

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
RSC 1985, C C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SHAW-ALMEX INDUSTRIES LIMITED
AND SHAW ALMEX FUSION, LLC**

**FOURTH REPORT OF FTI CONSULTING CANADA INC.
IN ITS CAPACITY AS MONITOR OF SHAW-ALMEX INDUSTRIES LIMITED
AND SHAW ALMEX FUSION, LLC**

September 9, 2025

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FOURTH REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.
IN ITS CAPACITY AS MONITOR

A. INTRODUCTION

1. On March 29, 2025, Shaw-Almex Industries Limited (“**SAIL**”) filed a notice of intention to make a proposal (“**NOI**”) pursuant to the provisions of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the “**BIA**”) with the Office of the Superintendent of Bankruptcy. FTI Consulting Canada Inc. (“**FTI**”) consented to act as the proposal trustee (the “**Proposal Trustee**”) of SAIL’s estate.
2. On April 25, 2025, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an Order that, among other things:
 - (a) extended the time to file a proposal, and expanded and extended the stay of proceedings triggered under the BIA by the NOI filing, until and including May 13, 2025;
 - (b) approved an administration charge (the “**Administration Charge**”) as security for payment of professional fees and disbursements; and
 - (c) approved a debtor-in-possession credit facility (the “**DIP Facility**”) from Royal Bank of Canada (“**RBC**”, and in its capacity as DIP Facility lender, the “**DIP Lender**”) and granted a corresponding charge (the “**DIP Lender’s Charge**”).

3. On May 13, 2025, the Court granted an initial order (the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”) with respect to SAIL and Shaw Almex Fusion, LLC (“**Fusion**”, and together with SAIL, the “**Applicants**”), which, among other things:
- (a) continued the NOI proceeding commenced by SAIL under the purview of the CCAA;
 - (b) appointed FTI as the Court-appointed monitor of the Applicants (in this capacity, the “**Monitor**”) with enhanced powers, including the power to:
 - (i) apply to this Court for any orders necessary or advisable to carry out its powers and obligations under the Initial Order or any other Order granted by this Court; and
 - (ii) initiate, manage and direct, or cause the Applicants to initiate, manage and direct, all legal proceedings in respect of the Applicants, the Property, or the Business (each as defined in the Initial Order);
 - (c) granted a stay of all proceedings until May 30, 2025;
 - (d) authorized the Applicants to borrow up to a maximum principal amount of \$1.836 million¹ under the DIP Facility from the DIP Lender pursuant to the terms of an amended and restated DIP Facility loan agreement (the “**Amended DIP Agreement**”);
 - (e) granted the following charges (“**Charges**”) over the Applicants’ Property, which charges rank in priority to all other security interests, trusts, liens, charges and encumbrances in favour of any person:²

¹ Of this amount, \$36,000 represented the DIP Lender’s commitment fee. The amount available to the Applicants was \$1.8 million.

² Paragraph 45 of the Initial Order specified that the Charges shall not rank in priority to the mortgage of BDC (the “**BDC Mortgage**”) registered on title on January 7, 2022 against the real property owned by the Applicants at 17 Shaw Almex Road, Parry Sound, Ontario, provided that the rights of the beneficiaries of the Administration Charge to seek priority of that charge over the BDC Mortgage is specifically reserved and may be argued at a later hearing.

- (i) *first* – an Administration Charge in the amount of \$350,000, as security for the payment of professional fees and disbursements incurred and to be incurred by the Monitor, counsel to the Monitor, and counsel to the Applicants, in connection with this CCAA proceeding; and
 - (ii) *second* – a DIP Lender’s Charge as security for the Applicants’ obligations under the Amended DIP Agreement, in the maximum principal amount of \$1.836 million plus fees and interest; and
 - (f) authorized Fusion to act as the foreign representative of the Applicants in respect of this proceeding for the purpose of having these CCAA proceedings recognized and approved in a jurisdiction outside of Canada, including in the United States Bankruptcy Court.
4. Also on May 13, 2025, the Court entered:
- (a) an Order (the “**SISP Order**”), among other things, approving a sale, refinancing and investment solicitation process (the “**SISP**”); and
 - (b) an Order, among other things, discharging FTI as Proposal Trustee in connection with the NOI proceeding.
5. On May 30, 2025, the Court entered:
- (a) an order, amongst other things, extending the stay of proceedings to and including July 18, 2025, increasing the maximum principal amount that the Applicants could borrow pursuant to an amendment to the Amended DIP Agreement (the “**First Amendment**”) to \$2,626,500,³ and increasing the quantum of the DIP Lender’s Charge to the maximum amount of \$2,626,500, plus fees and interest; and
 - (b) an order (the “**Property Preservation Order**”), amongst other things, requiring the return of the Applicants’ Property, directing that Mr. Timothy Shaw and Mrs.

³ Of this amount, \$51,500 represented the DIP Lender’s commitment fee. The amount available to the Applicants was \$2.575 million.

Pamela Shaw conduct themselves in a certain manner, and empowering the Monitor to conduct certain oral examinations.

6. On June 27, 2025, the Court entered an order extending the stay of proceedings to and including August 1, 2025, increasing the maximum principal amount that the Applicants could borrow pursuant to an amendment to the Amended DIP Agreement (the “**Second Amendment**”) to \$3,646,500,⁴ and increasing the quantum of the DIP Lender’s Charge to the maximum amount of \$3,646,500, plus fees and interest.
7. On July 18, 2025, the Court entered orders, among other things, (a) approving the Asset Purchase Agreement (the “**Asset Purchase Agreement**”) dated July 10, 2025, between the Applicants, as vendors, and Almex Canada, Limited (the “**Purchaser**”), as purchaser and approving the transactions thereunder; (b) extending the stay of proceedings up to and including September 10, 2025; and (c) increasing the maximum principal amount that the Applicants could borrow pursuant to an amendment to the Amended DIP Agreement (the “**Third Amendment**”) to \$4,641,000,⁵ and increasing the quantum of the DIP Lender’s Charge to the maximum of \$4,641,000, plus fees and interests.

B. PURPOSE OF THIS REPORT

8. The purpose of this Fourth Report of the Monitor (the “**Fourth Report**”) is to provide the Court with:
 - (a) the Monitor’s comments and recommendations, regarding the Applicants’ motion returnable September 10, 2025, seeking, among other things, an order (the “**Stay Extension Order**”):
 - (i) extending the stay of proceedings up to and including January 31, 2026 (the “**Extended Stay Period**”);

⁴ Of this amount, \$71,500 represented the DIP Lender’s commitment fee. The amount available to the Applicants was \$3.575 million.

⁵ Of this amount, \$91,000 represented the DIP Lender’s commitment fee. The amount available to the Applicants was \$4.55 million.

- (ii) authorizing the Monitor to make a distribution to the DIP Lender with respect of the DIP Facility and on their pre-filing secured indebtedness; and
 - (iii) authorizing the Monitor to make a distribution to Business Development Bank of Canada (“**BDC**”) upon receiving satisfactory opinion from its counsel, Stikeman Elliott LLP (“**Stikeman**”), confirming the validity and enforceability of BDC’s security interest in the real property of the Applicants;
 - (iv) sealing the confidential supplement (the “**Confidential Supplement**”) to this Fourth Report until further order of the Court; and
 - (b) information regarding a motion by the Monitor, for, among other things,
 - (i) authorization and direction to proceed, pursuant to Section 36.1 of the CCAA, to issue and pursue a claim under Section 96 of the BIA relating to the Share Purchase Agreement (as defined below); and
 - (ii) authorization and direction to take certain ancillary steps in connection therewith (collectively with (i), the “**TUV Motion**”), including authorizing, empowering and directing the Monitor to commence the TUV Proceedings (as defined in the TUV Motion);
 - (c) an update on the costs of the Contempt Motion (as defined below);
 - (d) information regarding the activities of the Monitor since July 16, 2025, the date of the Third Report of the Monitor; and
 - (e) an update on the closing of the Sale Transaction.
9. This Fourth Report is not intended to provide a comprehensive update on all aspects of the CCAA proceedings or all of the activities of the Monitor. Updates on the CCAA proceedings are posted periodically on the website established by the Monitor at <http://cfcanada.fticonsulting.com/ShawAlmex> (the “**Monitor’s Website**”). The Proposal Trustee posted materials in connection with the NOI proceeding on the same website.

C. TERMS OF REFERENCE

10. In preparing this Fourth Report, the Monitor has relied upon various sources of information including, among others, audited and unaudited financial information of the Applicants' books and records, certain financial information and forecasts prepared by the Applicants, and discussions with various parties, including senior management ("**Management**") of, and advisors to, the Applicants (collectively, the "**Information**").
11. Except as otherwise described in this Fourth Report:
 - (a) the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook;
 - (b) the Monitor has not examined or reviewed the financial forecasts or projections referred to in this Fourth Report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook; and
 - (c) the Monitor's understanding of factual matters expressed in this Fourth Report concerning SAIL, Fusion and their business is based on the Information, and not independent factual determinations made by the Monitor.
12. Future-oriented financial information referred to or relied on in this Fourth Report is based on Management's assumptions regarding future events. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
13. The Monitor has prepared this Fourth Report in connection with its motion seeking the relief set out in paragraph 8 above. This Fourth Report should not be relied on for any other purpose.
14. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

D. BACKGROUND

15. A more comprehensive overview of the Applicants and the events leading to the CCAA proceeding is available in the Proposal Trustee's and the Monitor's prior reports.
16. SAIL was the parent company of a global business that operated under the "Shaw Almex" name (such business, the "**Almex Group**"). As a result of the sale of substantially all of its business in these CCAA proceedings pursuant to the execution of the Asset Purchase Agreement and the transactions contemplated therein and described in greater detail below (collectively, the "**Sale Transaction**"), SAIL no longer has an operating business. Prior to the completion of the Sale Transaction, the Almex Group was in the business of manufacturing conveyor belt vulcanizing equipment, technology, services and expertise. SAIL's head office was in Stoney Creek, Ontario, and it leased an office in Hamilton, Ontario. SAIL's manufacturing facility in Parry Sound, Ontario, was sold pursuant to the Sale Transaction. After the closing of the Sale Transaction, SAIL has no remaining employees.
17. SAIL was the primary operating entity in the Almex Group. Prior to the sale, the Almex Group had operations in approximately 15 locations plus exclusive distributors across six continents. The Almex Group's customers were in 123 countries and operated in varied industries including mining, steel mills, ports, power generation, package handling, and aerospace.
18. Fusion is an indirect subsidiary of SAIL that is organized pursuant to the laws of the State of Georgia in the United States of America. Prior to the cessation of its operations during the CCAA proceedings, Fusion operated from Atlanta, Georgia, and manufactured primarily Shaw Almex presses and rubber products. All of Fusion's employees have been laid off. Certain of Fusion's manufacturing equipment was auctioned for sale pursuant to an online auction at Fusion's facility conducted on September 4, 2025 and September 5, 2025. The auctioneer is in the process of collecting payments from the winning bidders and working to sell remaining unsold items. Based on preliminary estimates provided by the auctioneer, the net auction proceeds payable to the estate are in the approximate amount of \$200,000.

E. THE SALE OF THE APPLICANTS' BUSINESS

19. From the beginning of SAIL's NOI proceeding, it has been the Almex Group's intention to carry out the SISP.
20. The Proposal Trustee launched the SISP on May 2, 2025. The NOI proceedings were continued under the CCAA on May 13, 2025. That same day, this Court granted the SISP Order, which, *inter alia*, authorized the Applicants to implement the SISP and continue the work initiated by the Proposal Trustee.
21. On or about June 26, 2025, the Purchaser was selected as the Successful Bidder (as defined in the SISP). The Purchaser proposed to purchase substantially all of the Applicants' assets. The Monitor was of the view that the Purchaser's offer represented the highest and best offer for the Applicants' business. The Applicants and the Purchaser executed the Asset Purchase Agreement effective as of July 10, 2025.
22. The Sale Transaction closed on August 27, 2025, on which date the Monitor issued its certificate certifying, *inter alia*, that (a) the Purchaser had paid and the Monitor had received the purchase price payable on the closing date pursuant to the Asset Purchase Agreement; (b) the conditions to closing as set out in the Asset Purchase Agreement were satisfied or waived; and (c) the contemplated transactions were completed to the satisfaction of the Monitor.
23. The Monitor remains engaged in certain post-closing matters. These post-closing matters primarily relate to the sale of the "Purchased Subsidiaries", which are the equity interests held by SAIL in the capital of Fonmar Group, S.L., Shaw Almex Mine Equip. (Tianjin) Co. Ltd., Shaw Almex Pacific Pty Ltd., Shaw Almex Chile SpA, and PT. Shaw Almex Indonesia.
24. On the day the Sale Transaction closed, SAIL's legal ownership in the capital of Shaw Almex Pacific Pty Ltd. (an Australian entity), Shaw Almex Europe B.V. (a Dutch entity), and Almex Peru S.A.C. (a Peruvian entity) was transferred to the Purchaser (such entities, the "**Legal Subsidiaries**"). SAIL's beneficial interests in the capital of Fonmar Group, S.L. (a Spanish entity), Shaw Almex Mine Equip. (Tianjin) Co. Ltd. (a Chinese entity), Shaw

Almex Chile SpA (a Chilean entity) and PT. Shaw Almex Indonesia (an Indonesian entity) were transferred to the Purchaser, but legal ownership in the capital of these entities remains with SAIL (such entities, the “**Beneficial Subsidiaries**”).

25. Due to, *inter alia*, local laws and regulations that complicate share transfers, it was not possible to transfer legal ownership in the Beneficial Subsidiaries to the Purchaser on the closing date. Legal ownership of each of the Beneficial Subsidiaries is expected to be transferred in the near future. The Monitor and its counsel, together with the Purchaser and its counsel, are diligently working to complete these transfers expeditiously. The consideration for the Beneficial Subsidiaries is being held in escrow by the Monitor pending the transfers of legal title to the Purchaser.
26. A breakdown of the purchase price, including the amounts which remain in escrow, is included in the Confidential Supplement, which is subject to a request for a sealing order and is therefore not appended to this Fourth Report.

F. THE TUV MOTION

27. On June 18, 2025, the Monitor brought a motion seeking authorization to commence an application that, *inter alia*, declares that the transfer of shares (the “**Real Holdings Shares**”) of Shaw Almex Spain Real Holdings, S.L. (“**Real Holdings**”) from SAIL to Shaw Almex Global Holdings Limited (“**Global Holdings**”) pursuant to a share sale and purchase agreement dated December 31, 2021 (the “**Share Purchase Agreement**” and the transaction thereunder, the “**Impugned Transaction**”) was a transfer at undervalue for the purposes of section 96 of the BIA, as incorporated into the CCAA by section 36.1 thereof, and void as against the Monitor (such motion, the “**TUV Motion**”).
28. Justice J. Dietrich has scheduled the TUV Motion for hearing on December 4, 2025.
29. The Monitor seeks, among other things, a declaration that the transfer of the Shares (as defined in the TUV Motion) was a transfer at undervalue and an order for Real Holdings and Global Holdings take the necessary steps to effect the voiding of the Impugned Transaction, or, in the alternative, a declaration that Global Holdings is in breach of the

Share Purchase Agreement and orders that Real Holdings and Global Holdings take all necessary steps to effect the return of the Shares.

G. THE STATUS OF THE COSTS OF THE CONTEMPT MOTION

30. As reported in the Second Report of the Monitor dated June 26, 2025, and as further discussed in the Third Report of the Monitor dated July 16, 2025, the Monitor commenced a motion seeking to hold Mr. Shaw in contempt of Court due to alleged breaches of the Property Preservation Order.
31. Justice J. Dietrich scheduled the contempt motion for July 21, 2025 (the “**Contempt Motion**”). The Contempt Motion was substantially settled on July 18, 2025, and the only outstanding matter is with respect to costs of the Contempt Motion.
32. The Monitor’s view is more fully set out in the Cost Submissions of the Monitor (Re: Contempt of Court) dated August 19, 2025 (the “**Cost Submissions**”) a copy of which is attached hereto as **Appendix “A”**.
33. Pursuant to paragraph 3 of the July 21, 2025 Endorsement of the Court, Mr. Shaw was required to deliver cost submissions by September 5, 2025.
34. Counsel for Mr. Shaw delivered responding cost submissions to Stikeman (as defined below) on September 5, 2025 (the “**Responding Cost Submissions**”) a copy of which is attached hereto as **Appendix “B”**.

H. STATUS OF THE DIP FACILITY AND DIP LENDER’S CHARGE

35. In the course of the NOI proceeding, this Court approved debtor-in-possession financing from the DIP Lender up to a maximum principal amount of \$1 million. The DIP Facility was secured by the DIP Lender’s Charge in the same amount. The Initial Order approved the Amended DIP Agreement, which increased the maximum principal amount available under the DIP Facility to \$1.836 million, which was secured in a corresponding amount under the DIP Lender’s Charge. The First Amendment was approved by the Court on May 30, 2025, which increased the maximum principal amount available under the DIP Facility

to \$2,626,500. This amount was secured by a corresponding increase in the DIP Lender's Charge.

36. The Second Amendment was approved by the Court on June 27, 2025, which increased the maximum principal amount under the DIP Facility to \$3,646,500. This amount was secured by a corresponding increase in the DIP Lender's Charge.
37. The Third Amendment was approved by the Court on July 18, 2025, which increased the maximum principal amount under the DIP Facility to \$4,641,000 along with a corresponding increase in the DIP Lender's Charge.
38. The total amount outstanding under the DIP Facility as of September 5, 2025 is \$4,418,052.83, including interest. Interest will continue to accrue until the DIP Facility is settled.
39. Following the completion of the Sale Transaction, the Monitor will be repaying, from the proceeds of the Sale Transaction: (a) the amounts outstanding under the DIP Facility; and (b) the DIP Lender's Charge, pursuant to the priorities set out in the Initial Order.

I. SECURITY REVIEW AND PROPOSED DISTRIBUTIONS

40. RBC has advised the Monitor that as at September 5, 2025, SAIL is indebted to RBC pursuant to the terms of the RBC Facility (as defined in the Affidavit of Andrew Hustrulid sworn May 8, 2025, the "**Initial Affidavit**") in the total amount of \$21,230,945.80⁶ and USD\$514,661.45, including interest (the "**RBC Indebtedness**"). Interest will continue to accrue until the RBC Indebtedness is settled.
41. SAIL has also advised the Monitor that it is indebted to BDC, pursuant to the terms of the BDC Letter (as defined in the Initial Affidavit) in the total amount of \$1,931,944.61 as of August 22, 2025 (the "**BDC Indebtedness**"). Interest will continue to accrue until the BDC Indebtedness is settled.

⁶ This amount includes the total amount outstanding under the DIP Facility, referenced in paragraph 38 of this Report.

42. The Monitor received a legal opinion from Stikeman dated September 8, 2025 (the “**RBC Security Opinion**”) that provides an opinion on the validity and enforceability of the security interests of RBC with respect to the RBC Indebtedness. The RBC Security Opinion confirms that, subject to the usual assumptions and qualifications contained therein, the security interest granted to RBC in the personal property of SAIL is properly registered under the *Personal Property Security Act* (Ontario) (the “**PPSA**”) and is valid and enforceable.
43. The Monitor has also requested that Stikeman prepare an opinion (the “**BDC Security Opinion**”) on the validity and enforceability of the security interests of BDC with respect to the BDC Indebtedness, seeking to confirm that:
- (a) subsearch of registered title in respect of the mortgage on SAIL’s real property located in Parry Sound, Ontario (the “**Parry Sound Property**”), confirms that BDC has a first-ranking mortgage over the Parry Sound Property registered against title, and such mortgage constitutes a fixed and specific mortgage and charge in favour of BDC of the leasehold interest of SAIL; and
 - (b) the security interest granted to BDC in the personal property of SAIL is properly registered under the PPSA and is valid and enforceable.
44. In light of the foregoing, the Monitor is seeking the authority to make distributions to RBC and BDC in the amounts of up to the full satisfaction of the RBC Indebtedness and BDC Indebtedness.⁷
45. A copy of the RBC Security Opinion and the BDC Security Opinion can be made available to the Court upon request.

⁷ The amount of the BDC Indebtedness will not be distributed by the Monitor pending the completion of the BDC Security Opinion and shall not be distributed to BDC until the security interest of BDC in and over SAIL’s real property is confirmed.

J. UPDATE ON THE MONITOR'S ACTIVITIES

46. In addition to the matters described above, since the last motion in these CCAA proceedings on July 18, 2025, the Monitor has, *inter alia*:

- (a) regularly engaged in discussions and met with the Applicants' Management regarding the CCAA proceeding;
- (b) monitored and commented on the Applicants' receipts and disbursements;
- (c) assisted the Applicants in preparing a 21-week cash flow forecast (the "**Revised and Extended Cash Flow Projection**");
- (d) assisting the Applicants and the foreign subsidiaries in completing financial analyses;
- (e) assisting the Applicants and the foreign subsidiaries in operational matters;
- (f) corresponding with the Applicants' local counsel in foreign jurisdiction in relation to legal matters concerning the Sale Transaction;
- (g) participated in discussions with and responded to inquiries from stakeholders, including, among others, suppliers, creditors, employees, customers, RBC, BDC Capital Inc. and BDC;
- (h) corresponding with the Applicants regarding the sale of redundant assets excluded from the Sale Transaction;
- (i) corresponding with the Applicants regarding leases transferred under the Sale Transactions and leases to be disclaimed;
- (j) corresponded regularly with Almex Group employees regarding operational, financial and personnel-related matters, including Management, regional managers, plant production managers, the controller and the payroll manager;
- (k) participated in discussions with US counsel regarding personnel-related matters;

- (l) conducted an online auction of assets and equipment at Fusion's facility;
- (m) attended to various matters involving Mr. Shaw, including matters related to the ownership of certain assets;
- (n) filed with this Court Cost Submissions in connection with a previous motion seeking to hold Mr. Shaw in contempt of Court;
- (o) reviewed and summarized the weekly receipts and disbursements of the Applicants and SAIL's subsidiaries;
- (p) managed the Monitor's Website;
- (q) operated and monitored telephone hotlines and email accounts for stakeholder enquiries;
- (r) prepared this Fourth Report; and
- (s) engaged with the Monitor's legal counsel in connection with the foregoing activities.

K. THE STAY OF PROCEEDINGS

- 47. The Applicants benefit from a stay of proceedings, which is set to expire at the end of the day on September 10, 2025. As part of the relief sought in the proposed Stay Extension Order, the Applicants are seeking to extend the stay of proceedings to and including January 31, 2026.
- 48. As is demonstrated in the Revised and Extended Cash Flow Projections, the Applicants are forecasted to have sufficient liquidity to fund their obligations and the costs of these CCAA proceedings through to the end of the Extended Stay Period by accessing the DIP Facility.
- 49. The Revised and Extended Cash Flow Projections for the 21-week period from September 5, 2025, through to January 30, 2026, are included in the Confidential Supplement.
- 50. The Monitor supports the Extended Stay Period for the following reasons, among others:

- (a) the Monitor does not believe that any creditor will be materially prejudiced by the length of the Extended Stay Period;
- (b) the Applicants have acted and continue to act in good faith and with due diligence to advance the CCAA Proceedings;
- (c) granting the Extended Stay Period allows the Applicants to:
 - (i) attend to certain post-closing matters, including SAIL and those related to the Purchased Subsidiaries whose shares have not been legally transferred to the Purchaser;
 - (ii) take the necessary post-closing steps with respect of the Purchased Subsidiaries that were not transferred, including, among other things, working towards transferring the legal title for five (5) out of seven (7) Purchased Subsidiaries, changing the legal name of SAIL and Fusion, using commercially reasonable efforts to change the name of each subsidiary of the Almex Group that is not a Purchased Subsidiary, and using commercially reasonable efforts to transfer ownership of the Shares;
 - (iii) advance efforts to recover costs from Mr. Shaw in connection with the Contempt Motion;
 - (iv) advance the TUV Proceedings; and
 - (v) take steps to clean-up outstanding matters and work towards the eventual termination of these CCAA proceedings;
- (d) RBC, as the DIP Lender and SAIL's primary secured creditor, is supportive of the length of the Extended Stay Period; and
- (e) as of the date of this Fourth Report, the Monitor is not aware of any party opposed to the Extended Stay Period.

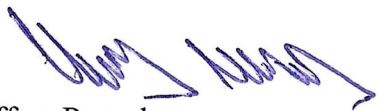
51. Without the benefit of the Extended Stay Period, the Applicants' creditors (and in particular, certain of their secured creditors) are likely to take enforcement steps that could impact the orderly wind down of the remaining subsidiaries.

L. CONCLUSION

52. Based on the foregoing the Monitor respectfully recommends that this Court grant the relief set out in paragraph 8 above.

All of which is respectfully submitted this 9th day of September, 2025.

FTI Consulting Canada Inc.
solely in its capacity as Monitor of Shaw-Almex
Industries Limited and Shaw Almex Fusion,
LLC and not in its personal or corporate capacity



Jeffrey Rosenberg
Senior Managing Director

APPENDIX “A”

[ATTACHED]

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
RSC 1985, C C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SHAW-ALMEX INDUSTRIES LIMITED
AND SHAW ALMEX FUSION, LLC**

**COST SUBMISSIONS OF THE MONITOR
(RE: CONTEMPT OF COURT)**

August 19, 2025

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A. OVERVIEW

1. The moving party, FTI Consulting Canada Inc. (“**FTI**”), in its capacity as monitor (the “**Monitor**”) of Shaw-Almex Industries Limited (“**SAIL**”) and Shaw Almex Fusion, LLC (“**Fusion**” and together with SAIL, the “**Applicants**”), respectfully requests the costs of \$60,845.16 on a substantial indemnity basis, further to the endorsement of Dietrich J. dated July 21, 2025.

B. BACKGROUND RELEVANT TO COSTS

2. The Applicants are subject to an initial order granted under the *Companies’ Creditors Arrangement Act* by Dietrich J. on May 13, 2025 (such order, the “**Initial Order**”).¹ Pursuant to the Initial Order, FTI was appointed as Monitor of the Applicants. The Initial Order, amongst other things, requires that the Applicants remain in possession and control of their Property (as defined in the Initial Order) and carry on their business in a manner consistent with the preservation of their Property.

3. Since the commencement of the CCAA proceedings, Mr. Timothy Shaw, SAIL’s only director and its former CEO and President, engaged in conduct that frustrated the Applicants’ restructuring efforts. Among other things, Mr. Shaw (or his agents, representatives, or others acting on his behalf) retained possession and control of certain of the Applicants’ Property and refused to deliver such Property to the Monitor. This necessitated extensive efforts by FTI, first in its capacity as proposal trustee of SAIL and subsequently in its capacity as Monitor, to secure the Applicants’ Property.

4. FTI, acting at times through counsel, took reasonable steps to try to work with Mr. Shaw, including by:

- (a) emailing Mr. Shaw on May 9, 2025 to flag concerning conduct;
- (b) sending Mr. Shaw a letter on May 9, 2025, to address concerning conduct;
- (c) sending Mr. Shaw a letter on May 15, 2025, that demanded he cease certain conduct;
- (d) emailing Mr. Shaw instructions on the return of Property on May 16, 2025;

¹ [*Companies’ Creditors Arrangement Act*](#), RSC 1985, c C-36 [CCAA].

- (e) emailing Mr. Shaw and his spouse on May 18, 2025, to advise that the Monitor was willing to pick up the Applicants' Property where convenient; and
- (f) sending a letter to Mr. Shaw on May 22, 2025, setting out Mr. Shaw's continuing failure to deliver the Property.

5. Some of the Monitor's letters cautioned that Mr. Shaw that his conduct may necessitate that the Monitor seek relief from the Court, which could result in a cost award.

6. Despite FTI's efforts, Mr. Shaw did not engage in meaningful communication with the Monitor and was generally uncooperative. On May 30, 2025, this Court granted an order that, among other things, compelled Mr. Shaw to cooperate with the Monitor and to return to the Monitor any and all Property (such order, the "**Property Preservation Order**"). The Property Preservation Order required Mr. Shaw's compliance with respect to certain orders "as soon as reasonably practicable and, in any event, no later than five business days from the date of this Order", being June 6, 2025.

7. Mr. Shaw failed to comply with the Property Preservation Order by June 6, 2025, and he remained in a state of non-compliance when the Monitor brought a motion (the "**Contempt Motion**") on June 18, 2025, seeking, amongst other things, an order declaring Mr. Shaw in breach of the Property Preservation Order. This Court scheduled the Contempt Motion for July 21, 2025.

8. Faced with the prospect of being cited in contempt of Court, Mr. Shaw started communicating and slowly cooperating with the Monitor's requests. Ultimately, and following more lengthy and costly delays, Mr. Shaw brought himself largely into compliance with this Court's orders on July 18, 2025—one business day before the hearing of the Contempt Motion. Mr. Shaw's delay in bringing himself into compliance resulted in the Monitor incurring costs to prepare for the Contempt Motion and attend a case conference to deal with the adjournment of the Contempt Motion.

9. The only matter now outstanding is the issue of the costs incurred by the Monitor in compelling Mr. Shaw to comply with various Court orders. The Monitor has made unsuccessful efforts to resolve costs with Mr. Shaw's counsel, including by means of a videoconference call on August 7, 2025.

C. ARGUMENT

10. Costs awarded in proceedings under the CCAA are governed under the inherent jurisdiction of the Court and the *Rules of Civil Procedure* as there are no applicable provisions within the CCAA dealing with this question of costs.² Pursuant to Rule 57.01(1) of the *Rules of Civil Procedure* and section 131 of the *Courts of Justice Act*, the Court has discretion to award costs and may consider factors such as the complexity of the proceedings, the conduct of the parties, and whether any steps were improper or unnecessary.³

11. In *YG Limited Partnership and YSL Residences (Re)*, 2021 ONSC 5478, Dunphy J. observed that although cost awards are less common in insolvency proceedings compared to civil litigation, they are nevertheless a “matter of discretion”.⁴ Cost awards tend to be less common because insolvency litigation relies on the “three C’s” of the Commercial List: cooperation, communication and common sense.”⁵ In *YG Limited Partnership*, Dunphy J. declined to award costs because the party against whom costs were sought did not engage in behaviour that warranted “sanction or punishment of some kind”.⁶

12. In *Re Canada North Group Inc.*, the court wrote that cost awards may be justified in a CCAA proceeding where a party takes unreasonable positions or engages in misconduct that impacts the timing or costs associated with winding-up the estate.⁷

13. A monitor in a CCAA proceeding is not prevented from seeking a cost award, particularly when the Monitor is seeking costs against a party that has engaged in conduct that is blameworthy enough to merit some deterrence.⁸

14. Solicitor-client costs are awarded where there has been reprehensible, scandalous or outrageous conduct on the part of one of the parties.⁹ This is often the case in the contempt context, where costs are generally payable on a full or substantial indemnity basis.¹⁰

² See e.g. *Re Jackpine Forest Products Ltd.*, 2004 BCSC 20 at [para. 7](#).

³ *Rules of Civil Procedure*, RRO 1990, Reg 194; *Courts of Justice Act*, RSO 1990, c C.43.

⁴ *Re YG Limited Partnership and YSL Residences*, 2021 ONSC 5478 at [paras. 7](#) and [16](#).

⁵ *Ibid* at [para. 8](#).

⁶ *Ibid* at [para. 13](#).

⁷ *Re Canada North Group Inc.*, 2020 ABQB 12 at [paras 10](#) and [11](#).

⁸ *Ibid* at [para 26](#).

⁹ *Baker v Canada (Minister of Citizenship & Immigration)*, 1999 SCC 699 at [para. 77](#), citing *Young v Young*, 1993 CanLII 34 (SCC) at p. 134.

¹⁰ *Castillo v Xela Enterprises Ltd.*, 2022 ONSC 6696 [*Castillo*] at [para. 6](#), affirmed [2024 ONCA 141](#) [*Castillo Appeal*].

Contempt of court is “inherently” reprehensible conduct on the basis that a party who obtains an order from the Court should be entitled to have it obeyed without further expense.¹¹

15. In *Castillo v Xela Enterprises Ltd.*, a receivership proceeding involving contempt, Conway J. awarded costs on a full indemnity basis, explaining that this was because “[i]t would be manifestly unfair” for the moving party to bear the financial burden of the contempt.¹² Justice Conway’s decision recognized the significant cost that must be incurred by a moving party to establish contempt and its elements beyond a reasonable doubt, which is a heavy onus.¹³ On appeal, Justice Conway’s decision was affirmed, with the Court of Appeal describing the seriousness of contempt as follows: “It is difficult to think of conduct by a litigant that is more flagrant and disrespectful of the court and the rule of law.”¹⁴

16. In the present case, the Monitor’s costs ought to be recoverable on a substantial indemnity basis. The Contempt Motion could easily have been avoided had Mr. Shaw complied with the Initial Order in the first instance, and with the Property Preservation Order in the second instance.

17. The Monitor brought the Contempt Motion on June 18, 2025—more than a month after the Applicants had sought protection under the CCAA, and nearly three months after SAIL commenced a proposal proceeding. Prior to the bringing of the Contempt Motion, FTI (in its capacity as proposal trustee and later Monitor) had raised with Mr. Shaw and Mr. Shaw’s counsel (once counsel was retained) the delivery of the Applicants’ Property in Mr. Shaw’s possession or control to the Monitor. Mr. Shaw and his counsel, however, were generally uncommunicative and uncooperative with the Monitor. The Monitor was left with little choice but to pursue the Contempt Motion.

18. Although no formal settlement offer was made by the Monitor under the *Rules of Civil Procedure* with Mr. Shaw, the Monitor’s efforts to consensually resolve the matter ought to be considered in any cost award.

19. As mentioned above, when Mr. Shaw finally complied with the Property Preservation Order and purged any alleged contempt, he did so on or around July 18, 2025—

¹¹ *Andersson v Aquino*, 2019 ONSC 2751 at [para. 23](#).

¹² *Castillo*, *supra* note 10 at [paras. 6, 12](#) and [13](#).

¹³ *Ibid* at [para. 18](#).

¹⁴ *Castillo Appeal*, *supra* note 10 at [para. 90](#).

more than two months after the Initial Order had been granted, more than a month after the deadline imposed by the Property Preservation Order, and a mere one business day before the hearing of the Contempt Motion. As a result of Mr. Shaw purging any alleged contempt, the Contempt Motion was settled and the Court did not decide whether Mr. Shaw was, in fact, in contempt of court.

20. The fact remains, however, that Mr. Shaw retained the Applicants' Property long after the deadline imposed by the Property Preservation Order. His conduct is disrespectful to the Court and its process, and it came at a high cost to the Applicants' limited funds and the Monitor's limited time. By the time Mr. Shaw complied with the Property Preservation Order, the Monitor had already provided Mr. Shaw's counsel with motion materials and had a factum substantially complete.

21. Mr. Shaw never formally replied to the allegation of contempt, despite having had the opportunity to file a responding motion record in the Contempt Motion and to again make factual submissions in the course of this cost submission process.

22. The Monitor has maintained reasonable costs in pursuing the Contempt Motion, relying primarily on the work of one partner and two associates. It has, however, taken the Monitor a significant amount of time to advance the Contempt Motion given that Mr. Shaw's conduct giving rise of the Contempt Motion was serious and sustained over many weeks.

D. CONCLUSION

23. This Court ought to award the Monitor costs on a substantial indemnity basis. It is fundamentally unfair to burden the Applicants' creditors with the cost of the Contempt Motion when such motion is the directly result of Mr. Shaw ignoring, disobeying, and defying an order of the Court.

24. In the alternative, the Monitor respectfully request that the Court exercise its discretion to order elevated costs or costs on a partial indemnity basis.

25. The Monitor's cost outline is attached as Schedule "A".

August 19, 2025



Nicholas Avis

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Lawyers for the Monitor

Schedule "A"

Preparation of motion materials regarding Contempt motion; email correspondence regarding scheduling matters and attendance at case conference to schedule motion; preparation of Brief of Authorities; Monitor's Reports regarding Contempt motion					
Person	Hours	Rate	Partial	Substantial	Actual
Elizabeth Pillon	1.25	\$1,400.00	\$1,050.00	\$1,575.00	\$1,750.00
Maria Konyukhova	12.75	\$1,250.00	\$9,562.50	\$14,343.75	\$15,937.50
Nick Avis	28.50	\$790.00	\$13,509.00	\$20,263.50	\$22,515.00
Jocelyn Kemp	0.33	\$375.00	\$74.25	\$111.38	\$123.75
Subtotal			\$24,195.75	\$36,293.63	\$40,326.25
Service of Notice of Motion in U.S.					
Person	Hours	Rate	Partial	Substantial	Actual
Stephen Blank	0.60	\$1,875.00	\$675.00	\$1,012.50	\$1,125.00
Kerrie Sekine-Pettite	2.60	\$785.00	\$1,224.60	\$1,836.90	\$2,041.00
Subtotal			\$1,899.60	\$2,849.40	\$3,166.00
Preparation of Factum for Contempt Motion					
Person	Hours	Rate	Partial	Substantial	Actual
Maria Konyukhova	1.00	\$1,250.00	\$750.00	\$1,125.00	\$1,250.00
Nick Avis	1.50	\$790.00	\$711.00	\$1,066.50	\$1,185.00
Sara Wright	20.25	\$670.00	\$8,140.50	\$12,210.75	\$13,567.50
Subtotal			\$9,601.50	\$14,402.25	\$16,002.50
Total Fees			\$35,696.85	\$53,545.28	\$59,494.75
HST @ 13%			<u>\$4,640.59</u>	<u>\$6,960.89</u>	<u>\$7,734.32</u>
TOTAL FEES			\$40,337.44	\$60,506.16	\$67,229.07
DISBURSEMENTS			\$339.00	\$339.00	\$339.00
TOTAL FEES & DISBURSEMENTS			<u>\$40,676.44</u>	<u>\$60,845.16</u>	<u>\$67,568.07</u>

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, C
C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SHAW-ALMEX INDUSTRIES LIMITED AND SHAW ALMEX
FUSION, LLC

Court File No. CV-25-00743136-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

COST SUBMISSIONS
OF THE MONITOR
(Re: Contempt of Court)

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APPENDIX “B”

[ATTACHED]

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

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT
ACT, RSC 1985, C C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SHAW-ALMEX INDUSTRIES LIMITED AND SHAW ALMEX FUSION,
LLC

**COSTS SUBMISSIONS OF TIMOTHY SHAW
(RE CONTEMPT OF COURT)**

September 5, 2025

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PART I - OVERVIEW

1. Timothy Shaw (“**Shaw**”) files these submissions in response to the Monitor’s costs submissions regarding its Contempt Motion. The Monitor’s request for substantial indemnity costs of \$60,845.16 must be denied for the following reasons: (a) Shaw complied with the Property Preservation Order, as acknowledged by the Monitor; (b) costs are not typically granted in insolvency matters; (c) the Court has not made any finding of contempt and Shaw has the constitutional right to be presumed innocent; (d) the amounts claimed by the Monitor are grossly disproportionate given that much of the work claimed by the Monitor came after Shaw had already complied or was in the process of complying with the Property Preservation Order; and (e) the Monitor’s position that compliance did not occur until the day before the hearing is not accurate since what was outstanding at that point in time was a Statutory Declaration that was neither required nor contemplated by the Property Preservation Order, the negotiation of which took time because it dealt with matters beyond the scope of the Property Preservation Order. The Monitor’s submissions show that it is seeking to impermissibly prosecute the contempt motion and other complaints through cost submissions, contrary to Shaw’s constitutional rights.

PART II - RELEVANT FACTS

2. Prior to the proceedings, SAIL and Fusion were family-run businesses that operated in premises also used by other companies that are not subject to the CCAA proceedings.

3. On May 30, 2025, this Court granted Property Preservation Order. The property that the Monitor was primarily concerned about were certain work-in-progress inventory (the “**Presses**”) and equipment that had been moved by employees of the Applicant Fusion to adjacent premises owned by Shaw to prevent such inventory being seized by the landlords of the facilities that Fusion was occupying. The location of those assets was never hidden or denied by Shaw. Many of the Monitor’s allegations of non-compliance with the Order involve complaints about the logistics of for the return of the property.

4. As the Monitor was aware, when the Property Preservation Order was granted, Shaw was not represented by counsel and was battling significant health issues and was intermittently hospitalized.

5. After engaging counsel on June 19, 2025, Shaw immediately effected the return of the property – the return of the Presses and equipment was effected within days. Shaw, through counsel, also addressed the issues regarding access to computer back-ups that impacted both his personal documents and those of the Applicants, and confirmed that he did not and would not keep property (including intellectual property) owned by the Applicants. At the Monitor’s request, he also began negotiating a Statutory Declaration that not only memorialized that confirmation but also addressed issues beyond the scope of the Property Preservation Order.

6. The Monitor’s suggestion that compliance with the Property Preservation Order did not occur until the day before the hearing of the contempt motion is fundamentally wrong. While that was when the Statutory Declaration – a document that was not contemplated nor required by the Property Preservation Order – was delivered, Shaw had long before then confirmed that which was required to be confirmed under the Property Preservation Order. The negotiation and delivery of the Statutory Declaration requested by the Monitor was protracted for other reasons, including the fact that: (a) the rights of non-applicant foreign companies already named “Shaw Almex” to use the names “Shaw Almex” had to be addressed; and (b) the Monitor was seeking to obtain further agreements and undertakings in the Statutory Declaration about future conduct that were not required by the Property Preservation Order (see the Statutory Declaration at **Appendix A** which does not include all of the requests that the Monitor had made).

PART III - LAW AND ARGUMENT

A. Presumption of No Costs In Insolvency Matters

7. As noted by the Monitor, “[t]here is a practice in our Commercial Court of not awarding costs in restructuring matters – be they under the CCAA or under the *BIA* – except in relatively

narrow circumstances.” Courts usually do not award costs against unsuccessful parties in CCAA proceedings even when a motion is heard.¹ There are no circumstances here justifying deviating from the “established practice in insolvency cases of having the parties bear their own costs”².

8. Shaw did not act unreasonably in engaging counsel to assess his obligations and rights arising under the Property Preservation Order or the contempt motion (particularly given the Monitor was seeking incarceration), or ensuring that the Statutory Declaration sought by the Monitor (and not even contemplated by the Order) did not go farther than legally required. Shaw’s did not delay or prejudice the proceedings.

9. Moreover, the Monitor is effectively seeking costs based on a host of other complaints regarding matters that pre-date the Property Preservation Order – this is not the forum for such matters and it is too late to seek costs for such matters.

10. The Monitor chose to bring the most serious of contempt motions against Shaw. In that context, Shaw’s conduct in seeking counsel before fully addressing the situation cannot be described as warranting “sanction or punishment of some kind”³ or overcoming the “common sense policy considerations”⁴ that deem costs in insolvency proceedings a rarity. The Monitor acknowledges that Shaw fully complied with the Property Preservation Order. Accordingly, there is no reason to depart from the normal rule that costs are not ordered in insolvency matters.

B. Shaw Entitled to Be Presumed Innocent – No Costs Can Be Awarded Without Full and Proper Hearing on the Merits

11. Contempt motions are governed by the principle of *strictissimi juris*, which requires that the party bringing the motion strictly comply with all procedural requirements and the alleged contemnor is entitled to all procedural protections, particularly where, as here, the Monitor was seeking an incarceration order. As the Ontario Court of Appeal reaffirmed earlier this year, a

¹ *Calpine Canada Energy Limited, Re*, 2008 ABQB 537, at para. 1.

² *Manitok Energy Inc (Re)*, 2018 ABQB 488 at [para 28](#).

³ *YG Limited Partnership and YSL Residences (Re)*, 2021 ONSC 5478, at [para. 15](#).

⁴ *YG Limited Partnership and YSL Residences (Re)*, 2021 ONSC 5478, at [para. 17](#).

motion for civil contempt attracts the constitutional protections afforded to accused in criminal proceedings, including the fact that

[t]he alleged contemnor is presumed innocent. Contempt must be proved, not on the usual civil standard, but on the criminal standard of proof beyond a reasonable doubt: *Carey v. Laiken*, 2015 SCC 17, [2015] 2 S.C.R. 79, at para. 32. Procedural requirements, from pleadings to the presentation of evidence, are enforced rigorously: *Bassett v. Magee*, 2015 BCCA 422, at para. 35.⁵ [emphasis added]

12. Moreover, proof of one act of contempt cannot serve as proxy for proof of another,⁶ and thus the Monitor was required to prove each allegation of contempt to the criminal standard of proof. Thus complaints about other issues cannot infect the analysis of whether particular acts or omissions amount to contempt.

13. There has been no finding of contempt against Shaw. The Court cannot now, in the context of a request for costs for a hearing that never occurred, in effect make a contempt finding against Shaw by finding that the Monitor is entitled to costs for its contempt motion. Before the Court awards costs, the Court would have to determine that the Monitor would have been successful on the motion, which requires a full hearing on the merits to consider whether the Monitor can prove beyond a reasonable doubt that Shaw was “ignoring, disobeying, or defying an order of the Court” and was doing so without legal or appropriate justification having regard to, among other things: (a) Shaw’s difficult medical situation at that time; (b) the time required to find counsel in that context; (c) Shaw’s right to retain counsel in the face of the threat of incarceration; (d) the actual circumstances surrounding the logistical issues the Monitor complains of; and (e) the details regarding the negotiations of the Statutory Declaration and whether Shaw was in contempt for not agreeing to swear to a Statutory Declaration in the forms

⁵ *Sutherland Estate v. Murphy*, 2025 ONCA 227 at para. 43.

⁶ *Sutherland Estate v. Murphy*, 2025 ONCA 227 at para. 86.

requested by the Monitor when the Property Preservation Order does not require Shaw to provide a Statutory Declaration.

14. But there was no hearing. None of these matters have been considered by the Court and the Monitor has not proved beyond a reasonable doubt that Shaw was in contempt of Court. Yet the Monitor is attempting to now prosecute the contempt motion through cost submissions (see, for one example, paragraph 20 of the Monitor's submissions) despite Shaw's constitutional rights to be presumed innocent and his procedural rights in the face of contempt allegations.

15. The cases cited by the Monitor are all cases where contempt was actually found by the Court.⁷ They simply have no application in the present circumstances.

16. The Monitor's argument that it is entitled to costs because it is of the view that the order was complied with after the motion was brought has not merit and would do an end run around Shaw's constitutional rights – to award costs on this basis would be to wrongly presume that Shaw was not innocent or to effectively make a finding of contempt without a proper hearing.

C. The Monitor's Costs are Excessive

17. The Monitor's costs request is excessive in a number of respects. First, there is no basis for substantial indemnity costs. Second, the hours spent for the materials that were filed is not proportionate given Shaw's compliance – the Monitor has not shown that the costs were incurred before Shaw was complying and were required to secure compliance with the Order. Third, the motion materials included a Monitor's report, which is not admissible evidence on a contempt motion (since its not amenable to cross-examination) and, therefore, costs associated with its preparation are not compensable.

September 5, 2025



Tyr LLP (Counsel for Tim Shaw)

⁷ *Castillo v Xela Enterprises Ltd.*, 2022 ONSC 6696 at para. 6, affirmed 2024 ONCA 141. See also *Royal Bank v. Yates Holdings Inc.*, 2007 CanLII 23601 (ON SC), [2007] O.J. No. 2529, 33 C.B.R. (5th) 268 at para. 15: "Given the finding of contempt, the award of costs on a full indemnity basis is an appropriate and logical consequential result." [emphasis added]

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
RSC 1985, C C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
SHAW-ALMEX INDUSTRIES LIMITED AND SHAW ALMEX FUSION, LLC

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

Proceeding commenced at TORONTO

COSTS SUBMISSIONS OF TIMOTHY SHAW

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APPENDIX “C”

[ATTACHED]

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

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
RSC 1985, C C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SHAW-ALMEX INDUSTRIES LIMITED
AND SHAW ALMEX FUSION, LLC**

**NOTICE OF MOTION
(Re: Determination of Share Purchase Agreement)**

FTI Consulting Canada Inc. (“**FTI**”), in its capacity as monitor (the “**Monitor**”) of Shaw-Almex Industries Limited (“**SAIL**”) and Shaw Almex Fusion, LLC (“**Fusion**” and together with SAIL, the “**Applicants**”) will make a motion before Justice J. Dietrich or another Judge of the Ontario Superior Court of Justice (Commercial List) at 330 University Avenue, Toronto, Ontario (the “**Court**”) on a date to be scheduled.

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

- ☐ in writing under subrule 37.12.1 (1) because it is on consent, unopposed or made without notice;
- ☐ in writing as an opposed motion under subrule 37.12.1 (4);
- ☐ in person;
- ☐ by telephone conference;
- ☒ by video conference (Zoom link to be confirmed).

THE MOTION IS FOR:

1. An Order that, among other things:
 - (a) Abridges the time for service and filing of this notice of motion on Shaw Almex Global Holdings Limited (“**Global Holdings**”), if necessary;
 - (b) a declaration that the transfer of 2,400,600 shares (the “**Shares**”) of Shaw Almex Spain Real Holdings, S.L. (“**Real Holdings**”) from SAIL to Global Holdings pursuant to a share sale and purchase agreement dated December 31, 2021 (the “**Share Purchase Agreement**”, and the transaction thereunder, the “**Impugned Transaction**”):
 - (i) were transfers at undervalue for the purposes of section 96 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”), as incorporated into the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) by section 36.1 thereof; and
 - (ii) are void as against the Monitor;
 - (c) an order that Real Holdings execute and file, and that Global Holdings facilitate the execution and filing of, such documents or instruments as may be required to enable or effect the voiding of the Impugned Transaction, including without limitation the issuance of shares and updating of Real Holdings’ shareholder registry;
 - (d) in the alternative:
 - (i) declares that these proceedings under the CCAA, with respect to the Applicants, as commenced by an initial order granted May 13, 2025 (the “**Initial Order**”), are the correct forum for the determination of issues relating to the Impugned Transaction and the Share Purchase Agreement;

- (ii) declares that Global Holdings has breached the Share Purchase;
 - (iii) orders that Global Holdings return to SAIL the Shares;
 - (iv) orders that Real Holdings execute and file, and that Global Holdings facilitate the execution and filing of, such documents or instruments as may be required to enable or effect the return of the Shares to SAIL, including without limitation the issuance of shares and updating of Real Holdings' shareholder registry; and
- (e) such further and other relief as this Court deems just.

THE GROUNDS FOR THIS MOTION ARE:

The Monitor

2. On March 29, 2025, SAIL filed a notice of intention to make a proposal (“**NOI**”) pursuant to the provisions of the BIA;
3. FTI consented to act as the proposal trustee of SAIL's estate;
4. On May 13, 2025, the Court granted the Initial Order with respect to the Applicants which, among other things:
 - (a) continued the NOI proceeding commenced by SAIL under the purview of the CCAA;
 - (b) appointed FTI as the Monitor with enhanced powers; and
 - (c) granted a stay of all proceedings until May 30, 2025;
5. SAIL is the parent company of a global business (the “**Almex Group**”) that was in the business of the manufacturing of conveyor belt vulcanizing equipment, technology, services and expertise;
6. Fusion is an indirect subsidiary of SAIL that previously operated from Atlanta,

Georgia, and primarily manufactured presses and rubber products;

7. Until the sale of substantially all of its assets, SAIL conducted business operations from, amongst other places, a leased facility at 323 Glover Road, Stoney Creek, Ontario (the “**Glover Road Property**”);

Global Holdings

8. Global Holdings is a corporation existing under the laws of the Province of Ontario;
9. Global Holdings’ registered or head office is at the Glover Road Property;
10. Title to the Glover Road Property was historically held by Global Holdings, and SAIL leased the Glover Road Property from Global Holdings;
11. In January 2025, the Glover Road Property was sold to a third party that agreed to keep SAIL as a tenant on a rent-free basis for 24 months;

The Almex Group’s Spanish Operations & Real Property

12. The Monitor understands that SAIL holds 100% of the share capital in Fonmar Group S.L. (“**Fonmar Group**”), a *sociedad limitada* (a type of limited liability company) existing under the laws of Spain;
13. Fonmar Group carried out the Almex Group’s business operations in Spain and manufactured for the Almex Group’s subsidiaries globally;
14. Fonmar Group was a key profit-generating component of the Applicants’ business;
15. Fonmar Group’s cumulative earnings before interest, income tax, depreciation and amortization for the period 2022 to 2024 was approximately \$8.3 million;
16. Since 2002, Fonmar Group has funded over €3.7 million to SAIL, including intercompany transfers and invoices paid by Fonmar Group on behalf of SAIL, with €2.4 million of this funding provided in 2024 and 2025;

17. Fonmar Group has a manufacturing facility in Jaén in south-central Spain at Parque Empresarial Nuevo Jaén, C/ Mariana de Montoya, nº 3-9, P.O. Box 733, 23009 Jaén, Spain (the “**Spanish Real Property**”);
18. The Spanish Real Property is held by Fonmar S.A., a *sociedad anónima* (akin to a corporation) existing under the laws of Spain;
19. Under the lease for the Spanish Real Property, Fonmar Group pays Fonmar S.A. monthly rent of approximately \$22,500;
20. The shares of Fonmar S.A. are held by Real Holdings, a *sociedad limitada* existing under the laws of Spain;
21. SAIL held the shares of Real Holdings until December 2021, when Global Holdings purportedly acquired the shares of Real Holdings (as discussed below);
22. Mr. Timothy G. Shaw is the sole director of Global Holdings and SAIL;
23. The Monitor understands that Mr. Shaw was at all relevant times the controlling shareholder of Global Holdings and SAIL;

Improper Transfer of the Spanish Real Property to Global Holdings

24. SAIL held the Shares at the time Real Holdings was established;
25. Pursuant to the Share Purchase Agreement, SAIL (acting through Mr. Shaw) sold to Global Holdings (acting through Mr. Ryan C.K. Neufeld) the Shares;
26. Global Holdings agreed to pay €2,400,600 for the Shares (the “**Purchase Price**”), payable over a period of 20 years by means of annual payments of €120,030;
27. The Share Purchase Agreement is governed by the laws of Spain;
28. The Monitor understands that the Impugned Transaction did not have the consent of SAIL’s secured creditors, including BDC Capital Inc. and HSBC Bank of Canada

(now Royal Bank of Canada), and was done in breach of certain obligations under SAIL's loan agreements;

Global Holdings Never Performed Under the Share Purchase Agreement

29. Global Holdings never transferred any cash to SAIL to satisfy the Purchase Price;
30. Global Holdings does not have a bank account, whether in Canada, Spain, or elsewhere;
31. Historically, when Global Holdings had to make a payment prior to the start of these CCAA proceedings, SAIL would make that payment on Global Holdings' behalf and then record the payment in its general ledger;
32. In this way, the Purchase Price was recorded in SAIL's general ledger as an approximately \$3.45 million debt owing by Global Holdings to SAIL (which brought the cumulative amount owing by Global Holdings to SAIL as reflected in SAIL's general ledger to approximately \$6.47 million);
33. SAIL would set-off amounts owing by Global Holdings against amounts it owed Global Holdings, including by setting off: (a) amounts owing by SAIL to Global Holdings in connection with rent payable on the Glover Road Property; and (b) cash received by SAIL on behalf of Global Holdings in connection with Global Holdings' real property dealings, including \$1.9 million in mortgage proceedings (January 2022), \$2.68 million in proceeds from the sale of the Glover Road Property (September 2024), and \$824,000 in connection with the sale of real property in Townsville, Australia (September 2024);
34. Global Holdings currently owes SAIL approximately \$1.01 million once set-off is taken into account;
35. Since the sale of the Glover Road Property in January 2025, SAIL has not had any rent owing to Global Holdings to set-off against amounts owing in connection with the Purchase Price;

36. In the aggregate, from December 2021 to May 2025, SAIL set-off approximately \$740,000 of rent payable to Global Holdings against amounts owing by Global Holdings;

Transfer at Undervalue

37. The Impugned Transaction is a transfer at undervalue in accordance with section 96 of the BIA (and specifically subsection 96(1)(b) thereof), and the Monitor is empowered under section 36.1 of the CCAA to bring an application in connection therewith;
38. SAIL purportedly transferred the Shares to Global Holdings in exchange for no cash payment from Global Holdings to SAIL;
39. The value of the consideration received by SAIL under the Share Purchase Agreement was conspicuously less than the value of the transferred shares;
40. The use of set-off in SAIL's general ledger by which Global Holdings "paid" the Purchase Price to SAIL means that there is no ability to determine what consideration was actually paid in connection with the Purchase Price as opposed to any other amounts owing by Global Holdings to SAIL;
41. The Impugned Transaction occurred in December 2021, which is less than five years before the commencement of these CCAA proceedings commenced on May 13, 2025;
42. SAIL and Global Holdings did not deal with each other at arm's length:
- (a) Mr. Shaw was the controlling mind of both SAIL and Global Holdings;
 - (b) Mr. Shaw is the sole director of both SAIL and Global Holdings;
 - (c) Mr. Shaw was the President of SAIL and is the Chief Executive Officer of Global Holdings;

- (d) Mr. Neufeld was the Chief Financial Officer of both SAIL and Global Holdings; and
 - (e) The registered addresses for both SAIL and Global Holdings are the Glover Road Property;
43. SAIL was insolvent or was rendered insolvent by the Impugned Transaction;
44. The interests of justice favour the granting of the Order sought;

Breach of Contract

45. In the alternative, Global Holdings has breached the Share Purchase Agreement in failing to pay the Purchase Price;
46. SAIL is entitled to specific performance for this breach due to, among other things, the related-party nature of the Impugned Transaction and the unique nature of the Spanish Real Property and its importance to SAIL's business;
47. Courts in Canada, including the Supreme Court of Canada and this Court, have repeatedly held that disputes relating to debtor companies involved in CCAA proceedings should be resolved by the CCAA Court;
48. This Court has the jurisdiction over the Impugned Transaction and the Share Purchase Agreement (notwithstanding its governing law being Spanish) to determine any breach thereof;

Other Grounds

49. The provisions of the CCAA, in particular sections 11 and 36.1 thereof;
50. The provisions of the BIA, in particular section 96;
51. The provisions of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, in particular rules 1.04, 2.03, 3.02, 37 and 38;

52. The inherent and equitable jurisdiction of the Court; and
53. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE MOTION:

54. A report of the Monitor, to be filed; and
55. Such further and other materials as counsel may advise and this Honourable Court may permit.

September 9, 2025

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, C C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SHAW-ALMEX INDUSTRIES LIMITED AND SHAW ALMEX FUSION, LLC

Court File No. CV-25-00743136-00CL

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

Proceeding commenced at Toronto

**NOTICE OF MOTION OF THE
MONITOR**

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**FOURTH REPORT OF
MONITOR
(September 9, 2025)**

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