

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

THE HONOURABLE MR. ) THURSDAY, THE 19TH DAY  
 )  
JUSTICE D.M. BROWN ) OF DECEMBER, 2013

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

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

**ORDER**

**(Re: Approval of Settlement Agreement and Distribution of Estate Proceeds)**

**THIS MOTION**, made by FTI Consulting Canada ULC, the Court-appointed Monitor (the "**Monitor**") of Indalex Limited, Indalex Holdings (B.C.) Ltd., 6326765 Canada Inc. and Novar Inc. (the "**Applicants**"), for an order, among other things, approving the Settlement Agreement dated September 13, 2013, entered into by Sun Indalex Finance, LLC ("**Sun**"), Morneau Shepell Ltd. ("**Morneau**") as administrator of the Retirement Plan for Executive Employees of Indalex Limited and Associated Companies (the "**Executive Plan**") and the Retirement Plan for Salaried Employees of Indalex Limited and Associated Companies (the "**Salaried Plan**"), the United Steelworkers (the "**USW**"), George L. Miller (the "**US Trustee**") in his capacity as

Chapter 7 Trustee of the bankruptcy estates of IH 2, Inc. (f/k/a Indalex Holding Corp.), IH 1, Inc. (f/k/a Indalex Holdings Finance Corp.), IH 3, Inc. (f/k/a Indalex Inc.), IH 4, Inc. (f/k/a Caradon Lebanon, Inc.) and IH 5, Inc. (f/k/a Dolton Aluminum Company, Inc.), the group of fourteen members of the Executive Plan represented by Koskie Minsky LLP (the “**Retired Executives**”), and the Ontario Superintendent of Financial Services (the “**Superintendent**” and, together with Sun, Morneau, the USW, the US Trustee and the Retired Executives, the “**Parties**”) (the “**Settlement Agreement**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Motion Record of the Monitor, including the Twenty-First Report of the Monitor dated June 21, 2013, the Twenty-Third Report of the Monitor dated November 22, 2013, (the “**Twenty-Third Report**”) and the Settlement Agreement, and on being advised that those parties disclosed on the Service List attached to the Notice of Motion as Schedule “A”, including each of the Parties, were served with the Notice of Motion herein, and on hearing the submissions of counsel for the Monitor, Sun, Morneau, the USW, the US Trustee, the Retired Executives, the Superintendent and such other counsel as were present, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Yannick Katirai sworn November 29, 2013:

### **DEFINITIONS**

1. **THIS COURT ORDERS** that any capitalized term in this Order that is not otherwise defined has the meaning ascribed to it in the Settlement Agreement or in the Twenty-Third Report.
2. **THIS COURT ORDERS** that all monetary amounts contained herein are expressed in Canadian Dollars.

**APPROVAL OF SETTLEMENT AGREEMENT**

3. **THIS COURT ORDERS** that the Settlement Agreement is approved, and the Parties and the Monitor are authorized and directed to take all actions contemplated thereunder.

4. **THIS COURT ORDERS** that the Monitor is authorized and directed to distribute from the funds currently held by the Monitor the sum of \$1,405,000 million as follows:

- (a) The sum of \$350,000, to Koskie Minsky LLP, in trust for the Retired Executives;
- (b) The sum of \$285,000, inclusive of applicable taxes, payable to Koskie Minsky LLP, in trust, as partial reimbursement of the legal costs of the Retired Executives;
- (c) The aggregate sum of \$15,000, payable in equal amounts of \$3,750 to each of the four (4) members of the Executive Plan who is not a Retired Executive, subject to any applicable statutory withholdings;
- (d) The sum of \$650,000, payable to Morneau on behalf of and for deposit into the Salaried Plan; and
- (e) The sum of \$105,000, payable to the USW on behalf of the seven (7) members of the Salaried Plan whom it represents.

5. **THIS COURT ORDERS** that the precise allocation and payment mechanics of the distributions of the amount referred to in paragraph 4(a) above to the Retired Executives by Koskie Minsky LLP shall be determined by Koskie Minsky LLP on behalf of each relevant Retired Executive in consultation with Morneau and the Superintendent, each acting reasonably.

6. **THIS COURT ORDERS** that the precise payment mechanics of the distributions referred to in paragraph 4(c) above shall be agreed by the Monitor, Morneau, the Superintendent and each relevant member of the Executive Plan who is not a Retired Executive, each acting reasonably.

7. **THIS COURT ORDERS** that the remainder of the Estate Proceeds (as defined in the Twenty-Third Report) held by the Monitor following payment of those amounts described in paragraph 4 hereof shall, subject to paragraph 8 below, be paid to the US Trustee on behalf of the bankruptcy estates of the US Debtors without prejudice to the claims and liens, if any, of Sun and its affiliates and the claims and responses, if any, of the US Trustee and other parties in those proceedings.

8. **THIS COURT ORDERS** that the Monitor shall withhold a reserve for its fees and disbursements and those of its counsel, including an estimated amount needed by the Monitor to obtain its discharge, in such amount as it considers reasonable. Any Estate Proceeds remaining with the Monitor upon the Monitor's discharge shall be paid to the US Trustee in accordance with paragraph 7 of this Order.

9. **THIS COURT ORDERS** that the USW and the seven (7) members of the Salaried Plan whom it represents shall have no entitlement to share in or receive any portion of the funds referred to in paragraph 4 above other than the amount referred to in paragraph 4(e).

**MONITOR TO GIVE EFFECT TO THE SETTLEMENT**

10. **THIS COURT ORDERS** that Monitor is authorized and directed to take such further actions and execute such documents as the Monitor considers necessary or desirable in order to give effect to the Settlement Agreement or the terms of this Order.

## RELEASES

11. **THIS COURT ORDERS** that the distributions made pursuant to paragraph 4 above shall constitute a full and final compromise and accord and shall be in satisfaction of all rights and claims, including any and all deemed trusts and liens, that could be advanced on behalf of the Executive Plan and the Salaried Plan and any or all beneficiaries of the Executive Plan or the Salaried Plan or the Superintendent against the Applicants, the US Debtors and any other person or entity in respect of any insufficiency of funding of the Executive Plan and the Salaried Plan (the "**Pension Claims**"). Without limiting the generality of the foregoing, Pension Claims includes all claims advanced by the USW and the Retired Executives (including, without limitation, any claims in respect of or related to the Directors' Charge (as defined in paragraph 22 of the Initial Order) and D&O Claims (as defined in the Claims Procedure Order). For greater certainty, nothing in this Order shall prevent or otherwise impact the rights of recovery by Bertram McBride, Eugene D'Iorio and Robert Waldron of any remedies available to them in separate litigation involving Mercer Canada Limited in relation to their pension benefits, subject only to the preclusion against double-recovery.

12. **THIS COURT ORDERS** that each of the Parties and the Monitor and each of their respective affiliates, directors, officers, shareholders, agents, accountants, lawyers, financial advisors, and each of the respective heirs, executors, administrators, successors, assigns and personal representatives, as the case may be (collectively, the "**Releasees**"), are released and forever discharged of and from any and all actions, causes of action, suits, proceedings, debts, sums of money, obligations, duties, dues, accounts, interests, bonds, contracts, covenants, claims, losses, damages, liabilities, judgments, costs, expenses and demands which now exist, have ever been or hereafter may arise out of or in any way related to or connected with the Executive Plan and the Salaried Plan, the Releasees' obligations to the Executive Plan and the Salaried Plan, all acts or omissions made or due by each

of the Releasees in connection with the Executive Plan and the Salaried Plan, all acts and omissions in these CCAA Proceedings, all negotiations between and among any of the Releasees and their conduct in entering into the Settlement Agreement other than claims of the Releasees named in paragraphs 4, 7 and 8 for the amounts to be distributed to them in accordance with paragraphs 4, 7 and 8 hereof; provided that nothing herein or in the Settlement Agreement shall release any claims made by Sun and any of its affiliates, on the one side, and the US Trustee, on the other side, against one another.

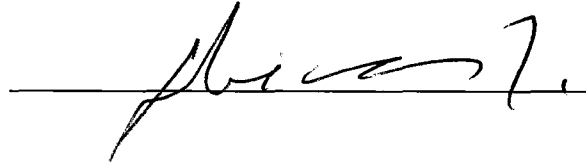
13. **THIS COURT ORDERS AND DECLARES** that, except as expressly set out herein, the distributions to be made in accordance with paragraphs 4, 7 and 8 hereof, and the Assignment, are and shall be made free and clear of any and all Claims (as defined in the Claims Procedure Order).

14. **THIS COURT ORDERS AND DECLARES** that Morneau shall have no liability as a result of entering into the Settlement Agreement, performing any of its obligations set forth in the Settlement Agreement or taking any actions contemplated by the Settlement Agreement; provided that Morneau shall not be released from any claims, demands, or proceedings arising from any act or omission in the performance of such obligations, or in the taking of any action, which is due to wilful misconduct, gross negligence or fraud.

#### **AID AND RECOGNITION**

15. **THIS COURT ORDERS AND REQUESTS** the aid and recognition (including assistance pursuant to Section 17 of the CCAA) of any court or any judicial, regulatory or administrative body in any province or territory of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or territory or any court or any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and of any other nation or state to act in

aid of and to be complementary to this Court in carrying out the terms of and giving effect to this Order.

A handwritten signature in black ink, written over a horizontal line. The signature is cursive and appears to be "J. M. ...".

THE COURT OF APPEALS  
FOR THE STATE OF TEXAS  
BY: \_\_\_\_\_  
CLERK

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DEC 10 2013

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

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

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER  
(RE: APPROVAL OF SETTLEMENT AGREEMENT,  
DISTRIBUTION OF ESTATE PROCEEDS AND  
ASSIGNMENT OF LITIGATION)**

**STIKEMAN ELLIOTT LLP**  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9

**Ashley John Taylor LSUC#: 39932E**  
Tel: (416) 869-5236

**Yannick Katirai LSUC#: 62234K**  
Tel: (416) 869-5556  
Fax: (416) 861-0445

Lawyers for the Monitor