incremental Term Loan, and Senior Secured Notes, discussed below.

#### *Revolving Credit Facility*

36. Credit has been provided by certain secured lenders (the “**Revolving Lenders**”) pursuant to an Amended and Restated Credit Agreement dated May 21, 2008, among the Applicants, Indalex U.S., the Revolving Lenders, Sun Indalex, LLC (the “**Term Lender**”) and the Administrative Agent (the “**Amended Credit Agreement**”). The Amended Credit Agreement amended certain terms to an original credit agreement dated as of February 2, 2006.
37. Pursuant to the Amended Credit Agreement, Indalex Holding had access to a U.S. \$200 million revolving credit facility (the “**Revolving Credit Facility**”). Up to \$80 million of the Revolving Credit Facility was available to Indalex Canada pursuant to a revolving credit sub-facility (the “**Sub-Facility**”).

38. The funds available to Indalex Canada under the Sub-Facility could not exceed a borrowing base comprised of eligible accounts receivable, inventory, machinery and equipment and real property of Indalex Canada and the other Applicants, subject to an aggregate sub-cap of \$80 million and subject to a further aggregate total cap, when taken together with the amounts borrowed by Indalex U.S., of \$200 million.
39. As of March 31, 2009, the total balance due on the Revolving Credit Facility was approximately U.S.\$60 million. The amount owing by the Applicants under the Sub-Facility, as of March 31, 2009 is approximately CDN\$26,700,000.
40. The obligations of Indalex Canada under the Amended Credit Agreement are guaranteed by Indalex Holding (one of the US debtors), and its U.S. subsidiaries, as well as the three other Canadian entities, Indalex BC, 632, and Novar.
41. Prior to entering into the Forbearance Agreement, the obligations of Indalex Finance (the US borrower) under the Amended Credit Agreement were guaranteed by Indalex Holding and any U.S. subsidiary of Indalex Holding, only.
42. Indalex Canada's obligations under the Amended Credit Agreement are secured in Canada by a Security Agreement dated February 2, 2006 (the "**Security Agreement**"), two Deeds of Hypothec dated February 2, 2006, together with certain other debentures, pledge agreements, and security documents securing the personal and real property of the Applicants<sup>7</sup>. The Security Agreement and one of

---

<sup>7</sup> including a Canadian Trade Mark Security Agreement, a collateral bond issued in favour of JP Morgan, a Pledge Agreement, a Debenture in the amount of \$200,000,000 in respect of 7 Alloy Court, Toronto,

the Deeds of Hypothec were executed by 6461948 Canada Inc. and Indalex Canada; the other Deed was executed by 6461948 Canada Inc. only. On February 2, 2006, 6461948 Canada Inc. and Indalex Canada amalgamated (as described below). Attached hereto as Exhibit "C" is a copy of the Security Agreement. Attached hereto as Exhibit "D" are copies of the Deeds of Hypothec.

43. The security provided by the Applicants is registered under the relevant personal property security registries in Ontario, Quebec, British Columbia, and Alberta. Attached hereto as Exhibit "E" is a copy of a summary of PPSA registrations against the Applicants for Ontario, British Columbia, Alberta, and Quebec.

*March 6, 2009 Forbearance Agreement*

44. As noted above, on March 6, 2009, Indalex U.S. and the Applicants entered into the Forbearance Agreement with the Administrative Agent, the Term Lender and the Revolving Lenders.
45. The Forbearance Agreement, as amended, as it applies to the Applicants, provides a temporary waiver of certain existing events of default under the Amended Credit Agreement that terminates and expires on April 3, 2009, or on the

---

Ontario dated February 2, 2006, a General Assignment of Leases and Rents re 7 Alloy Court, Toronto, Ontario, a trustee and beneficial owner agreement re 7 Alloy Court, Toronto, Ontario, a Debenture in the amount of \$200,000,000 in respect of 5675 Kennedy Road, Mississauga, Ontario dated February 2, 2006, a general assignment of leases and rents re 5675 Kennedy Road, Mississauga, Ontario, a trustee and beneficial owner agreement re 5675 Kennedy Road, Mississauga, Ontario, a Debenture in the amount of \$200,000,000 re 3016 58<sup>th</sup> Avenue S.E. Calgary, Alberta, dated February 2, 2006, an assignment of rents re 3016 58<sup>th</sup> Avenue S.E., Calgary, Alberta, a Mortgage and debenture in the amount of \$200,000,000 re 1765 Coast Meridian Road, Port Coquitlam, B.C. dated February 2, 2006, a general assignment of rents re 1765 Coast Meridian Road, Port Coquitlam, B.C. and a beneficiary authorization and charge agreement re 1765 Coast Meridian Road, Port Coquitlam, B.C.

occurrence of any other default under the Amended Credit Agreement, or on the acceleration or enforcement of the Senior Secured Notes (described below).

46. Under the Forbearance Agreement, the aggregate revolving commitments under the Revolving Credit Facility have been reduced from \$200 million to \$150 million.
47. In consideration for the forbearance arrangements set out in the Forbearance Agreement, the provision of additional borrowings in the amount of U.S.\$1.5 million for Indalex Canada and U.S.\$4.5 million for Indalex U.S., and the continued provision of credit pursuant to the Amended Credit Agreement which has enabled the Applicants to continue in business and honour trade obligations and obligations to employees to date, the Applicants agreed under the Forbearance Agreement to guarantee the obligations of Indalex U.S. under the Amended Credit Agreement (the “**Pre-Filing Guarantee**”). Attached hereto as Exhibit “**F**” is a copy of the Forbearance Agreement.
48. The Pre-Filing Guarantee was agreed to by Indalex Canada in order to obtain continued support from the Revolving Lenders for Indalex Canada. Without the provision of this support, Indalex Canada was at risk of losing its operating financing and its ability to continue as a going concern.

#### *Term Loans*

49. The Amended Credit Agreement provided for, among other things, the ability of Indalex Holding to borrow \$15 million U.S. from Sun Indalex, LLC (the “**Term**

**Lender**”). the Amended Credit Agreement was then further amended on November 25, 2008 to provide for a further US\$15 million (collectively, the **“Term Loans”**).

50. None of the Applicants are borrowers under the Term Loans and neither of the Term Loans are guaranteed by the Applicants.

*Secured Notes*

51. On February 2, 2006, Indalex Holding issued U.S. \$270 million of 11.5% second priority senior secured notes (the **“Senior Secured Notes”**), which mature in 2014, and are guaranteed by the U.S. subsidiaries. The Senior Secured Notes are not guaranteed by the Applicants.

**Other Secured Creditors**

52. The Applicants have the following secured creditors who have registered security against some or all of them:
- (a) Woodbine Truck Centre Ltd. o/a Woodbine Indealease;
  - (b) NRB Inc.;
  - (c) GE Canada Leasing Services Company;
  - (d) Citicorp Vendor Finance, Ltd.;
  - (e) VFS Canada Inc.;
  - (f) Mr. Forklift;

- (g) De Lage Landen Financial Services Canada Inc.;
- (h) Penske Truck Leasing Canada Inc.;
- (i) DCFS Canada Corp.;
- (j) CIT Financial Ltd.;
- (k) Liftcapital Corporation;
- (l) PHH Vehicle Management Services Inc.; and
- (m) Ikon Office Solutions Inc.

These registrations all appear to relate to specific equipment or vehicles.

**Unsecured Liabilities**

- 53. Indalex Canada has approximately U.S.\$19.8 million of trade liabilities as of March 23, 2009. Approximately U.S. \$9.5 million of this is overdue. As noted above, most trade suppliers are no longer providing credit terms to Indalex Canada and some have suspended supply.
- 54. Indalex Canada also has an intercompany account with Indalex Inc., a Delaware sister company of Indalex Canada for the supply of goods. As of March 23, 2009, Indalex Canada owed Indalex Inc. the amount of approximately U.S. \$5.3 million and Indalex Inc. owed Indalex Canada for the supply of goods in the amount of approximately U.S. \$39 million.

55. Indalex Canada is also indebted to Indalex Holding pursuant to an amended and restated promissory note issued May 21, 2008, in the amount of \$40,000,000 (the “**Amended and Restated Promissory Note**”).
56. The Amended and Restated Promissory Note relates to financing used for the acquisition of Indalex Canada in 2006. Indalex Canada was acquired by a numbered company, 6461948 Canada Inc., which borrowed funds from Indalex Holding in the amount of approximately \$182 million to finance the purchase. Subsequent to the acquisition, 6461948 Canada Inc. amalgamated with Indalex Canada, and the liability was thereby assumed by Indalex Canada. The original indebtedness has been reduced from time to time with payments to Indalex Holding. The Amended and Restated Promissory Note was amended and restated in 2008 to reflect the remaining balance owing of \$40,000,000. Attached hereto as Exhibit “G” is a copy of the Amended and Restated Promissory Note.

### **Employees of the Business**

57. Indalex Canada has approximately 767 employees, of which 646 are hourly and 121 are salaried. 505 of these employees are currently active. Hourly employees are represented by six different locals of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (the “U.S.W.”) as follows:
- (a) Local 6034: Collective Agreement dated May 1, 2007 to April 20, 2011;

- (b) Local 9042: Collective Agreement dated January 12, 2008 to January 11, 2011;
  - (c) Local 13571-20: Collective Agreement dated December 1, 2005, expired November 30, 2008;
  - (d) Local 7785: Collective Agreement extended to and expired on December 22, 2008;
  - (e) Local 2952: Collective Agreement dated October 1, 2006 to September 30, 2011; and
  - (f) Local 7785-01: Draft Collective Agreement dated July 7, 2008.
58. Indalex Canada's payroll in Canada is approximately \$469,514 per week for hourly employees, \$389,831 bi-weekly for salaried employees and \$19,792 monthly for benefits under the Supplementary Plan (as defined below). Payroll is administered through payroll services provided by ADP. It will have severance and termination obligations to employees in the event that the Applicants are unsuccessful in respect of its Restructuring Process and it is necessary to liquidate the assets of the Applicants for the benefit of creditors.

### **Pension Obligations**

59. Indalex Canada is the sponsor and administrator of two registered pension plans and one non-registered supplemental pension plan. It also contributes to one



multi-employer pension plan and maintains a group registered retirement savings plan and a deferred profit sharing plan.

*Registered Pension Plans*

60. Indalex Canada is the sponsor and administrator of the following two registered pension plans:
- (a) The Retirement Plan for Salaried Employees of Indalex Canada and Associated Companies, registered with the Financial Services Commission of Ontario (“FSCO”) and the Canada Revenue Agency (“CRA”) under Registration No. 0533646 (the “**Salaried Plan**”); and
  - (b) The Retirement Plan for the Executive Employees of Indalex Canada and Associated Companies, registered with FSCO and CRA under Registration No. 0455626 (the “**Executive Plan**”).
61. The Salaried Plan, which consists of defined benefit and defined contribution components, was fully terminated effective December 31, 2006 and thus no current employees will receive benefits under the Salaried Plan. Indalex Canada was continuing to fund the wind-up deficiency under the Salaried Plan which, as at December 31, 2007, was \$2,252,900. There are currently 34 retirees receiving benefits under the Salaried Plan.
62. The Executive Plan is a defined benefit pension plan which was closed to new members effective September 1, 2005. As at January 1, 2008, the Executive Plan had a funding deficiency on an ongoing basis of \$2,535,100; a funding deficiency

on a solvency basis of \$1,082,800; and a funding deficiency on a wind-up basis of \$2,996,400. There is only one current employee on long-term disability entitled to receive benefits under the Executive Plan. There are currently 14 retirees receiving benefits under the Executive Plan.

#### *Supplemental Pension Plan*

63. Indalex Canada also maintains the Supplementary Retirement Plan for Executive Employees of Indalex Canada and Associated Companies (the “**Supplementary Plan**”), which is an unfunded and non-registered supplemental pension plan for certain members of the Executive Plan. The Supplementary Plan is also closed to new members. Benefits under the Supplementary Plan are paid out of the general revenues of the applicable executive’s employer. As at December 31, 2008, the liabilities under the Supplementary Plan were \$2,966,244, based on the present value of the projected benefit payments.

#### *Multi-Employer Pension Plan*

64. In respect of its unionized employees, the Indalex Group contributes to the Canada-Wide Industrial Pension Plan (“**CWIPP**”), which is a multi-employer registered pension plan. During 2008, the Indalex Group contributed approximately \$1,121,516 to CWIPP. Indalex Canada is current on all payments to the CWIPP.

#### *Group Registered Retirement Savings Plan and Deferred Profit Sharing Plan*

65. Indalex Canada maintains a group registered retirement savings plan (“GRRSP”) for its union employees at the Port Coquitlam facility and a deferred profit sharing plan (“DPSP”) for its non-union employees. For 2008, employer contributions to the GRRSP were \$128,107 and employer contributions to the DPSP were \$439,970. Indalex Canada is current on all contributions to the GRRSP and DPSP.

#### **Priority Statutory Liabilities**

66. The Applicants have maintained their obligations for payroll, source deductions, current pension liabilities, and GST, and are not in arrears in respect of these items.

#### **Payments**

67. A projected cash flow for the Applicants has been prepared for the purposes of these proceedings, from the week ending April 10 through the week ending May 1, 2009 (the “**Projected Cash Flow**”). A copy of the Projected Cash Flow is attached hereto as Exhibit “**H**”. During the period of the CCAA process, the Applicants intend to make current payments as set out in the draft Initial Order and Projected Cash Flow.

#### **Financing During the Process**

68. On March 23, 2009, Indalex US sought and obtained, with the consent of the Revolving Lenders, approval from the US Bankruptcy Court of an Interim Order Authorizing the Use of Pre-petition Lenders’ Cash Collateral (the “**Cash**

**Collateral Order**”). The Cash Collateral Order permits Indalex US to operate in reliance on its existing cash receipts, in accordance with a budget negotiated and settled with the Revolving Lenders. Attached hereto as Exhibit “I” is a copy of the Cash Collateral Order.

69. The Indalex Group and the Revolving Lenders have been working diligently since prior to the Chapter 11 filing to negotiate the terms on which DIP Financing will be provided to the Indalex Group to finance its operations through the U.S. proceedings and these proceedings. The DIP Financing negotiations have not been finalized, but all parties continue to work diligently towards finalizing matters expeditiously. In the meantime, the Applicants have requested a further extension of the Forbearance Agreement so that the Applicants will be able to continue to borrow under their existing facilities. It is anticipated the extension of the Forbearance Agreement will be provided in advance of the issuance of the Initial Order. As a condition of and in consideration for the forbearance, the Applicants have agreed to provide that the Revolving Lenders are unaffected by the stay of proceedings under the Initial Order, pending a return to court to seek approval of the proposed DIP Financing.
70. Once matters have stabilized, and the DIP Financing has been negotiated, the Applicants anticipate returning to Court next week to seek the approval of the DIP Financing. Indalex US similarly anticipates seeking approval of DIP Financing in respect of its operations.

### **Cash Management System**

71. The Applicants currently have in place a cash management system to facilitate the flow of receivables and disbursements in connection with the Revolving Credit Facility. Indalex Canada is a party to a Blocked Accounts Agreement dated as of May 31, 2006 with JP Morgan and Royal Bank of Canada (“RBC”), which provides for payment of all receivables into a “lock-box” maintained by RBC. At the end of each business day, cash in the lock-box is remitted to collection accounts maintained by JP Morgan. The cash is then re-advanced to the Applicants in accordance with the availability provided for under the Revolving Credit Facility. It is contemplated that this cash management system will continue to remain in place until the DIP Financing negotiations are complete.

**The Monitor**

72. FTI Consulting, Inc. (“FTI U.S.”) was retained by Indalex U.S. on or about February 20, 2009, to assist it with identifying strategies to deal with its liquidity crisis. FTI Canada commenced providing assistance to Indalex Canada during the week commencing March 9, 2009. Subject to obtaining approval of the U.S. Bankruptcy Court, Keith Cooper of FTI U.S. has been appointed by Indalex U.S. as Chief Restructuring Officer of Indalex U.S., and will continue to provide financial and strategic advice to Indalex U.S. subject to approval by the U.S. Court.
73. FTI Canada has agreed to act as Monitor in these proceedings. Due to their familiarity with the operational and financial aspects of the Indalex Group business, FTI Canada is well placed to act as Monitor. I understand that while the

Monitor is able to provide advice and assistance to the Applicants, FTI Canada, once appointed, is an independent officer of, is answerable to, and takes direction from, this Court, and not from the Indalex Group.

### **Directors and Officers**

74. In order to continue to carry on business during these proceedings, the Applicants require its directors and officers (together with the Company's former directors and officers, the "**Directors**") to remain committed. Although the Applicants intend to comply with applicable laws with respect to matters affecting it, including, without limitation, the payment of wages, employee source deductions, vacation pay, GST, provincial sales tax and regulatory deemed trust requirements, the failure to successfully complete a Restructuring Process may result in significant personal liabilities for Directors.
75. As such, the Applicants intend to indemnify the Directors for such potential liabilities, and request a charge (the "**Directors' Charge**") in the amount of \$3.3 million to indemnify the Directors in respect of any such liabilities as they may incur in these proceedings.

### **Administration Charge**

76. In order to protect the fees and expenses of the Monitor, counsel to the Monitor, and counsel to the Applicants, the Applicants seek a charge in favour of these professionals to secure payments of their reasonable fees and disbursements incurred both prior to filing and after (the "**Administration Charge**") in the

amount of \$500,000. It is requested that the Administration Charge have first priority against the property of the Company.

**Conclusion**

- 77. The Applicants are insolvent and are facing an immediate financial crisis which jeopardizes their ability to continue as a going concern enterprise. The Initial Order sought will provide an immediate stay and an opportunity for the Applicants to pursue the Restructuring Process in concert with proceedings in the United States that will hopefully preserve the business for the benefit of all stakeholders. The Applicants intend to return to Court prior to the expiry of the initial stay of proceedings to seek approval of DIP Financing, once these negotiations have been completed.
- 78. This Affidavit is therefore made in support of the Applicants' application for an Order under the CCAA and for no other or improper purpose.

SWORN BEFORE ME at the City of Lincolnshire, in the State of Illinois this 3rd day of April, 2009

*Marcia J. Goldin*

)  
)  
)  
)  
)

*[Handwritten Signature]*

**TIMOTHY R.J. STUBBS**

