

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF the *Companies' Creditors
Arrangement Act*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER of a Plan of Compromise or Arrangement
of INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD. 6326765 CANADA INC. and
NOVAR INC.

the Applicants

MOTION RECORD
(Returnable June 19, 2009)

June 15, 2009

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June

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

the Applicants

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ONTARIO
SUPERIOR COURT OF JUSTICE
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IN THE MATTER OF the *Companies' Creditors
Arrangement Act*, R.S.C. 1985, c. C-36, as amended

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NOVAR INC.

Applicants

MOTION RECORD

I N D E X

TAB

1. Notice of Motion returnable Friday, June 19, 2009

ONTARIO
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COMMERCIAL LIST

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

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NOVAR INC.

the Applicants

NOTICE OF MOTION
(Returnable June 19, 2009)

THE APPLICANTS, Indalex Limited, Indalex Holdings (B.C.) Ltd., 6326765 Canada Inc. and Novar Inc. (the "Applicants") will make a motion to the Court, on Friday, June 19, 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 AN ORDER:

- a) abridging the time for service of the Notice of Motion and Motion Record, if necessary, and that the motion is properly returnable on Friday June 19, 2009;
- b) approving the fourth report of the Monitor dated June 11, 2009 (the "Fourth Report") and the fifth report of the Monitor (the "Fifth Report"), and the activities of the Monitor (as described in the Fourth Report and Fifth Report);
- c) approving an extension of the stay of proceedings from June 26, 2009 to and including July 24, 2009; and

- d) such further and other relief as the Applicants may request and this Honourable Court shall deem just.

THE GROUNDS FOR THE MOTION ARE:

- a) On April 3, 2009, the Applicants filed for and obtained protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), pursuant to an order (the "Initial Order") of the Honourable Mr. Justice Morawetz;
- b) Pursuant to the Initial Order, FTI Consulting Canada ULC was appointed as Monitor of the Applicants;
- c) The U.S. parent of Indalex Limited, Indalex Holding Corp. along with its parent company, Indalex Holdings Finance, Inc. and certain of their U.S. subsidiaries (the "U.S. Debtors") have commenced reorganization proceedings under Chapter 11 of Title 11 of the United States Code before the United States Bankruptcy Court for the District of Delaware (the "U.S. Court");
- d) On April 8, 2009, the Initial Order was amended and restated (the "Amended and Restated Initial Order") to, *inter alia*, authorize the Applicants to exercise certain restructuring powers and authorize Indalex Limited to borrow funds pursuant to a debtor-in-possession credit agreement among the Applicants, the U.S. Debtors and a syndicate of lenders for which JPMorgan Chase Bank, N.A. is administrative agent (the "DIP Credit Agreement");
- e) On April 22, 2009, the Court granted an order which, *inter alia*, extended the stay of proceedings to June 26, 2009 and approved a marketing process (the "Marketing Process");
- f) By order dated May 12, 2009, the Court further amended the Amended and Restated Initial Order to correct certain references in the order (now the "Amended Amended and Restated Initial Order");

- g) In accordance with the Marketing Process, the Applicants and the US Debtors are in the process of negotiating a definitive agreement of purchase and sale which will, subject to the approval of this Honourable Court and the U.S. Court, constitute a “stalking horse bid” (the “Stalking-Horse Agreement”) in a process which will solicit “qualifying topping bids” in contemplation of an auction involving the Stalking Horse Agreement and those parties that submit qualifying topping bids;
- h) Pursuant to the DIP Credit Agreement, the deadline for the execution of the Stalking-Horse Agreement is June 16, 2009, and the deadline for closing a sale of the Applicants’ business is July 21, 2009;
- i) The Applicants intend to seek approval of procedures for the solicitation of qualifying topping bids and for the conduct of the auction (the “Auction”) on or before July 2, 2009;
- j) The continuation of the stay of proceedings is necessary to provide the stability needed during the period within which the Applicants will conduct the Auction and close the sale of the Applicants’ business;
- k) The Applicants’ cash flow forecast for the period ended July 24, 2009 was filed with the Court as Appendix B to the Fourth Report;
- l) The circumstances exist that make the order appropriate and the Applicants’ have acted and continue to act in good faith and with due diligence;
- m) Section 11(4) of the CCAA;
- n) Rules 2.03, 3 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- o) Such further and other grounds as counsel may advise and this Honourable Court may permit.

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

- a) The Fifth Report; and
- b) Such further and other materials as counsel may advise and this Honourable Court may permit.

June 15, 2009

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R.S.C. 1985, c.C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
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Court File No: CV-09-8122-00CL

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

Proceeding commenced at Toronto

**NOTICE OF MOTION
(RETURNABLE JUNE 19, 2009)**

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Proceeding commenced at Toronto

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