

**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

**RESPONDING MOTION RECORD OF THE KEITH CARRUTHERS, LEON KOZIEROK,  
MAX DEGEN, BERTRAM MCBRIDE, EUGENE D'IORIO, NEIL FRASER, ROBERT  
LECKIE AND RICHARD SMITH - FORMER EMPLOYEES OF INDALEX**  
(Pension Matter Motion, returnable July 20, 2009)

July 17, 2009

**KOSKIE MINSKY LLP**  
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Neil Fraser, Robert Leckie and Richard Smith

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INDALEX LIMITED, INDALEX HOLDINGS (B.C.) LTD., 6326765 CANADA INC. and  
NOVAR INC.

Applicants

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## INDEX

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# **TAB 1**

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

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Applicants

**AFFIDAVIT OF ANDREA MCKINNON**  
(sworn July 17, 2009)

I, **ANDREA MCKINNON**, of the City of Toronto, in the Province of Ontario MAKE OATH AND SAY:

1. I am a lawyer with the law firm of Koskie Minsky LLP, counsel to Keith Carruthers, Leon Kozierok, Max Degen, Bertram McBride, Eugene D'Iorio, Neil Fraser, Robert Leckie and Richard Smith who are retirees of the Applicants or their predecessor companies (the "Pensioners").
2. Based on their years of employment service with the Applicants, the Pensioners are entitled to receive pension benefits from the Retirement Plan for the Executive Employees of Indalex Limited and Associated Companies (the "Executive Plan"). The Executive Plan is a

registered pension plan. The Pensioners are also entitled to receive benefits from the Supplemental Retirement Plan for Executive Employees of Indalex Limited and Associated Companies Supplemental Pension Plan (the “Supplemental Plan”).

***The Pensioners are losing a significant portion of their pension income***

***a) No benefits from the Supplemental Plan***

3. The Applicants terminated the payment of the supplemental benefits owing to the Pensioners immediately after obtaining protection from creditors under the CCAA. The Pensioners brought a motion before this Honourable Court on July 2, 2009 requesting an order to require the Applicants to reinstate payment of the supplemental pension benefits. This motion was dismissed, with reasons to follow.

4. The Pensioners no longer receive their supplemental pension benefits. On average, the supplemental pension benefits comprised approximately one third of the Pensioners’ monthly pension income.

***b) The Executive Plan is underfunded***

5. The Executive Plan is underfunded. Counsel to the Monitor has recently confirmed on July 13, 2009 that it is expected that the Executive Plan will be wound up. A wind up of the Executive Plan in its underfunded state will mean that the Pensioners will have their monthly pension benefits from this plan reduced by approximately 30-40%. This means that, combined with the termination of the supplemental pension benefits noted above, the Pensioners on average will be losing an estimated one-half and in some cases potentially *two-thirds* of the pension income to which they entitled from the Applicants.



6. Attached hereto and marked as **Exhibit "A"** is a copy of letter sent by Andrew Hatnay of our firm to counsel to Indalex and counsel to the Monitor dated June 26, 2009 referring to the underfunded Executive Plan and indicating that our clients reserve all rights to the deemed trust under section 57(4) of the Ontario *Pension Benefits Act* ("PBA") as well as the plan administrator's lien and charge in section 57(5). Section 57(4) states that amounts that an employer owes to a pension plan on its wind up are deemed to be held in trust by the employer. Section 57(5) states that the pension plan administrator (who will be an outside actuarial firm appointed by the Superintendent of Financial Services to carry out the wind up of the Executive Plan) has a lien and charge over amounts owing to a pension plan.

7. There was no response or objection received to this letter. Attached hereto as **Exhibit "B"** is a copy of section 57(5) and section 75 of the PBA. Section 75 requires an employer to pay into a pension that is being wound up all amounts that are owing to the pension plan.

8. I have reviewed the Monitor's 7<sup>th</sup> Report. There is no mention of the deemed trust, nor is the deemed trust factored into any of the distribution scenarios in Appendix C of the Report.

***The company owes \$3.2 million to the Executive Plan***

9. On July 2, 2009, on the motion by the company to approve the Auction Process and the SAPA bid as a "Qualifying Bid", Andrew Hatnay distributed a list of questions to counsel to the company, the Monitor and to this Honourable Court relating to the Executive Plan. By July 10, 2009, there were no responses received to those questions from the company nor the Monitor. On that date, Andrew Hatnay wrote to counsel to the company and the Monitor again requesting

the answers. Attached hereto and marked as **Exhibit "C"** is a copy of said letter attaching a list of questions and with additional questions.

10. One of the questions asks the company and Monitor for the current wind up liability of the Executive Plan. The question has not been answered. The company and the Monitor responded that the actuarial report for the Executive Plan as of January 1, 2008 should be referred to which indicates a wind up liability of \$2,996,400. That means that on the wind up of the Executive Plan as of January 2008, the employer would need to pay that amount into the plan in order for the plan to provide the promised benefits to the Pensioners. Attached hereto and marked as **Exhibit "D"** is a copy of a letter from the Monitor dated July 13, 2009. Attached hereto and marked as **Exhibit "E"** is a copy of an email note from counsel to the Applicants to Andrew Hatnay dated July 14, 2009 containing responses to further questions pertaining to the Executive Plan. Attached hereto and marked as **Exhibit "F"** is a copy of the actuarial report of for the Executive Plan as of January 1, 2008 prepared by Mercer (Canada) Limited.

11. The January 1, 2008 actuarial report is 1 ½ years out of date. As noted above, neither the company nor the Monitor responded to our requests for updated wind up figures.

12. Our firm therefore arranged for a review of the January 1, 2008 actuarial report to be done by Morneau Sobeco, a firm of actuaries who perform pension plan wind up work. Morneau Sobeco estimates that the current wind up liability of the Executive Plan has worsened since January 1, 2008 and is now \$3,200,000. Attached hereto as **Exhibit "G"** is a copy of their letter from Morneau Sobeco dated July 16, 2009.

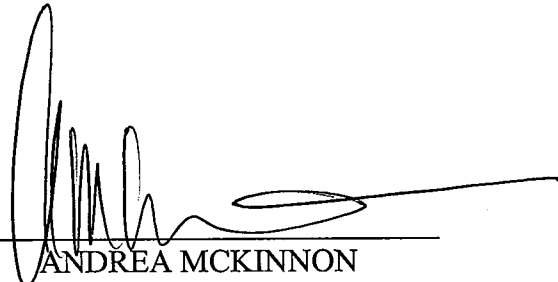
***The \$3.2 million owing to the Executive Plan is subject to a deemed trust***

13. The Pensioners will be scheduling a motion before this Honourable Court for, *inter alia*, a declaration that section 57(5) of the PBA applies and that the amount of \$3,200,000 is held in trust for the beneficiaries of the Executive Plan.

14. This affidavit is sworn for no improper purpose.

SWORN BEFORE ME at the City of  
Toronto, Province of Ontario on  
July 17, 2009.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits, etc.

  
\_\_\_\_\_  
ANDREA MCKINNON

# TAB A

This is Exhibit "A" referred to in the  
affidavit of Andrea McKinnon  
sworn to 17  
day of July 2009  
Melinda Dealy  
A COMMISSIONER FOR TAKING AFFIDAVITS

**KOSKIE  
MINSKY** LLP

BARRISTERS & SOLICITORS

June 26, 2009

**E-MAILED**

Andrew J. Hatnay  
Direct Dial: 416-595-2083  
Direct Fax: 416-204-2872  
ahatnay@kmlaw.ca

**Sent via Email**

Linc Rogers / Jackie Moher  
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199 Bay Street  
Suite 2800, Commerce Court West  
Toronto, ON M5L 1A9

Ashley Taylor  
Stikeman Elliott LLP  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON M5L 1B9

Dear Counsel:

- Re: In the Matter of the *Companies Creditors' Arrangement Act* (the "CCAA")  
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.  
("Indalex Canada" or the "company")**
- Re: The Supplementary Retirement Plan for the Executive Employees of Indalex  
Canada and Associated Companies, Registration Number 0455626 (the  
"Executive Plan")**
- Re: Our File No. 09/0776**

As you are know, we represent Keith Carruthers, Leon Kozierok, Max Degen, Bertram McBride, Eugene D'Iorio, Neil Fraser, Robert Leckie and Richard Smith who are retirees of Indalex or its predecessor companies. We are in the process of reviewing the company's motion record for the motion returnable on July 2, 2009 seeking approval of a proposed bidding procedure and deeming the Asset Purchase Agreement dated June 16, 2009 between Sapa Holding AB and the Applicants as a "Qualified Bid".

It appears to us that no provision has been made in that Asset Purchase Agreement nor elsewhere for any purchaser to take on responsibility for the Executive Plan, which is a registered pension plan with approximately 14 members and which is underfunded. Our clients are 8 of those members.

It also appears to us that there is no provision in that Asset Purchase Agreement nor elsewhere for a purchaser to take on responsibility for the Supplementary Pension Plan of which our clients are also members.

In the event the company does not adequately fund the Executive Plan or if it the Executive Plan will be wound-up in an underfunded state, please be advised that we will be asserting all rights under section 57(4) of the Ontario *Pension Benefits Act*, which states:

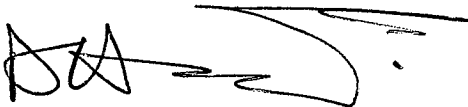
(4) Where a pension plan is wound-up in whole or in part, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind-up, but not yet due under the plan or regulations.

We will also rely on section 57(5) of the Ontario *Pension Benefits Act* which states:

(5) The administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under subsection subsections (1), (3) and (4).

Yours truly,

**KOSKIE MINSKY LLP**



Andrew J. Hatnay

AJH:jm

cc: Keith Carruthers  
Leon Kozierok  
Max Degen  
Bertram McBride  
Eugene D'Iorio  
Neil Fraser  
Dick Smith  
Robert Leckie  
Service List  
Mark Bailey, *Financial Services Commission of Ontario*

**TAB B**



This is Exhibit 11B referred to in the  
affid: Andrea McInnon  
sworn on, this 17  
day of July 20 09  
Michelle D. Long  
A COMMISSIONER FOR TAKING AFFIDAVITS

## Pension Benefits Act

R.S.O. 1990, CHAPTER P.8

### Trust property

...

### Wind up

57(4) Where a pension plan is wound up in whole or in part, an employer who is required to pay contributions to the pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to employer contributions accrued to the date of the wind up but not yet due under the plan or regulations.

### Lien and charge

(5) The administrator of the pension plan has a lien and charge on the assets of the employer in an amount equal to the amounts deemed to be held in trust under subsections (1), (3) and (4).

### Application of subss. (1, 3, 4)

(6) Subsections (1), (3) and (4) apply whether or not the money has been kept separate and apart from other money or property of the employer.

...

### Liability of employer on wind up

75. (1) Where a pension plan is wound up in whole or in part, the employer shall pay into the pension fund,

- (a) an amount equal to the total of all payments that, under this Act, the regulations and the pension plan, are due or that have accrued and that have not been paid into the pension fund; and
- (b) an amount equal to the amount by which,
  - (i) the value of the pension benefits under the pension plan that would be guaranteed by the Guarantee Fund under this Act and the regulations if the Superintendent declares that the Guarantee Fund applies to the pension plan,
  - (ii) the value of the pension benefits accrued with respect to employment in Ontario vested under the pension plan, and

(iii) the value of benefits accrued with respect to employment in Ontario resulting from the application of subsection 39 (3) (50 per cent rule) and section 74,

exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario. R.S.O. 1990, c. P.8, s. 75 (1); 1997, c. 28, s. 200.

**Payment**

(2) The employer shall pay the money due under subsection (1) in the prescribed manner and at the prescribed times. R.S.O. 1990, c. P.8, s. 75 (2).

**TAB C**

This is Exhibit "C" referred to in the  
affidavit of Andrea M. Cannon  
sworn to me, this 17  
day of July, 2001  
Melinda D. Zeeb  
A COMMISSIONER FOR TAKING AFFIDAVITS

**E-MAILED**

July 10, 2009

Andrew J. Hatnay  
Direct Dial: 416-595-2083  
Direct Fax: 416-204-2872  
ahatnay@kmlaw.ca

*Sent via Email*

Linc Rogers / Katherine McEachern / Jackie Moher  
Blake, Cassels & Graydon LLP  
199 Bay Street  
Suite 2800, Commerce Court West  
Toronto, ON M5L 1A9

Ashley Taylor  
Stikeman Elliott LLP  
5300 Commerce Court West  
199 Bay Street  
Toronto, ON M5L 1B9

Dear Counsel:

- Re: In the Matter of the *Companies Creditors' Arrangement Act* (the "CCAA")  
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.  
("Indalex Canada" or the "company")**
- Re: Supplementary Retirement Plan for Executive Employees of Indalex Canada  
and Associated Companies (the "Supplementary Plan")  
The Retirement Plan for the Executive Employees of Indalex Canada and  
Associated Companies, Registration Number 0455626 (the "Executive Plan")**
- Re: Our File No. 09/0776**

We are writing further to our attendance in court on July 2, 2009. At that attendance, as you will recall, we raised a number of questions with the Court pertaining to the company's disregard for the underfunded Executive Plan as well as the Supplementary Plan in the context of the on-going sale process by the company to sell all of its assets.

As you know, we objected to the motion by the company to approve an auction process and to approve the SAPA transaction as a "Qualifying Bid" under that auction process on the basis that the interests of the retirees are being ignored and that the company is proceeding down a path where the Executive Plan will be wound up in an underfunded state and the retirees' pension benefits reduced by approximately 30-40%, by our estimation. This reduction will be in addition to the losses already incurred by our clients due to the company's termination of payment of their supplemental pension benefits after it obtained CCAA protection.

In the course of our submissions to the court, we handed up a list of questions to His Honour and to each of you inquiring about the company's proposed treatment of the Executive Plan and the Supplementary Plan (copy attached) and which information is not contained in the Monitor's Reports nor in any of the material before the court that we are aware. We requested that the Court direct the company or the Monitor to answer those questions. His Honour stated that as the questions are before the company and the Monitor, His Honour expects that they be answered.

To date we have not received any responses to those questions. Please provide the responses as soon as possible.

In addition, we have the following questions:

1. What is the expected reduction to the retirees' pension and benefits on a wind-up of the Executive Plan?
2. We understand that the company has stopped making required special payments to the Executive Plan while it is under CCAA protection. What is the amount of the special payments owing to the plan to date?
3. Are all current service contributions owing to the plan by the company up to date? If not, how much is owing?
4. What is the current wind-up liability for the Executive Plan?

Given the lack of information provided to the Court and us regarding the company's intentions with regard to the Executive Plan and Supplementary Plan, and unless we hear differently from you, it is clear that the company has abdicated its responsibility for the administration for the pension plans. If the sale of the company's assets is concluded as the company intends, it will leave behind an inactive company without functional assets. The abandoned and underfunded pension plans will by necessity need to be wound up.

If that occurs it will further necessitate the appointment of an outside administrator by the Ontario Superintendent of Financial Services who in turn may apply for an allocation to the Executive Plan from the Ontario *Pension Benefits Guarantee Fund* which, even if made and it is not certain in the current environment that it will, would not be sufficient to restore retirees' benefits to the promised levels.

As we believe you are aware, the company owes a fiduciary duty to all the members of the Executive Plan, as well as to the members of the Supplementary Plan. The interests of the retirees in the Executive Pension Plan are being disregarded by the company. Instead, the company is proceeding on a course to sell all of its assets without making any provision or protection for the retirees in the underfunded Executive Plan, nor any provision for the proper funding of the Executive Plan. In so doing, the company is not acting in the best interest of the retirees and is in breach of its fiduciary duty.

At the attendance in court on July 2, 2009, we opposed the sales process as well as the transaction with SAPA on the basis that the transaction does not contemplate the purchaser taking on the Executive Plan nor the Supplementary Plan. Please be advised that we continue to maintain our objection to the SAPA transaction on that basis. We intend to oppose approval of the SAPA transaction or any other transaction that does not adequately protect the retirees' pension benefits and will do so in court on the return of the company's motion to seek approval of a sale on July 20, 2009.

Unless the retirees' interests are adequately taken into account and protected, it remains our position that the sale process does not conform to at least two components of the *Soundair* test, that is, that the transaction does not take into account the interests of the retirees, and second, that the sales process is unfair in that it, among other things, countenances the company's breach of its fiduciary duty to the retirees.

Please provide the responses to the questions in the attached list as well as the additional questions noted above as soon as possible.

We look forward to hearing from you.

Yours truly,

**KOSKIE MINSKY LLP**



Andrew J. Hatnay  
AJH/jm  
Enclosures

cc: Keith Carruthers  
Leon Kozierok  
Max Degen  
Bertram McBride  
Eugene D'Iorio  
Neil Fraser  
Dick Smith  
Robert Leckie  
cc: Andrea McKinnon, *Koskie Minsky LLP*  
Service List  
Mark Bailey, Financial Services Commission of Ontario  
K:\2009\090776\Correspondence\Sent\Letter to Counsel - July 8, 2009.doc



**Questions for Monitor and Company  
Re: Executive Plan and Supplementary Pension Plan**

**Re: Indalex Limited CCAA  
Court File No. CV-09-8122-00CL  
July 2, 2009**

1. What efforts were pursued with the purchaser for the purchaser to take the Executive Plan and Supplementary Plan?
2. Did any potential purchaser express a willingness to take the Executive Plan and Supplementary Plan?
3. What is the company's intention with respect to the Executive Plan and Supplementary Plan?
4. What steps did the Company and Monitor take to look after the Executive Plan and Supplementary Plan?
5. Were the purchasers informed of the existence of the Executive Plan and Supplementary Plan?
6. What is the recommendation of the Monitor to the Court regarding the Executive Plan and Supplementary Plan?
7. What is the current funded status of the Executive Plan and Supplementary Plan?

**TAB D**

This is Exhibit "D" referred to in the  
affidavit of Andrea Mykinner  
sworn before me, this 17  
day of July 2007  
M. J. [Signature]  
A COMMISSIONER FOR TAKING AFFIDAVITS

## STIKEMAN ELLIOTT

Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, Canada M5L 1B9  
Tel: (416) 869-5500 Fax: (416) 947-0866 www.stikeman.com

Direct: (416) 869-5236  
E-mail: ataylor@stikeman.com

**BY EMAIL**

July 13, 2009  
File No.: 1096791002

Mr. Andrew J. Hatnay  
Koskie Minsky LLP  
20 Queen Street West,  
Suite 900  
Toronto, Ontario  
M5H 3R3

Dear Andrew:

Re: Indalex Limited, Indalex Holdings (B.C.) Ltd., 6326765 Canada Inc. and  
Novar Inc. ("Indalex"); Court File No. CV-09-8122-00CL

This letter is written in response to the Questions for Monitor and Company Re: Executive Plan and Supplementary Pension Plan you gave to counsel to Indalex and counsel to the Monitor on July 2, 2009. We have received responses from Indalex to each of your questions other than question 6, which was addressed to the Monitor. The responses are set forth below following each of your questions.

**1. What efforts were pursued with the purchaser for the purchaser to take the Executive Plan and Supplementary Plan?**

The Stalking Horse Asset Purchase Agreement was negotiated with a view to maximizing monetary recovery for Indalex's stakeholders, minimizing closing risks associated with the transaction and ensuring stable, continued employment for Indalex's current workforce. The Stalking Horse Bidder maintained consistently throughout the course of negotiations with Indalex that it was only prepared to accept certain liabilities arising prior to the closing date relating to employees who were being offered employment by the Stalking Horse Bidder.

The Stalking Horse Bidder expressed no interest in assuming the Retirement Plan for the Executive Employees of Indalex Canada and Associated Companies (the "Executive Plan") or the Supplementary Retirement Plan for Executive Employees of Indalex Canada and Associated Companies (the "Supplementary Plan") or otherwise paying direct consideration to any creditor of Indalex that would not have a continuing business or employment relationship with the Stalking Horse Bidder.

TORONTO

MONTREAL

OTTAWA

CALGARY

VANCOUVER

NEW YORK

LONDON

SYDNEY

**2. Did any potential purchaser express a willingness to take the Executive Plan and Supplementary Plan?**

No other potential bidder expressed any willingness to assume the Executive Plan or the Supplementary Plan or assume any liabilities relating to current or former employees who would not be offered employment with the bidder.

**3. What is the company's intention with respect to the Executive Plan and Supplementary Plan?**

Indalex's focus has been on maintaining its post-filing obligations and securing a viable going concern solution for its business. As is evident from the court material filed to date, Indalex has not made any recommendations to the Court with respect to the wind-down of its estate following the sale of its assets and business to a Successful Bidder.

Following the completion of the asset sale, there will no longer be any active members of the Executive Plan. As discussed at the July 2, 2009 Court hearing, it is unlikely that any bidder will elect to absorb obligations owing by Indalex that provides no corresponding benefit to such bidder. Accordingly, it is expected that the Executive Plan will be fully wound up in accordance with the requirements of the *Pension Benefits Act* (Ontario). All unsecured claims, including those arising from the wind up of the Executive Plan and in connection with the Supplementary Plan, will be dealt with in accordance with applicable law.

**4. What steps did the Company and Monitor take to look after the Executive Plan and Supplementary Plan?**

Indalex has continued to make all required current service contributions to the Executive Plan. Contrary to Mr. Hatnay's statement in Court, Indalex made all required special payments to the Executive Plan prior to filing, and no requirement to make special payments has arisen or is currently outstanding since the commencement of these proceedings. Indalex is therefore not in default with respect to special payments to the Executive Plan. The Supplementary Plan has been dealt with in accordance with the terms of the Amended Amended and Restated Initial Order.

**5. Were the purchasers informed of the existence of the Executive Plan and Supplementary Plan?**

Both the Executive Plan and the Supplementary Plan were posted in the electronic data room made available for bidders in connection with their due diligence.

6. **What is the recommendation of the Monitor to the Court regarding the Executive Plan and Supplementary Plan?**

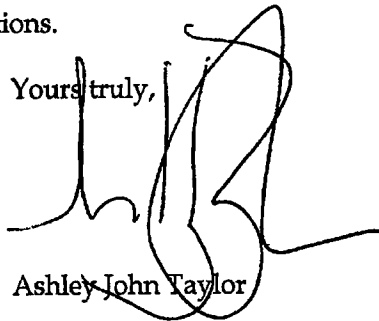
The Monitor has been informed that Indalex has made all required current service contributions and special payments with respect to the Executive Plan. The Monitor understands that a restructuring of Indalex is not feasible and that the best remaining alternative is to sell the business of Indalex as a going concern. The Monitor further understands that no bidders expressed any interest in assuming the Executive Plan or the Supplementary Plan. The only other available alternative appears to be a liquidation of Indalex. In neither scenario would the Executive Plan or the Supplementary Plan continue. Therefore, in the circumstances, it is unnecessary for the Monitor to make a recommendation with respect to the plan.

7. **What is the current funded status of the Executive Plan and Supplementary Plan?**

The most recently determined funded status of the Executive Plan (i.e., as at January 1, 2008) is as set out in the affidavit of Timothy Stubbs sworn April 3, 2009 (the "Stubbs Affidavit"). We understand Mr. Hatnay has a copy of the Stubbs Affidavit. The Supplementary Plan is an unfunded and unsecured arrangement.

Please call me if you have any questions.

Yours truly,

A handwritten signature in black ink, appearing to read "Ashley John Taylor". The signature is stylized and somewhat cursive, with a large loop at the end.

Ashley John Taylor

cc: Nigel Meakin and Toni Vanderlaan, *FTI Consulting Canada ULC*  
Lesley Mercer, *Stikeman Elliott LLP*  
Linc Rogers, Katherine McEachern and Jackie Moher, *Blake, Cassels & Graydon LLP*  
Tushara Weerasooriya, *McMillan LLP*  
Ken Kraft and John Salmas, *Heenan Blaikie LLP*

# **TAB E**

This is Exhibit "E" referred to in the  
affidavit of Andrew Miknam  
signed before me, this 17  
day of July 2007  
Melinda D. Ford  
COMMISSIONER FOR TAKING AFFIDAVITS



**Andrew J. Hatnay**

---

**From:** ROGERS, LINC [LINC.ROGERS@blakes.com]  
**Sent:** July 14, 2009 2:42 PM  
**To:** Andrew J. Hatnay  
**Cc:** Ashley Taylor; Vanderlaan, Toni; nigel.meakin@fticonsulting.com; MCEACHERN, KATHERINE; MOHER, JACKIE; SOMMERS, JEFF  
**Subject:** Response to A. Hatnay

Andrew -

Please see attached answers to your subsequent questions.

Kind regards,  
Linc

---

**Blake, Cassels & Graydon LLP**  
Barristers & Solicitors  
Patent & Trade-mark Agents  
199 Bay Street  
Suite 2800, Commerce Court West  
Toronto ON M5L 1A9 Canada  
Tel: 416-863-2400 Fax: 416-863-2653  
[blakes.com](http://blakes.com)

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14/07/2009

**RESPONSES TO A. HATNAY**

1. **What is the expected reduction to the retirees' pension and benefits on a wind-up of the Executive Plan?**

As you know, any reduction of pension and benefits will depend on the funded status of the plan. As you know, such determination cannot be made until after a plan is terminated.

2. **We understand that the company has stopped making required special payments to the Executive Plan while it is under CCAA protection. What is the amount of the special payments owing to the plan to date?**

Your understanding is incorrect. Indalex made all required special payments prior to commencement of the CCAA proceedings. No special payments have become due since the proceedings have commenced.

3. **Are all current service contributions owing to the plan by the company up to date? If not, how much is owing?**

All current service contributions to the Executive Plan are up-to-date.

4. **What is the current wind-up liability for the Executive Plan?**

The most recent actuarial valuation prepared in respect of the Executive Plan is effective as of January 1, 2008. A copy of this report was previously provided to you. No more recent estimate of the wind-up liability of the Executive Plan has been determined since the estimate set out in the January 1, 2008 report.

**Clarification**

With respect to our answer to Question 1 of the Questions provided by you on July 2, 2009, for clarity, we should note one technical exception to the answer provided. Section 2.5 of the APA provides that certain obligations are to be assumed by the Stalking Horse Bidder. The obligations set out in Section 2.5(e) include certain priority accruals relating to current employees, such as vacation pay. These accruals would be payable in respect of current employees whether or not their employment is continued with the Stalking Horse Bidder. The Stalking Horse Bidder, however, is assuming all collective agreements and extending employment offers to substantially all Indalex employees. As already noted, the Stalking Horse Bidder was clear that it would not assume any severance, termination or pension benefit obligations to non-transferred employees or any other obligation not specifically agreed to.

**TAB F**

This to Exhibit 11 P 11 referred to in the  
a: Andrea McCannan  
s. re me, this 17  
day of July 20 09  
Michelle S. [Signature]  
A COMMISSIONER FOR TAKING AFFIDAVITS

September 2008

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

Report on the Actuarial Valuation for  
Funding Purposes as at January 1, 2008

## **MERCER**

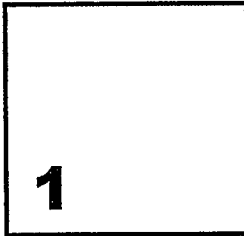


MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN

**Consulting. Outsourcing. Investments.**

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## Summary of Results

<b>Going-Concern Financial Position</b>	<b>01.01.2008</b>	<b>01.01.2005</b>
Actuarial value of assets	\$4,837,300	\$7,190,500
Actuarial liability	\$7,372,400	\$8,812,500
Funding excess (funding shortfall)	(\$2,535,100)	(\$1,622,000)
 <b>Solvency Financial Position</b>	 <b>01.01.2008</b>	 <b>01.01.2005</b>
Solvency assets	\$4,772,300	\$7,115,500
Adjusted solvency assets	\$6,685,900	\$7,830,700
Solvency liability	\$7,768,700	\$9,917,000
Solvency excess (deficiency)	(\$1,082,800)	(\$2,086,300)
Transfer ratio	61%	72%
 <b>Wind-Up Financial Position</b>	 <b>01.01.2008</b>	 <b>01.01.2005</b>
Market value of assets (net of termination expenses)	\$4,772,300	\$7,115,500
Total wind-up liability	\$7,768,700	\$9,917,000
Wind-up excess (deficiency)	(\$2,996,400)	(\$2,801,500)
 <b>Maximum Funding Valuation Results</b>	 <b>01.01.2008</b>	 <b>01.01.2005</b>
Actuarial value of assets	\$4,837,300	\$7,190,500
Actuarial liability	\$5,716,300	\$7,699,300
Funding excess (unfunded liability)	(\$879,000)	(\$508,800)

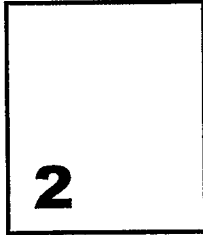
## **Summary of Results**

---

<b>Estimated Minimum and Maximum Annual Contribution Requirements</b>	<b>Minimum</b>	<b>Maximum</b>
2008	\$897,000	\$897,000
2009	\$18,000	\$18,000
2010	\$18,000	\$18,000

---





## **Introduction**

### **Report on the Actuarial Valuation as at January 1, 2008**

#### ***To Indalex Limited***

At the request of Indalex Limited (the "Company"), we have conducted an actuarial valuation of the Retirement Plan for the Executive Employees of Indalex Limited and Associated Companies as at January 1, 2008. We are pleased to present the results of the valuation.

The purpose of this valuation is to:

- determine the funded status of the plan as at January 1, 2008 on going-concern, solvency, and maximum funding valuation bases; and,
- determine the funding requirements from January 1, 2008.

Although the transfer ratio of this plan is less than 80%, since this plan is a designated plan, the next actuarial valuation will be required as at a date not later than January 1, 2011 or as at the date of an earlier amendment to the plan, in accordance with the minimum requirements of the *Ontario Pension Benefits Act*.

The minimum contribution that Indalex Limited has to make to the plan in 2008, 2009 and 2010 are estimated to be \$897,000, \$18,000 and \$18,000 respectively. As a result of the restrictions imposed by the Income Tax Act on designated plans, these are also the estimated maximum permissible contributions to the plan. Additional details are provided in Section 6 of this report.

The minimum contribution requirements based on this report exceed the minimum contribution requirements recommended in the previous actuarial valuation. Upon filing this report, Indalex Limited must contribute the excess, if any, of the contributions

recommended in this report over contributions actually made in respect of the period following January 1, 2008. This contribution, along with an allowance for interest, is due no later than 60 days following the date this report is filed.

The plan is not fully funded on a wind-up basis. Even if Indalex Limited contributes in accordance with the funding requirements described in this valuation report, the assets of the plan may be less than the liabilities of the plan upon wind-up. Emerging experience, including the growth of wind-up liabilities compared to the plan's assets (including future contributions and investment returns), will also affect the wind-up funded position of the plan.

At the time of the last filed valuation as at January 1, 2005, the plan had two participating employers, namely, Indal Technologies Inc ("ITI") and Indalex Limited. A partial wind-up of the plan was declared effective March 1, 2005 in respect of all current and former ITI employees. This partial wind-up was approved by the Financial Services Commission of Ontario ("FSCO"), and all the benefits of the affected members were settled, in 2006.

This valuation reflects the provisions of the plan as at January 1, 2008. The plan was amended effective September 1, 2005 to close the plan to new entrants. A summary of the plan provisions is provided in Appendix D.

The going-concern valuation assumptions have been updated to reflect market conditions at the valuation date. These assumption changes increased the liabilities by \$873,600 and the employer current service cost by \$4,000 and are described in more detail in Appendix B.

Currently, there is no allowance for administrative expense in the investment return assumption on a going concern basis, nor is there any explicit loading to the going-concern normal cost. Including a provision for administrative expense would worsen the financial position of the plan; however, this would not have any impact on the contribution requirement due to the funding restrictions applicable to designated plans.

The solvency and wind-up assumptions have also been updated to reflect market conditions at the valuation date.

The assumptions used for purposes of this valuation are described in Appendix B. All assumptions made for the purposes of the valuation were reasonable at the time the valuation was prepared.

A new Canadian Institute of Actuaries Standard of Practice for Determining Pension Commuted Values ("CIA Standard") became effective on February 1, 2005. The new CIA Standard changes the assumptions to be used to value the solvency and wind-up liabilities for benefits assumed to be settled through a lump sum transfer and for other benefits for which this basis has been used as a proxy to the cost of purchasing annuities. The financial impact of the new CIA Standard has been reflected in this actuarial valuation.

This report has been prepared on the assumption that all of the assets in the pension fund are available to meet all of the claims on the pension plan. We are not in a position to assess the impact that the Ontario Court of Appeal's decision in *Aegon Canada Inc. and Transamerica Life Canada versus ING Canada Inc.* or similar decisions in other jurisdictions might have on the validity of this assumption.

On July 29, 2004, the Supreme Court of Canada dismissed the appeal in *Monsanto Canada Inc. versus Superintendent of Financial Services* ("Monsanto"), thereby upholding the requirement to distribute surplus on partial plan wind-ups under The Pension Benefits Act (Ontario). The decision has retroactive application. We are unaware of any partial plan wind-up having been declared in respect of the plan where Monsanto may apply. In preparing this actuarial valuation, we have assumed that all plan assets are available to cover the plan liabilities presented in this report. The subsequent declaration of a partial wind-up of the plan where Monsanto may apply in respect of a past event, or disclosure of an existing past partial wind-up, could cause an additional claim on plan assets, the consequences of which would be addressed in a subsequent report. We note the discretionary nature of the power of the regulatory authorities to declare partial wind-ups and the lack of clarity with respect to the retroactive scope of that power. We are making no representation as to whether the regulatory authorities might declare a partial wind-up in respect of other events in the plan's history.

Since the valuation date there have been some fluctuations in the financial markets and movements in long term interest rates. We have reflected the financial position of the plan as of the valuation date (i.e. January 1, 2008) and have not taken into account any experience after the valuation date. After checking with representatives of Indalex Limited, to the best of our knowledge, there have been no other events subsequent to the valuation date which, in our opinion, would have a material impact on the results of the valuation.

This report has been prepared, and our opinions given, in accordance with accepted actuarial practice. It has also been prepared in accordance with the funding and solvency standards set by the Pension Benefits Act (Ontario) and in accordance with the *Income Tax Act*.

The information contained in this report was prepared for Indalex Limited for its internal use and for filing with the Financial Services Commission of Ontario ("FSCO") and with the Canada Revenue Agency ("CRA"), in connection with our actuarial valuation of the plan. This report is not intended or necessarily suitable for other purposes.

This report will be filed with FSCO and CRA.

Respectfully submitted,



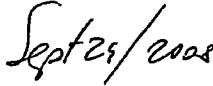
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Hrvoje Lakota  
Fellow of the Society of Actuaries  
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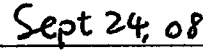
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Wendy W.Y. Lo  
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Fellow of the Canadian Institute of Actuaries



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Date

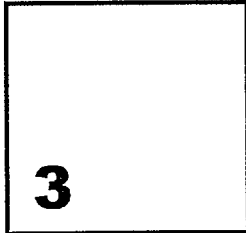


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Date

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

Registration number with the Financial Services Commission of Ontario and with the Canada  
Revenue Agency: 0455626



## Financial Position of the Plan

### Valuation Results — Going-Concern Basis

When conducting a valuation on a going-concern basis, we determine the relationship between the respective values of assets and accumulated benefits, assuming the plan will be maintained indefinitely.

#### Financial Position

The results of the valuation as at January 1, 2008, in comparison with those of the previous valuation as at January 1, 2005, are summarised as follows:

#### Financial Position — Going-Concern Basis

	01.01.2008	01.01.2005
Market value of assets	\$4,837,300	\$7,190,500
Actuarial liability		
Present value of accrued benefits for:		
▪ Active members	\$521,200	\$2,573,600
▪ Transferred members with frozen service	\$44,800	\$889,800
▪ Deferred pensioners	\$812,300	\$410,400
▪ Pensioners and beneficiaries	\$5,994,100	\$4,938,700
Total liability	\$7,372,400	\$8,812,500
Funding excess (shortfall) (A)	(\$2,535,100)	(\$1,622,000)
Present value of existing going-concern unfunded liability special payments (B)	\$1,258,300	\$0
Going-concern unfunded liability created at this valuation = max[0, -(A + B)]	\$1,276,800	\$1,622,000

**Reconciliation of Financial Position**

The plan's financial position, a funding shortfall of \$2,535,100 as at January 1, 2008, is reconciled with its previous position, a funding shortfall of \$1,622,000 as at January 1, 2005, as follows:

**Reconciliation of Financial Position**

Funding excess (shortfall) as at 01.01.2005		(\$1,622,000)
Interest on funding excess (shortfall) at 6.00% per year to 01.01.2008		(\$309,800)
Impact of the plan's partial wind-up at March 1, 2005		
▪ Gain/(Loss) at the time of partial wind-up	(\$312,800)	
▪ Experience between the partial wind-up date and the date of settlement	\$600	
	<u>(\$312,200)</u>	(\$312,200)
Employer contributions		
▪ Employer contributions to fully fund the deficiency of the partial wind-up at March 1, 2005	\$417,400	
▪ Other special payments	\$533,800	
▪ Impact of maximum contribution limits for designated plans	<u>(\$18,700)</u>	
	\$932,500	\$932,500
Net investment return less than expected		(\$12,500)
Impact of changes in actuarial assumptions		(\$873,600)
Demographic experience		
▪ Mortality experience	\$282,400	
▪ Termination experience	(\$196,600)	
▪ Retirement experience	<u>(\$76,300)</u>	
	\$9,500	\$9,500
Data Corrections and impact of other elements of gains and losses		(\$347,000)
Funding excess (shortfall) as at 01.01.2008		<u>(\$2,535,100)</u>

## Valuation Results — Solvency Basis

When conducting a solvency valuation, we determine the relationship between the respective values of the plan's assets and its liabilities on a solvency basis, determined in accordance with the *Ontario Pension Benefits Act*. The values of the plan's assets and liabilities on a solvency basis are related to the corresponding values calculated as though the plan were wound up and settled on the valuation date.

The solvency liabilities do not include any value for potential benefits related to projected earning increases following the valuation date. This is consistent with the assumption that the employment of all active members terminated on the valuation date. We have included the value of all other benefits that may be recognized upon the circumstances of the postulated plan wind-up.

### Financial Position on a Solvency Basis

The plan's solvency position as at January 1, 2008, in comparison with that of the previous valuation as at January 1, 2005, is determined as follows:

<b>Solvency Position</b>		
	<b>01.01.2008</b>	<b>01.01.2005</b>
Market value of assets	\$4,837,300	\$7,190,500
Termination expense provision	(\$65,000)	(\$75,000)
Solvency assets (1)	\$4,772,300	\$7,115,500
Present value of special payments for the next 5 years	\$1,913,600	\$715,200
Adjusted solvency assets	\$6,685,900	\$7,830,700
Actuarial liability		
Present value of accrued benefits for:		
▪ Active members	\$563,600	\$2,980,000
▪ Transferred members with frozen service	\$41,900	\$1,066,900
▪ Deferred pensioners	\$847,500	\$456,500
▪ Pensioners and beneficiaries	\$6,315,700	\$5,413,600
Solvency Liabilities (2)	\$7,768,700	\$9,917,000
Solvency excess (deficiency) created as at the valuation date	(\$1,082,800)	(\$2,086,300)
Transfer ratio = (1) ÷ (2)	61%	72%

### ***Payment of Benefits***

Since the transfer ratio is less than one, the plan administrator should ensure that the monthly special payments are sufficient to meet the requirements of the *Ontario Pension Benefits Act* to allow for the full payment of benefits. Otherwise, the plan administrator should take the actions prescribed by the *Act*.

### ***Financial Position on a Wind-Up Basis***

The plan's hypothetical wind-up position as of January 1, 2008, in comparison with that of the previous valuation as at January 1, 2005, assuming circumstances producing the maximum wind-up liabilities on the valuation date, is determined as follows:

<b>Wind-Up Position</b>		
	<b>01.01.2008</b>	<b>01.01.2005</b>
Market value of assets	\$4,837,300	\$7,190,500
Termination expense provision	(\$65,000)	(\$75,000)
Wind-up assets	\$4,772,300	\$7,115,500
Present value of accrued benefits for:		
▪ Active members	\$563,600	\$2,980,000
▪ Transferred members with frozen service	\$41,900	\$1,066,900
▪ Deferred pensioners	\$847,500	\$456,500
▪ Pensioners and beneficiaries	\$6,315,700	\$5,413,600
Total wind-up liability	\$7,768,700	\$9,917,000
Wind-up excess (deficiency)	(\$2,996,400)	(\$2,801,500)

### ***Impact of plan Wind Up***

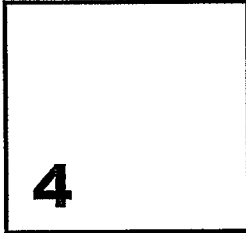
In our opinion, the value of the plan's assets would be less than its actuarial liabilities if the plan were to be wound up on the valuation date.

Specifically, actuarial liabilities would exceed the market value of plan assets by \$2,996,400. This calculation includes a provision for termination expenses that might be payable from the pension fund.

### ***Pension Benefits Guarantee Fund (PBGF) Assessment***

Since this plan is a designated plan under the *Income Tax Act*, no PBGF assessment is payable.





## **Funding Requirements**

### **Current Service Cost – Going-Concern Basis**

The estimated value of the benefits that will accrue on behalf of the active and disabled members during 2008, in comparison with the corresponding value determined in the previous valuation as at January 1, 2005, is summarised below:

#### **Employer's Current Service Cost for 2008**

	2008	2005
Total current service cost (per annum)	\$28,800	\$131,000
Estimated pensionable earnings	\$115,000	\$1,468,200
Employer's current service cost expressed as a percentage of members' pensionable earnings	25.0%	8.9%

An analysis of the changes in the employer's current service cost follows:

#### **Changes in Employer's Current Service Cost**

Employer's current service cost as at 01.01.2005	8.9%
Demographic changes	12.7%
Changes in assumptions and methods	3.4%
Employer's current service cost as at 01.01.2008	25.0%

## Special Payments

### Going-Concern Basis

Before considering the maximum funding restrictions imposed by the *Income Tax Act*, the present value of the unfunded liability monthly special payment determined in the previous valuation, is as follows:

**Present Value of Monthly Special Payments  
Determined as at January 1, 2005**

Type of Deficit	Effective Date	Current Special Payment	Last Payment	Present Value of Remaining Payments as at Jan 1, 2008
Unfunded liability	January 1, 2005	\$11,508	December 31, 2019	\$1,258,300
Total		\$11,508		\$1,258,300

Due to the experience loss arising since the previous valuation, a new going-concern unfunded liability of \$1,276,800 was created as at January 1, 2008.

In accordance with the *Ontario Pension Benefits Act*, this going-concern unfunded liability should be amortized over a period not exceeding 15 years. As such, before taking into account the maximum funding restrictions imposed by the *Income Tax Act*, special payments should be increased by \$9,960 per month, until December 31, 2022 to amortize this going-concern unfunded liability.

### Solvency Basis

In accordance with the *Ontario Pension Benefits Act*, each solvency deficiency should be eliminated by special payments within five years of the respective effective date. Before considering the maximum funding restriction imposed by the *Income Tax Act*, the present values as at January 1, 2008 of the special payments established to eliminate the solvency deficiencies are as follows:

**Present Value of Existing Monthly Special Payments**

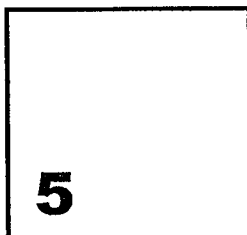
Type of Deficit	Effective Date	Special Payment	Last Payment	Present Value of Remaining Payments as at Jan 1, 2008
Unfunded liability	January 1, 2005	\$11,508	December 31, 2019	\$623,000
Unfunded liability	January 1, 2008	\$9,960	December 31, 2022	\$539,300
Solvency deficiency	January 1, 2005	\$32,667	December 31, 2009	\$751,300
Total		\$54,135		\$1,913,600

Since there is a new solvency deficiency created as at January 1, 2008, before considering the maximum funding restriction imposed by the *Income Tax Act*, the *Ontario Pension Benefits Act* would require special payments to be increased by \$20,001 per month until December 31, 2012 to eliminate this new solvency deficiency.

### **Total Special Payments**

Before considering the maximum funding restrictions imposed by the *Income Tax Act*, the following table summarizes the minimum monthly special payments that would have to be made to the plan to eliminate the going-concern unfunded liability and the solvency deficiency as at January 1, 2008, within the periods prescribed by the *Ontario Pension Benefits Act*.

<b>Minimum Monthly Special Payments</b>			
<b>Type of Deficit</b>	<b>Effective Date</b>	<b>Special Payment</b>	<b>Last Payment</b>
Unfunded liability	January 1, 2005	\$11,508	December 31, 2019
Unfunded liability	January 1, 2008	\$9,960	December 31, 2022
Solvency deficiency	January 1, 2005	\$32,667	December 31, 2009
Solvency deficiency	January 1, 2008	\$20,001	December 31, 2012
Total		\$74,136	



## Maximum Funding Valuation

This plan is a designated plan under the *Income Tax Act*. For a designated plan, the *Income Tax Act* imposes an additional restriction on the maximum permissible tax-deductible contribution that can be made. The assumptions and methodology used to determine the plan liabilities and current service cost under this maximum funding valuation basis are prescribed in Section 8515 of the Income Tax Regulations.

## Financial Position

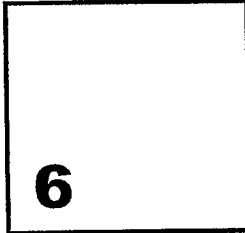
The results of the maximum funding valuation as at January 1, 2008, in comparison with those of the previous valuation as at January 1, 2005, are summarised below:

	<b>01.01.2008</b>	<b>01.01.2005</b>
Actuarial value of assets	\$4,837,300	\$7,190,500
Actuarial liability		
Present value of accrued benefits for:		
▪ Active members	\$325,900	\$2,221,200
▪ Transferred members with frozen service	\$17,100	\$622,600
▪ Deferred pensioners	\$607,800	\$417,600
▪ Pensioners and beneficiaries	\$4,765,500	\$4,437,900
Total liability	\$5,716,300	\$7,699,300
Funding excess (unfunded liability)	(\$879,000)	(\$508,800)

## **Current Service Cost**

On a maximum funding valuation basis, the annualized current service cost of the plan in 2008 is \$18,000, or 15.7% of the members' estimated pensionable earnings. The 2008 current service cost on a maximum funding valuation basis, in comparison with the corresponding values determined in the previous valuation as at January 1, 2005, is as follows:

	<b>2008</b>	<b>2005</b>
Total current service cost (annualized)	\$18,000	\$112,100
Monthly current service cost	\$1,500	\$9,342
Estimated pensionable earnings during the year	\$115,000	\$1,468,200
Employer's current service cost expressed as a percentage of members' pensionable earnings	15.7%	7.6%



### **Minimum and Maximum Employer Contributions**

Since this plan is a designated plan, special rules for designated plans prescribed in Section 8515 of Regulations to the *Income Tax Act* impose restrictions on the maximum tax-deductible contributions that can be made to the plan. Effectively, the maximum tax-deductible contribution that can be made to the plan is limited to the sum of the current service cost and the funding deficiency based on the maximum funding valuation results outlined in Section 5 of this report.

Taking into account these restrictions, the minimum and maximum required contributions to the plan are as described on the following pages.

## Minimum and Maximum Contributions

The current service cost on the maximum funding valuation basis is less than on a going-concern basis, and the plan has a smaller deficiency on a maximum funding valuation basis than on either the going-concern or the solvency basis. As a result, the maximum tax-deductible contributions allowed under the *Income Tax Act* are as follows:

### Indalex Limited – Maximum Employer Contributions

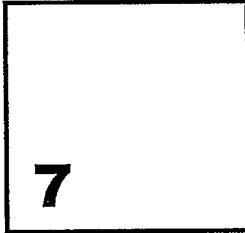
Current service cost: 15.7% of members' pensionable earnings
Special payments for unfunded liability and solvency: A total contribution of \$879,000 (i.e. the maximum funding valuation deficiency).

As such, the estimated minimum required and maximum permitted annual contributions over the next three years are outlined in the following table:

		Minimum Employer Contribution	Maximum Employer Contribution
	Current service cost*	\$18,000	\$18,000
2008	Special payments	<u>879,000</u>	<u>879,000</u>
	Total	\$897,000	\$897,000
	Current service cost*	\$18,000	\$18,000
2009	Special payments	<u>0</u>	<u>0</u>
	Total	\$18,000	\$18,000
	Current service cost*	\$18,000	\$18,000
2010	Special payments	<u>0</u>	<u>0</u>
	Total	\$18,000	\$18,000

\* The only member accruing benefits under the plan is on disability. Therefore the current service cost is projected to remain at the same level.

The minimum contribution requirements based on this report exceed the minimum contribution requirements recommended in the previous actuarial valuation. Upon filing this report, Indalex Limited must contribute the excess, if any, of the contributions recommended in this report over contributions actually made in respect of the period following January 1, 2008. This contribution, along with an allowance for interest, is due no later than 60 days following the date this report is filed.



## **Actuarial Opinion**

**With respect to the Actuarial Valuation as at January 1, 2008  
of the Retirement Plan for the Executive Employees of Indalex  
Limited and Associated Companies  
Financial Services Commission of Ontario Registration No. 0455626  
Canada Revenue Agency Registration No. 0455626**

Based on the results of this valuation, we hereby certify that, as at January 1, 2008,

- On a going-concern basis, Employer's current service cost for 2008 and subsequent years, up to the next actuarial valuation should be calculated as 25.0% of the members' pensionable earnings.
- On a going-concern basis, Employer's current service cost for 2008 is estimated to be \$28,800.
- The plan would be fully funded on a going-concern basis if its assets were augmented by \$2,535,100. If this was not a designated plan, in order to comply with the *Ontario Pension Benefits Act* the unfunded liability would have to be liquidated at least equal to the amounts indicated, and for the periods set forth, below:

### **Monthly Unfunded Liability Special Payments**

<b>Type of Deficit</b>	<b>Effective Date</b>	<b>Special Payment</b>	<b>Last Payment</b>
Unfunded liability	January 1, 2005	\$11,508	December 31, 2019
Unfunded liability	January 1, 2008	\$9,960	December 31, 2022
Total		\$21,468	



- The plan would be fully funded on a solvency basis if its assets were augmented by \$2,996,400. If this was not a designated plan, in order to comply with the *Ontario Pension Benefits Act*, the solvency deficiency would have to be liquidated by monthly special payments at least equal to the amounts indicated, and for the periods set forth, below:

**Monthly Solvency Special Payments**

Type of Deficit	Effective Date	Special Payment	Last Payment
Unfunded liability	January 1, 2005	\$11,508	December 31, 2019
Unfunded liability	January 1, 2008	\$9,960	December 31, 2022
Solvency deficiency	January 1, 2005	\$32,667	December 31, 2009
Solvency deficiency	January 1, 2008	\$20,001	December 31, 2012
Total		\$74,136	

- The solvency liabilities used to determine the solvency status of the plan do not include any benefit related to projected earnings increases following the valuation date.
- Since this plan is a designated plan, special rules for designated plans prescribed in Section 8515 of Regulations to the *Income Tax Act* impose a restriction on the maximum tax-deductible contributions that can be made to the plan. As a result of these restrictions, the maximum permitted contributions to the plan are as follows:

**Maximum Employer Contributions**

For current service: 15.7% of members' pensionable earnings  
(estimated to be \$1,500 per month  
in each year of 2008, 2009 and 2010)

Special payments for unfunded liability and solvency:  
A total contribution of \$879,000

- Since this plan is a designated plan under the *Ontario Pension Benefits Act*, no PBGF assessment is payable.
- The transfer ratio of the plan is 61%. The Prior Year Credit Balance on January 1, 2008 is \$0.

- In our opinion,
  - the data on which the valuation is based are sufficient and reliable for the purposes of the valuation,
  - the assumptions are, in aggregate, appropriate for the purposes of determining the funded status of the plan as at January 1, 2008 on going-concern and solvency bases, in the absence of the maximum funding rules,
  - the methods employed in the valuation are appropriate for the purposes of determining the funded status of the plan as at January 1, 2008 on going-concern and solvency bases, in the absence of the maximum funding rules, and
  - the assumptions and the methods employed in the valuation for the purposes of determining the funded status of the plan as at January 1, 2008 on Maximum Funding Valuation basis are those prescribed by the *Income Tax Act* Section 8515.
- This report has been prepared, and our opinions given, in accordance with accepted actuarial practice. It has also been prepared in accordance with the funding and solvency standards set by the *Ontario Pension Benefits Act* and the *Income Tax Act*.
- All assumptions made for the purposes of the valuation were reasonable at the time the valuation was prepared.



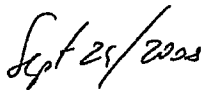

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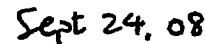

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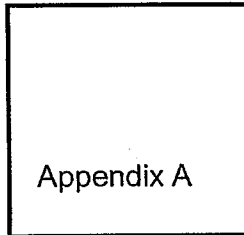

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Date




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Date



## **Plan Assets**

### ***Sources of Plan Asset Data***

The pension fund is held in trust by CIBC Mellon and is invested in accordance with the investment policy by McLean Budden.

We have relied upon fund statements prepared by CIBC Mellon, for the period from January 1, 2005 to January 1, 2008.

### ***Reconciliation of Plan Assets***

The pension fund transactions for the period from January 1, 2005 to January 1, 2008 are summarised as follows:

**Reconciliation of Plan Assets (Market Value)**

	<b>2005</b>	<b>2006</b>	<b>2007</b>
January 1	\$7,174,365	\$7,537,088	\$5,776,820
PLUS			
Company's contributions	\$0	\$1,009,532 <sup>1</sup>	\$7,700
Investment income	\$13	\$197,784	\$268,312
Net realized and unrealized capital gains/(losses)	\$908,139	\$298,885	(\$277,394)
	\$908,152	\$1,506,201	(\$1,382)
LESS			
Pensions paid	\$422,750	\$423,456	\$384,055
Lump-sum refunds	\$0	\$864,033 <sup>2</sup>	\$465,069
Benefit payments in respect of the March 1, 2005 partial wind-up	\$0	\$1,840,825	\$0
Administration fees	\$122,679	\$138,155	\$89,673
	\$545,429	\$3,266,469	\$938,797
December 31	\$7,537,088	\$5,776,820	\$4,836,641

This market value of assets was adjusted to reflect in-transit contribution of \$700. The resulting market value of assets as at January 1, 2008 is \$4,837,341.

We have tested the pensions paid, the lump-sum refunds and the contributions for consistency with the membership data for the plan members who have received benefits or made contributions. The results of these tests were satisfactory.

<sup>1</sup> Includes the contribution to fully fund the wind-up deficiency in respect of the members affected by the plan's partial wind-up effective March 1, 2005.

<sup>2</sup> Includes an adjustment of \$21,405 for a payment made from an incorrect plan.

### **Investment Policy**

The plan administrator adopted a statement of investment policy and procedures effective July 1, 2006. This policy is intended to provide guidelines for the manager(s) as to the level of risk which is commensurate with the plan's investment objectives. A significant component of this investment policy is the asset mix.

The constraints on the asset mix, and the actual asset mix as at January 1, 2008, are provided for information purposes:

#### **Distribution of the Market Value of the Fund by Asset Class**

	<b>Investment Policy</b>			<b>Actual Asset Mix As at 01.01.2008</b>
	<b>Minimum</b>	<b>Target</b>	<b>Maximum</b>	
Fixed Income Securities	60%	80%	100%	78.7%
Equities	15%	20%	25%	20.6%
Cash and cash equivalents	N/A	N/A	N/A	0.7%
		100%		100%

### **Performance of Fund Assets**

The performance of fund assets, net of expenses, from January 1, 2005 to January 1, 2008 as per our calculations (which assume that the net cash flow occurred in the middle of each month) are shown below:

<b>Year</b>	<b>Net Rate of Return</b>
2005	11.3%
2006	7.1%
2007	(1.5%)

The average return on the adjusted market value, net of expenses, since the last valuation at January 1, 2005 was 5.5% per year. This rate is less than the assumed investment return of 6.00% by 0.5% per year.

Appendix B

## **Actuarial Methods and Assumptions**

### **Actuarial Valuations Methods — Going-Concern Basis**

#### ***Valuation of Assets***

For this valuation, we used the market value of plan assets.

#### ***Valuation of Actuarial Liabilities***

Over time, the real cost to the employer of a pension plan is the excess of benefits and expenses over member contributions and investment earnings. The actuarial cost method allocates this cost to annual time periods.

For purposes of the going-concern valuation, we have continued to use the *projected unit credit actuarial cost method*. Under this method, we determine the actuarial present value of benefits accrued in respect of service prior to the valuation date, including ancillary benefits, based on projected final average earnings. This is referred to as the *actuarial liability*.

The *funding excess* or *funding shortfall*, as the case may be, is the difference between the actuarial value of assets and the actuarial liability. An unfunded liability will be amortised over no more than 15 years through special payments as required under the *Ontario Pension Benefits Act*. A funding excess may, from an actuarial standpoint, be applied immediately to reduce required employer current service contributions unless precluded by the terms of the plan or by legislation.

This actuarial funding method produces a reasonable matching of contributions with accruing benefits. Because benefits are recognised as they accrue, the actuarial funding method aims at keeping the plan fully funded at all times. This promotes benefit security, once any unfunded liabilities and solvency deficiencies have been funded.

### ***Current Service Cost***

The *current service cost* is the actuarial present value of projected benefits to be paid under the plan with respect to service during the year following the valuation date.

The employer's current service cost has been expressed as a percentage of the members' pensionable earnings to provide an automatic adjustment in the event of fluctuations in membership and/or pensionable earnings.

Under the projected unit credit actuarial cost method, the current service cost for an individual member will increase each year as the member approaches retirement. However, the current service cost of the entire group, expressed as a percentage of the members' pensionable earnings, can be expected to remain stable as long as the average age of the group remains constant.

### ***Employer's Contribution***

Accordingly, the employer's contributions for this purpose are determined as follows:

<b>Employer's Contributions</b>	
<b>With a funding excess</b>	<b>With an unfunded liability</b>
Current service cost	Current service cost
MINUS	PLUS
Any funding excess applied to cover the employer's current service cost	Payments to amortise any unfunded liability

### ***Actuarial Assumptions — Going-Concern Basis***

The actuarial value of benefits is based on economic and demographic assumptions. At each valuation, we determine whether, in our opinion, the actuarial assumptions are still appropriate for the purposes of the valuation, and we revise them if necessary.

In this valuation, we have used the same assumptions as in the previous valuation, except as noted. Emerging experience will result in gains or losses that will be revealed and considered in future actuarial valuations. For this valuation, we have used the following assumptions:

## ***Economic Assumptions***

### ***Investment Return***

We have assumed that the investment return on the actuarial value of the fund, net of expenses charged to the fund, will average 4.9% per year over the long term. We have based this assumption on an expected long-term return on the pension fund less an allowance for investment expenses less a margin for adverse deviation.

Specifically,

- We have assumed a gross rate of return of 5.8% consistent with market conditions applicable on the valuation date, based on estimated returns for each major asset class and the target asset mix specified in the plan's investment policy. Additional returns of 0.1% are assumed to be achievable due to active management .
- We have allowed for investment expenses of 0.5% per year.
- We have included a margin for adverse deviations, from all sources, of 0.5% per year.

The previous valuation assumed an investment return of 6.0% per year.

### ***Expenses***

The assumed Investment Return reflects an implicit provision for investment management expenses.

There is no allowance for administrative expense in the investment return assumption, nor is there any explicit loading to the normal cost. Including a provision for administrative expense would worsen the financial position of the plan; however, this would not have any impact on the contribution requirement due to the funding restrictions applicable to designated plans.

### ***Inflation***

The benefits ultimately paid depend on the level of inflation. We assumed inflation will be 2.25% per year. This assumption reflects our best estimate of future inflation considering the Bank of Canada's inflation target and market expectations of long-term inflation implied by the yields on nominal and real return bonds.

### ***Increases in Pensionable Earnings***

The benefits ultimately paid will depend on each member's final average earnings. To calculate the pension benefits payable upon retirement, death or termination of employment, we have assumed the pensionable earnings will increase at 4.00% per year after 2008.

This is based on:



- an inflation rate of 2.25% per year,
- productivity increases of 1.00% per year, and
- merit and promotional increases of 0.75% per year.

The current merit and promotional increases component is based on our best estimate of future merit and promotional increases considering current economic and financial market conditions. The experience indicates that these assumptions remain appropriate.

The previous valuation had assumed an increase of 4.50% per year.

### *Increases in the YMPE*

Since the benefits provided by the plan depend on the final average Year's Maximum Pensionable Earnings (YMPE) under the Canada Pension plan, it is necessary to make an assumption about increases in the YMPE for this valuation. We have assumed that the YMPE will increase at the assumed rate of inflation of 2.25% per year plus an allowance of 1.0% per year for the effect of real economic growth and productivity gains in the Canadian economy, which is consistent with historical real economic growth. The increase was applied from the 2008 level of the YMPE of \$44,900.

The previous valuation had assumed an increase of 3.75% per year from the 2005 level of \$41,100.

### *Increases in the Maximum Pension under the Income Tax Act*

The *Income Tax Act* stipulates that the maximum pension that can be provided under a registered pension plan will be increased to specified amounts in 2009, and automatically, starting in 2010, in accordance with general increases in the average wage.

For this valuation, we have assumed that the maximum pension payable under the plan will increase based on the amounts specified in the *Income Tax Act* up to 2009, and will increase starting in 2010 at the same rate as the YMPE of 3.25% (previously 3.75%) per year.

## **Demographic Assumptions**

### *Retirement Age*

Because early retirement pensions are reduced in accordance with a formula, the retirement age of plan members has an impact on the cost of the plan.

Retirement rates are typically developed taking into account the past experience of the plan. However, considering the size of the plan, there is no meaningful retirement experience appropriate for predicting the future rates of retirements. Accordingly, the rates of retirement have been developed as our expectation of the best-estimate rates of retirement based on the plan provisions and our experience with other similar plans.

We have assumed that all members will retire on their 59<sup>th</sup> birthday.

### *Termination of Employment*

No allowance has been made for termination of employment prior to retirement. This is because the only member accruing benefits under the plan is on disability, and we have assumed that he would continue to accrued benefits until retirement in accordance with the plan terms.

### *Mortality*

The actuarial value of the pension depends on the lifetime of the member.

The 1994 Uninsured Pension Mortality Table reflects the mortality experience as of 1994 for a large sample of North American pension plans. Applying projection scale AA provides an allowance for improvements in mortality after 1994. This table is commonly used for valuations where the membership of a plan is insufficient to assess plan specific experience and where there is no reason to expect the mortality to differ from that of other pension plans. Both are true for this plan.

While there is strong evidence of continuing improvement in mortality, forecasts of the rate of future improvement are very uncertain. We have used the projection scale AA to reflect future improvements in mortality.

We have assumed mortality rates, both before and after retirement, in accordance with the 1994 Uninsured Pension Mortality Table with projection scale AA to reflect continuing future improvements in mortality. According to this table, the life expectancy at age 65, as of the valuation date, is 19.4 years for males and 21.9 years for females.

The previous valuation had assumed mortality in accordance with the Group Annuity Mortality (GAM) Table for 1994.

### *Family Composition*

Benefits in case of death, before and after retirement, depend on the plan member's marital status.

For this valuation, we have assumed that 100% of plan members will have an eligible spouse on the earlier of death or retirement, and that the male partner will be four years older than the female partner.

## ***Actuarial Valuation Methods and Assumptions — Solvency and Impact of Plan Wind-up***

We have used the market value of the plan's assets in our valuation of the plan for solvency purposes.

To determine the solvency actuarial liability, we have valued those benefits that would be payable if the employment of each member had been terminated and the plan were wound up and settled on the valuation date, with all members fully vested in their accrued benefits.

The solvency actuarial liabilities do not include any value for potential benefits related to projected earning increases following the valuation date. This is consistent with the assumption that the employment of all active members terminate on the valuation date. Therefore, no assumption is required for future rates of termination of employment. We have included the value of all other benefits that may be contingent upon the circumstances of the postulated plan wind-up.

We have considered that members under 55 years of age on the valuation date would be entitled to a deferred pension payable from age 65 or such earlier age for which plan eligibility requirements have been satisfied at January 1, 2008. Members aged 55 and over are considered to be entitled to an immediate pension, reduced in accordance with the plan rules. We have also considered that Ontario members whose age plus years of service equal at least 55 at January 1, 2008 would be entitled to a deferred pension payable from the age that would produce the greatest value if employment were to have continued for the purpose of determining eligibility for early retirement benefits.

Benefits are assumed to be settled through a lump sum transfer for one transferred member who is under age 55 as at January 1, 2008. The value of the benefits accrued on January 1, 2008 for this member is based on the assumptions described in Section 3800 – *Pension Commuted Values* of the Canadian Institute of Actuaries Standards of Practice applicable for January 1, 2008 for benefits expected to be settled through transfer in accordance with relevant portability requirements.

Benefits of all other members are assumed to be settled through the purchase of immediate annuities. The value of the benefits accrued on January 1, 2008, for such members, is based on an estimate of the cost of settlement through purchase of annuities.

We have estimated the cost of settlement through purchase of annuities in accordance with the *Canadian Institute of Actuaries Educational Note: Assumptions for Hypothetical Wind-up and Solvency Valuations with Effective Dates Between December 31, 2007 and December 30, 2008*.

Assumptions are as follows:

**Actuarial Assumptions**

Mortality:	UP94 projected to year 2015
Interest rates for benefits to be settled through lump sum transfer:	4.50% per year for the first 10 years following January 1, 2008, 5.0% per year thereafter
Interest rates for benefits to be settled through annuity purchase:	4.30% per year
Interest rates used to determine the present value of the solvency deficiency special payments :	4.30% per year
Final average earnings:	Based on actual pensionable earnings over the averaging period
Family composition:	Same as for going-concern valuation
Termination expenses:	\$65,000

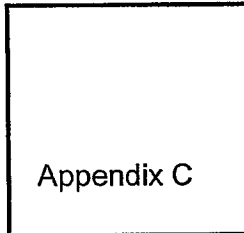
In a solvency valuation, the accrued benefits are based on the member's final average earnings on the valuation date; therefore, no salary projection is used. Also the employment of each member is assumed to have terminated on the valuation date; therefore, no assumption is required for future rates of termination of employment.

The provision for termination expenses payable from the plan's assets is in respect of actuarial, administration and legal expenses that would be incurred in terminating the plan.

Because the settlement of benefits on wind-up is assumed to occur on the valuation date and is assumed to be uncontested, the provision for termination expenses does not include custodial, investment management, auditing, consulting and legal expenses that would be incurred between the wind-up date and the settlement date or due to the terms of the hypothetical wind-up being contested.

In determining the provision for termination expenses payable from the plan's assets, we have assumed that the plan sponsor would be solvent on the wind-up date.

In accordance with the *Ontario Pension Benefits Act*, we have not included a provision for adverse deviation in the solvency and wind-up valuations.



## **Membership Data**

### ***Analysis of Membership Data***

The actuarial valuation is based on membership data as at January 1, 2008 provided by Indalex Limited, adjusted to reflect the retirement of a transferred member who commenced his pension in the first quarter of 2008.

We have applied tests for internal consistency, as well as for consistency with the data used for the previous valuation. These tests were applied to membership reconciliation, basic information (date of birth, date of hire, date of membership, gender, etc.), pensionable earnings, credited service, contributions accumulated with interest and pensions to retirees and other members entitled to a deferred pension. Lump sum payments and pensions to retirees were compared with corresponding amounts reported in financial statements. The results of these tests were satisfactory.

Plan membership data are summarised below. For comparison, we have also summarised corresponding data from the previous valuation.

**Membership Data**

	<b>01.01.2008</b>	<b>01.01.2005</b>
<b>Active or Disabled Members</b>		
▪ Number	1 <sup>1</sup>	6 <sup>2</sup>
▪ Total estimated pensionable earnings in the year following the valuation date	n/a <sup>3</sup>	\$1,468,194
▪ Average estimated pensionable earnings in the year following the valuation date	n/a <sup>3</sup>	\$244,699
▪ Average years of pensionable service	n/a <sup>3</sup>	18.9 years
▪ Average age	n/a <sup>3</sup>	51.0
<b>Transferred Members with Frozen Service</b>		
▪ Number	1	3
▪ Total annual pension	n/a <sup>3</sup>	\$83,106
▪ Average annual pension	n/a <sup>3</sup>	\$27,702
▪ Average age	n/a <sup>3</sup>	50.5
<b>Deferred Pensioners</b>		
▪ Number	2	3
▪ Total annual pension	n/a <sup>3</sup>	\$46,847
▪ Average annual pension	n/a <sup>3</sup>	\$15,616
▪ Average age	n/a <sup>3</sup>	59.9
<b>Pensioners and Survivors</b>		
▪ Number	14	13
▪ Total annual lifetime pension	\$454,055	\$420,957
▪ Average annual lifetime pension	\$32,432	\$32,381
▪ Average age	67.8	67.2

<sup>1</sup> Disabled member.

<sup>2</sup> This includes 2 disabled members.

<sup>3</sup> Information not provided due to confidentiality issues.

The membership movement for all categories of membership since the previous actuarial valuation is as follows:

**Reconciliation of Membership**

	<b>Active / Disabled Members</b>	<b>Transferred Members with Frozen Service</b>	<b>Deferred Vested</b>	<b>Pensioners and Beneficiaries</b>	<b>Total</b>
<b>Total at 01.01.2005</b>	6 <sup>1</sup>	3	3	13	25
Terminations:					
▪ Transfers/refunds	(3)				(3)
▪ Deferred pensions		(1)	1		
▪ Benefits settled as a result of March 1, 2005 partial wind-up	(2)			(1)	(3)
Deaths				(1)	(1)
Retirements		(1)	(2)	3	-
<b>Total at 01.01.2008</b>	1 <sup>2</sup>	1	2	14	18

<sup>1</sup> Includes 2 disabled members.

<sup>2</sup> Disabled member.

The distribution of the inactive members by age as at January 1, 2008, is summarised as follows:

**Distribution of Inactive Members  
By Age Group as at 01.01.2008**

<b>Age</b>	<b>Deferred Pensioners</b>		<b>Pensioners and Survivors</b>	
	<b>Number</b>	<b>Average Annual Pension</b>	<b>Number</b>	<b>Average Annual Pension</b>
50 – 54				
55 – 59	1	n/a <sup>1</sup>	1	n/a <sup>1</sup>
60 – 64	1	n/a <sup>1</sup>	1	n/a <sup>1</sup>
65 - 69			9	\$26,377
70 - 74			3	\$42,554
75 - 79				
80 - 84				
<b>Total</b>	<b>2</b>	<b>n/a<sup>1</sup></b>	<b>14</b>	<b>\$32,432</b>

<sup>1</sup> Information not provided due to confidentiality issues.



Appendix D

## **Summary of Plan Provisions**

### **Introduction**

The *Retirement Plan for the Executive Employees of Indalex Limited and Associated Companies* became effective January 1, 1983.

This valuation is based on the plan provisions in effect on January 1, 2008. The following is a summary of the plan's main provisions in effect on January 1, 2008. It is not intended as a complete description of the plan.

### **Eligibility for Membership**

Designated Executives who were members of the Prior plan on December 31, 1982 automatically became members of this plan on the effective date and were entitled to one year of additional service if they enrolled in the Prior Plan when first eligible. Other employees were enrolled on the first day of the month coincident with or next following their date of employment.

Effective September 1, 2005, the plan was closed to new entrants.

### **Contributions**

Members are not required to contribute. Executives may have made contributions as previous members of the Salaried Plan.

### **Retirement Dates**

#### ***Normal Retirement Date***

The normal retirement date is the first day of the month coincident with or next following the member's 65<sup>th</sup> birthday.

### ***Early Retirement Date***

If a member has been in the plan for at least two years, the member may choose to retire as early as age 55.

### ***Postponed Retirement***

With Company consent, retirement may be postponed on a year by year basis but not beyond age 69.

## **Retirement Benefits**

### ***Normal Retirement Pension***

If a member retires on the normal retirement date, the member will be entitled to an annual pension equal to 1.25% of the member's final average earnings up to the final average YMPE, plus 2.0% of the member's final average earnings in excess of the final average YMPE for each year of credited service.

The final average earnings means the average of the member's earnings during the 36 consecutive months within the 120 month period preceding the member's retirement, death or termination of continuous employment in which the highest average is attained. The final average YMPE is determined based on the period used in the determination of the final average earnings.

### ***Early Retirement Pension***

If a member retires early, the member will be entitled to a pension that is calculated in the same way as for normal retirement; however, this pension will be reduced if the member elects to commence it prior to the normal retirement date. The reduction is determined as follows:

- If the member has attained age 60 and 20 years of continuous employment, the pension will not be reduced.
- If the member has attained age 55 and 10 years of continuous employment, the pension will be reduced by 1/6 of 1% for each month by which pension commencement precedes the date on which the member would have been entitled to an unreduced pension if his or her employment had continued.
- If the member has attained age 55, the pension will be reduced by 0.4% for each month by which pension commencement precedes the date on which the member would have been entitled to an unreduced pension if his or her employment had continued.

### ***Postponed Retirement Pension***

If a member remains in continuous employment after the normal retirement date, the member will receive a pension commencing on the postponed retirement date. This pension will be calculated in the same manner as for normal retirement based on the final average earnings, final average YMPE and pensionable service at the postponed retirement date.

### ***Maximum Pension***

The annual pension provided under the plan cannot exceed the maximum pension benefit permissible under the Income Tax Act in effect at the date of pension commencement.

### ***Survivor Benefits***

#### ***Death Before Retirement***

If a member dies before the normal retirement date and before any pension payment has begun, the member's spouse, or beneficiary if there is no spouse, will receive a lump sum payment equal to the accumulated balance of member's required contributions to the Prior Plan made before January 1, 1987, together with credited interest to the date of death, plus the commuted value of the vested pension accrued after December 31, 1986.

#### ***Death After Retirement***

The normal form of pension for single members is a lifetime pension guaranteed for 10 years. For members who have a spouse at the date of pension commencement, the normal form of pension is a joint and survivor pension with 50% of the member's benefit continuing to the surviving spouse. The percentage continuing to a surviving spouse is adjusted if the spouse is more than 10 years younger than the member. In that case, the spouse's continuing pension will be reduced by 1% of the member's pension for each complete year of age difference in excess of 10 years.

At retirement, members can elect to receive an optional form of pension based on an actuarial equivalent basis.

## **Termination Benefits**

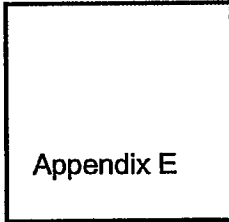
If a member's employment terminates for reasons other than death or retirement, the benefits payable in respect of service prior to January 1, 1987 will be as follows:

- If a member has less than five years of continuous employment, the member will receive a refund of the accumulated balance of his required contributions made before January 1, 1987 to the Prior Plan with credited interest.
- If a member has five or more years of continuous employment, the member will be entitled to a deferred pension payable at the normal retirement date. Alternatively, the member can elect to transfer the value of the benefit out of the plan in a lump sum.

## ***Benefits Accrued After December 31, 1986***

If a member's employment terminates for reasons other than death or retirement, the benefits payable in respect of service after December 31, 1986 will be as follows:

- If a member has been a member of the plan for less than two years, the member will receive a refund of the accumulated balance of his required contributions made after December 31, 1986 to the Prior Plan with credited interest.
- If a member has been a member of the plan for more than two years, the member will be entitled to a deferred pension payable at the normal retirement date. Alternatively, the member can elect to transfer the value of the benefit out of the plan in a lump sum.



**Employer Certification**

With respect to the report on the actuarial valuation of the *Retirement Plan for the Executive Employees of Indalex Limited and Associated Companies* as at January 1, 2008, I hereby certify that, to the best of my knowledge and belief:

- a copy of the official plan documents and of all amendments made up to January 1, 2008, were provided to the actuary;
- the membership data provided to the actuary include a complete and accurate description of every person who is entitled to benefits under the terms of the plan for service up to January 1, 2008, and
- all events subsequent to January 1, 2008 that may have an impact on the results of the valuation have been communicated to the actuary.

SEPTEMBER 19, 2008  
Date

*Wesley Ross*  
Signed

WESLEY ROSS  
Name

# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN

Mercer (Canada) Limited  
161 Bay Street  
P.O. Box 501  
Toronto, Ontario M5J 2S5  
416 868 2000

**Consulting. Outsourcing. Investments.**

Mercer (Canada) Limited

**TAB G**

This is Exhibit "G" referred to in the  
a Andrea Melkonian  
s 17  
day of July 2059  
Michael D. Galt  
A COMMISSIONER FOR TAKING AFFIDAVITS





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July 16, 2009

**Privileged**

Mr. Andrew J. Hatnay  
Koskie Minsky LLP  
Barristers & Solicitors  
20 Queen Street West, Suite 900  
Toronto, Ontario M5H 3R3

**Re: Retirement Plan for the Executive Employees of  
Indalex Limited and Associated Companies**

Dear Mr. Hatnay:

You have retained us to provide you with a rough estimate of the amount that should be deposited into the above-mentioned Plan assuming it were to be wound up as at July 15, 2009.

We understand that:

1. You are representing the retirees of the Plan.
2. The actuarial report as at January 1, 2008 that you provided to us was the most recent report filed with the pension regulators.
3. No amendments have been made to the Plan since January 1, 2008.
4. All required contributions set out in the actuarial report as at January 1, 2008, have been deposited into the Plan as at July 15, 2009.
5. You do not have any information regarding the current value of the Plan's assets. We are asked to estimate this figure.
6. The Plan is registered in Ontario and is subject to the funding requirements of the Pension Benefits Act of Ontario and Regulation 909. All members, former members, and retirees were employed in Ontario.

Pursuant to Section 75 of the Pension Benefits Act of Ontario, the employer is required to pay into the Plan the amount by which the Plan's wind up liability exceed the Plan's assets. You requested us to provide you with a rough estimate of this amount.

For the purpose of our calculations, we have relied on the information and results set out in the actuarial report as at January 1, 2008. There is insufficient information in the report for us to verify the reasonableness of the results of actuarial report as at January 1, 2008.

Mr. Andrew J. Hatnay  
July 16, 2009  
Page 2 of 2

It may take two years or more for the Plan administrator to complete the wind up process and fully settle the pension benefits under the Plan. The Plan's financial position can change significantly from now to the date when the benefits are fully settled. We have not quantified the financial implications of the potential adverse deviations. Should the Plan's assets be insufficient to settle the full benefits, the Plan beneficiaries' benefits would have to be reduced.

We have set out the assumptions that we used in the attached Exhibit.

Our rough estimate of the Plan's wind up liability is \$8.0 million as at July 15, 2009 and the assets available for benefits are \$4.8 million, resulting in a wind up deficiency of \$3.2 million.

In performing our calculations, in our opinion:

- a) The data on which our calculations are based are sufficient and reliable for the purposes of this letter.
- b) The assumptions used are appropriate for the purposes of this letter.
- c) The methods employed are appropriate for the purposes of this letter.

Please call us if you have any questions.

Yours truly,



Peter Peng, F.C.I.A., F.S.A.  
Principal



Richard M. Kular, F.C.I.A., F.S.A.  
Principal

## Exhibit

### Assumptions

In determining the assets and liabilities of the Plan, it is necessary to make assumptions with respect to the factors which will affect these amounts in the future. Emerging experience, differing from the assumptions, will result in gains or losses, which will be revealed at the time the assets of the Plan are disbursed.

The factors and assumptions used to develop the financial position as at the last valuation date of January 1, 2008 and July 15, 2009 are described below.

	July 15, 2009 Wind up Valuation	January 1, 2008 Wind up/ Solvency
Interest rates for lump sum settlements	3.8% per annum for 10 years, 5.8% per annum thereafter	4.5% per annum for 10 years, 5% per annum thereafter
Interest rate for settlement through annuity purchase	4% per annum	4.3% per annum
Settlement method	All but one transferred member would be settled by annuity purchase	All but one transferred member would be settled by annuity purchase
Settlement date	July 15, 2009	January 1, 2008
Mortality	1994 Uninsured Pensioners Mortality Table (projected by scale AA to 2020) (UP94@2020).	1994 Uninsured Pensioners Mortality Table (projected by scale AA to 2015) (UP94@2015)
Percentage of members who are married at retirement and assumed spousal ages	100% married Husband is 4 years older than the wife.	100% married Husband is 4 years older than the wife.
Retirement	Will retire at an age between 55 and 65 at which the value of their pension benefits is greatest.	Will retire at an age between 55 and 65 at which the value of their pension benefits is greatest.
Contingency reserve for any data corrections or additions	Nil	Nil
Wind up expenses	\$100,000	\$65,000

According to the actuarial report as at January 1, 2008, the Plan provides that the annual pension is limited to the maximum pension benefit permissible under the Income Tax Act in effect at the date of pension commencement. The report did not disclose any assumption regarding the escalation of the maximum benefit permissible. We have assumed that the valuation has appropriately escalated the maximum, where necessary.

### **Asset Extrapolation**

We extrapolated the asset value as at July 15, 2009, by adding to the value of the assets as at January 1, 2008 the contributions set out in Section 6 of the actuarial report as at January 1, 2008, subtracting the assumed pension payments and expenses, and adjusting for the assumed investment gains and losses from January 1, 2008 to July 15, 2009.

We assumed that there were no changes to the membership from January 1, 2008 to July 15, 2009. Specifically, we assumed that there were no deaths among the pensioners. Consequently, our assumed pension payments were calculated as the annual amount set out in Appendix C of the actuarial report as at January 1, 2008, multiplied by 19 / 12 (representing 19 monthly payments).

We assumed that the Plan's expenses from January 1, 2008 to July 15, 2009, were at the same rate as the average of the three years prior to January 1, 2008.

We assumed that the Plan's asset allocation remained the same from January 1, 2008 to July 15, 2009. (Assets were invested 80% in fixed income and 20% in equities.) We also assumed that the rate of investment gains and losses for each asset class was the same as the appropriate market total-return index.

### **Rationale for Key Assumptions**

The most important assumptions we made were with respect to the annuity prices, which are determined by interest rates and mortality table.

We have referred to the "Educational Note – Assumptions for Hypothetical Wind-up and Solvency Valuations with Effective Dates between December 31, 2008 and December 30, 2009" prepared by the Canadian Institute of Actuaries, and made adjustments for the following:

1. Based on our recent experience, the risk premium over the Canada bonds has narrowed since the publication of the Educational Note.
2. The Plan's average annual pension amount was over \$32,000. The insurance companies will assume lower mortality rates for retirees with higher pension amounts, resulting in higher annuity prices.
3. It will be necessary to split the pension amounts among insurance companies to ensure full Assuris coverage.

We assumed the wind up expenses to be \$100,000 in total based on our experience with other plan wind ups with similar characteristics.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.  
C-36 AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
INDALEX LIMITED et al.  
the Applicants

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

**ONTARIO**

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

Proceeding commenced at Toronto

**AFFIDAVIT OF ANDREA MCKINNON**  
Sworn July 17, 2009

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Lawyers for Keith Carruthers, Leon Kozierok,  
Max Degen, Bertram McBride, Eugene D'Iorio,  
Neil Fraser, Robert Leckie and Richard Smith

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36 AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF INDALEX LIMITED et al.  
the Applicants

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

**ONTARIO**

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

Proceeding commenced at Toronto

**RESPONDING MOTION RECORD**

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Toronto, Ontario  
M5H 3R3

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