

**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 SAIL REMAINCO INC.
AND SAIL REMAINCO LLC**

**FACTUM
OF FTI CONSULTING CANADA INC.
IN ITS CAPACITY AS MONITOR OF SAIL REMAINCO INC.
AND SAIL REMAINCO LLC
(Re: Stay Extension Order)**

May 1, 2026

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FACTUM OF THE MONITOR

PART I: OVERVIEW

1. On May 13, 2025, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an initial order (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) in favour of SAIL RemainCo Inc. (formerly known as Shaw-Almex Industries Limited) (“**SAIL**”) and SAIL RemainCo LLC (formerly known as Shaw Almex Fusion, LLC) (together with SAIL, the “**Applicants**”). The Initial Order, amongst other things, imposed a stay of proceedings up to and including May 30, 2025, and appointed FTI Consulting Canada Inc. as monitor of the Applicants with enhanced powers (in such capacity, the “**Monitor**”). The stay of proceedings has since been extended and is presently set to expire on May 16, 2026.

2. This factum is filed in support of the Monitor’s motion seeking an order (the “**Stay Extension Order**”):

- (a) extending the stay of proceedings up to and including August 31, 2026 (the “**Extended Stay Period**”);

- (b) modifying the order sealing the Sealed Materials (as defined below) to allow for the public disclosure of the Sealed Materials, other than with respect to the Bidder Names (as defined below), following the conclusion of certain matters and by no later than the expiry of the Extended Stay Period; and
- (c) to the extent the Monitor or the Applicants have possession of or control over any Shaw Property (as defined below), relieving the Monitor and the Applicants of any obligations to preserve and protect the Shaw Property and authorizing the Monitor or the Applicants to destroy the Shaw Property, provided that such relief and authorization shall be of no effect prior to May 18, 2026.

3. The Monitor respectfully submits that the proposed relief is in the best interest of the Applicants and their stakeholders and is appropriate in the circumstances.

PART II: THE FACTS

4. The facts with respect to this motion are set out in the Seventh Report. Capitalized terms used in this factum that are not otherwise defined have the meanings given to them in the Seventh Report.

A. Generally

5. SAIL was the parent company of a global business that operated under the “Shaw Almex” name. Prior to the Sale Transaction, SAIL was in the business of manufacturing conveyor belt vulcanizing equipment and related technology and services.

6. On July 18, 2025, the Court entered the Approval and Vesting Order that, amongst other things, resulted in the Applicants selling substantially all of their business pursuant to a transaction that closed on August 27, 2025. Since then, SAIL has not had an operating business or any employees.¹ The Approval and Vesting Order was amended on January 16, 2026.²

7. In connection with the Approval and Vesting Order (as amended and restated by the Amended AVO), the Court sealed:

- (a) Confidential Exhibit 1 to the affidavit of Andrew Hustrulid sworn July 13, 2025 (the “**Confidential Exhibit**”), which contained an unredacted copy of the Asset Purchase Agreement; and
- (b) the Confidential Supplement to the Third Report of the Monitor dated July 17, 2025 (the “**Third Supplement**”, and together with the Confidential Exhibit, the “**Sealed Materials**”). The Third Supplement discussed, amongst other things, (i) the bids received for the Applicants’ business (including the names of the bidders (the “**Bidder Names**”)); (ii) the confidential terms of the Asset Purchase Agreement; and (iii) the Monitor’s commentary on the confidential terms of the Asset Purchase Agreement.³

8. In the Confidential Supplement, the Monitor provided an undertaking to unseal the Sealed Materials as soon as practicable after the occurrence of certain events.

¹ Seventh Report at para 19.

² Seventh Report at para 27.

³ Seventh Report at paras 46-47.

B. Remaining Matters in these CCAA Proceedings

9. The Monitor expects to bring a motion seeking to terminate these CCAA proceedings within the next few months, and by no later than the expiry of the Extended Stay Period (if such Extended Stay Period is granted).⁴ The Monitor is, accordingly, taking steps to complete outstanding matters in these CCAA proceedings.

10. In particular, the Monitor has been winding up the Applicants' remaining business interests, including dealing with the Applicants' equity interests in subsidiaries whose shares it continues to hold. The Monitor considers these subsidiaries to be of little to no value and does not foresee any third-party being interested in purchasing them.⁵ The Monitor is working with advisors and local counsel to determine whether the Applicants' remaining subsidiaries should and can be dissolved, liquidated, or abandoned. The decision for each jurisdiction is highly dependent on the local situation.⁶ The Applicants expect to abandon most of their subsidiaries.⁷

C. The Minutes of Settlement and the Shaw Property

11. On December 4, 2025, the Applicants, Global Holdings, SAOL, RBC, Mr. Timothy Shaw, and Mrs. Pamela Shaw entered into minutes of settlement that, amongst other things, settled various disputes amongst the parties. The Court approved the Minutes of Settlement on December 4, 2025.

⁴ Seventh Report at para 73.

⁵ Seventh Report at para 29.

⁶ Seventh Report at para 30.

⁷ Seventh Report at para 31.

12. Pursuant to the Minutes of Settlement, Global Holdings transferred the shares of Real Holdings to SAIL, which indirectly transferred title to certain real property in Spain to SAIL. This transfer closed in or around February 25, 2026.⁸

13. Certain other actions contemplated by the Minutes of Settlement have not been completed. These outstanding actions are predominantly for the benefit of Global Holdings and Mr. Timothy Shaw, rather than the Applicants or the Monitor. One of the outstanding actions relates to discussing a process by which the documents of Global Holdings and SAOL and the personal property of Mr. Timothy Shaw and Mrs. Pamela Shaw that are in SAIL's possession (such documents and property, which may also be in the possession or control of the Monitor or the Purchaser, the "**Shaw Property**") can be delivered to their owners. The Minutes of Settlement set an outside date of 45 days from the date of the Minutes of Settlement (i.e., by January 18, 2026) to complete this action.⁹

14. The Monitor asked counsel for Global Holdings and Mr. Shaw ("**Mr. Wadden**") to advance a protocol by which the Shaw Property could be returned to its owners. Mr. Wadden advised in or around January 2026 that he would do so. Despite the Monitor following up on multiple occasions, no protocol for dealing with the Shaw Property has been advanced by Mr. Wadden.¹⁰ Mr. Wadden was warned by counsel for the Monitor that the Monitor would take steps to dispose of the Shaw Property if it was not retrieved in a timely manner.¹¹

15. The Monitor cannot indefinitely hold the Shaw Property, nor should it be expected to continue being burdened with the Shaw Property (the Monitor is, for example, storing

⁸ Seventh Report at paras 53-56.

⁹ Seventh Report at para 55(d).

¹⁰ Seventh Report at paras 57-58.

¹¹ Seventh Report at para 58.

some of the physical Shaw Property in its own limited office space). The Purchaser is likewise burdened with the Shaw Property, since it is storing some of the digital Shaw Property on its servers.¹²

16. Prior to the conclusion of the Extended Stay Period (if such Extended Stay Period is granted), the Monitor intends to bring a motion seeking to terminate these CCAA proceedings, which will include a request to discharge the Monitor. The Monitor intends to bring the termination motion irrespective of whether there are outstanding actions under the Minutes of Settlement, provided that such outstanding actions are a result of delays or inaction on the part of Mr. Shaw, Mrs. Shaw, and their related entities.¹³

PART III: THE ISSUES

17. The issues before the Court are whether the Court should:

- (a) approve the Extended Stay Period;
- (b) modify the sealing order with respect to the Sealed Materials; and
- (c) authorize the disposal of the Shaw Property.

PART IV: LAW & ARGUMENT

A. The Court Should Approve the Extended Stay Period

18. The stay of proceedings is set to expire on May 16, 2026.¹⁴ The proposed Stay Extension Order seeks to extend the stay of proceedings to August 31, 2026.

¹² Seventh Report at para 60.

¹³ Seventh Report at paras 63-64.

¹⁴ Seventh Report at para 70.

19. Subsection 11.02(2) of the CCAA expressly authorizes this Court to grant an extension of the stay of proceedings for “any period that the court considers necessary.”¹⁵ To grant such an extension, this Court must be satisfied that circumstances exist that make the order appropriate and that the Applicants have acted, and are acting, in good faith and with due diligence.¹⁶ There is no statutory limit on how long a stay of proceedings can be extended.

20. An extension of the stay of proceedings is appropriate where it advances the purposes of the CCAA. In the present case, the Extended Stay Period is intended to provide the Applicants with the breathing room required to resolve remaining matters, including concluding matters related to the Minutes of Settlement and making decisions, to the extent possible, with respect to the dissolution, liquidation, or abandonment of the Applicants’ subsidiaries. The Monitor expects to bring a motion seeking to terminate these CCAA proceedings within the next few months, and by no later than the expiry of the Extended Stay Period.¹⁷

21. The Extended Stay Period is appropriate given that:

- (a) the Applicants have acted and are continuing to act in good faith and with due diligence;¹⁸

¹⁵ CCAA, [s. 11.02\(2\)](#).

¹⁶ CCAA, [s. 11.02\(3\)](#); *Harte Gold Corp. (Re)*, [2022 ONSC 653](#) at para [87](#).

¹⁷ Seventh Report at paras 73 and 74(c).

¹⁸ Seventh Report at para 74(b).

- (b) the Applicants are forecasted to have sufficient liquidity to fund their obligations and the costs of the CCAA proceedings through to the end of the Extended Stay Period;¹⁹
- (c) the Monitor does not believe that any creditor will be materially prejudiced by the length of the Extended Stay Period;²⁰ and
- (d) the Monitor is not aware of any party opposed to the Extended Stay Period.²¹

22. Taken together, the Monitor submits that the Extended Stay Period is in the best interests of the Applicants and their stakeholders, is consistent with the purposes of the CCAA, and is appropriate in the circumstances.

B. The Court Should Modify the Sealing of the Sealed Materials

23. The Monitor provided an undertaking to unseal the Sealed Materials as soon as practicable after the occurrence of certain events. This undertaking was reflected in the endorsement of Justice J. Dietrich dated July 18, 2025, which observed that “[t]he Monitor has undertaken to bring a motion to lift the sealing on the occurrence of certain events as set out in the [Third] Supplement.”²²

24. The events contemplated in the Third Supplement have now occurred. There are still, however, certain ancillary matters that remain outstanding. The Monitor expects that such ancillary matters will be completed in the near term. Until such ancillary matters are complete, the Monitor is of the view that the Sealed Materials should remain sealed so as to

¹⁹ Seventh Report at para 71.

²⁰ Seventh Report at para 74(a).

²¹ Seventh Report at para 74(d).

²² Seventh Report at para 48.

not prejudice their completion. The Monitor is seeking an order modifying the order sealing the Sealed Materials such that:

- (a) the Sealed Materials shall be made part of the public record, but only at such time as the Monitor is satisfied that all ancillary matters have been completed, provided that the Monitor shall release the Sealed Materials by no later than the expiry of the Extended Stay Period; and
- (b) the Bidder Names are to be redacted and permanently sealed.²³

25. Pursuant to subsection 137(2) of the *Courts of Justice Act*, this Court has broad discretion to order that documents filed in a civil proceeding be treated as confidential, sealed and not form part of the public record. Correspondingly, this Court has the jurisdiction to modify or vacate a sealing order where circumstances warrant. The test for sealing orders, as established by the Supreme Court of Canada in *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41 and *Sherman Estate v. Donovan*, 2021 SCC 25, requires consideration of the public interest in open courts balanced against other important interests.²⁴

26. The open court principle supports making the Sealed Materials public at the appropriate time. The Monitor expects that the Sealed Materials can be made public without undue prejudice soon, and in any event prior to the expiry of the Extended Stay Period. The permanent sealing of the Bidder Names is appropriate given that the Monitor does not have the consent of the bidders to release their identities, and on account of concerns that releasing

²³ Seventh Report at paras 48-49.

²⁴ *Sierra Club of Canada v. Canada (Minister of Finance)*, [2002 SCC 41](#).

such information could affect the willingness of bidders to participate in future sales processes. The Monitor does not believe that material prejudice will arise as a result of redacting the Bidder Names.²⁵

27. The Monitor's confidential supplement to the Seventh Report contains information flowing from the Sealed Materials. For the same reasons that the Sealed Materials were sealed, the Monitor is seeking to seal the confidential supplement to the Seventh Report until such time as the Sealed Materials are made public.

C. The Court Should Authorize the Disposal of the Shaw Property

28. The Minutes of Settlement contemplated that the parties would discuss a process by which the Shaw Property could be handed over to its owners by January 18, 2026.²⁶ No such process has been developed, despite the Monitor's requests of Mr. Wadden.²⁷

29. The Monitor has provided ample time and opportunity for the retrieval of the Shaw Property, and has made efforts to develop a process to hand over the Shaw Property. The Monitor cannot indefinitely hold the Shaw Property, nor should it be expected to continue to be burdened with the Shaw Property. The Purchaser is likewise burdened with the Shaw Property, since it is storing some of the digital Shaw Property on its servers.²⁸

30. The Monitor cannot indefinitely hold the Shaw Property. It is, in effect, an involuntary bailee. Accordingly, the Monitor seeks this Court's authorization to begin disposing of the Shaw Property in any method that it considers reasonable on or after May

²⁵ Seventh Report at para 50.

²⁶ Seventh Report at para 55(d).

²⁷ Seventh Report at paras 57-58.

²⁸ Seventh Report at para 60.

18, 2026, to the extent that the Shaw Property is still in the Monitor’s possession. May 18, 2026, would provide a further two weeks after the hearing date to resolve matters related to the Shaw Property. The Monitor considers this to be a reasonable amount of time.

31. The CCAA does not provide an express mechanism to address involuntary bailment issues; however, this Court has broad jurisdiction under s. 11 of the CCAA to make any order that it considers appropriate in the circumstances.²⁹ The broad power conferred by s. 11 of the CCAA allows supervising judges to propose solutions “that respond to the circumstances of each case and ‘meet contemporary business and social needs’”.³⁰ Judges are empowered to implement “‘creative and effective’ solutions”³¹ that achieve the objective of restructuring a financially distressed company,³² and the CCAA’s provisions are to be “interpreted expansively to enable its remedial objectives to be achieved, and in particular to allow a company to continue its activities and to avoid the social and economic losses that can result from its liquidation”.³³

32. This Court has previously used its s. 11 authority to resolve involuntary bailment issues. In *Pride Group Holdings Inc. et al.*, for example, the secured assets of the debtor companies were held at properties owned or leased by third parties. The debtor companies had challenges dealing with these assets, and consequently these third parties were burdened with them. Justice Osborne (as he then was) resolved the situation by ordering that the secured lenders retrieve their secured assets by a fixed deadline, failing which the debtor

²⁹ CCAA, s. 11.

³⁰ *Montréal (Ville) c Restructuration Deloitte Inc.*, [2021 SCC 53](#) at para 116.

³¹ *Ibid* at para 115.

³² *Ibid* at para 114.

³³ *Ibid* at para 115.

companies' agent could retrieve and sell the secured assets.³⁴ Justice Osborne observed that in previous cases, the Court had approved “deadlines for removing property from premises of the debtor to facilitate lease disclaimers and other objectives in proceedings”.³⁵

33. Accordingly, the Monitor respectfully submits that it should be authorized to dispose of the Shaw Property by no earlier than May 18, 2026, if it has not been handed over to its owners by that date.

PART V: RELIEF REQUESTED

34. For the foregoing reasons, the Monitor respectfully submits that this Court should approve the proposed Stay Extension Order substantially in the form appended at Tab 3 of the Monitor's motion record.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 1ST DAY OF MAY, 2026.



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³⁴ *Pride Group Holdings Inc. et al.*, [2025 ONSC 357](#) at paras 29 to 32.

³⁵ *Ibid* at para 30.

SCHEDULE "A"

List of Authorities

- | No. | Title |
|------------|--|
| 1. | <i>Re Harte Gold Corp.</i> , 2022 ONSC 653 |
| 2. | <i>Sierra Club of Canada v. Canada (Minister of Finance)</i> , 2002 SCC 41 |
| 3. | <i>Sherman Estate v. Donovan</i> , 2021 SCC 25 |
| 4. | <i>Montréal (Ville) c Restructuration Deloitte Inc.</i> , 2021 SCC 53 |
| 5. | <i>Pride Group Holdings Inc. et al.</i> , 2025 ONSC 357 |

PURSUANT TO RULE 4.06(2.1), THE UNDERSIGNED certifies that they are satisfied as to the authenticity of every authority cited in this factum.



Nicholas Avis LSO#: 76781Q

SCHEDULE “B”

Statutory Authorities

[Companies' Creditors Arrangement Act, RSC 1985, c C-36](#)

General power of court

11 Despite anything in the Bankruptcy and Insolvency Act or the Winding-up and Restructuring Act, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

Stays, etc. — other than initial application

11.02(2) A court may, on an application in respect of a debtor company other than an initial application, make an order, on any terms that it may impose,

- (a) staying, until otherwise ordered by the court, for any period that the court considers necessary, all proceedings taken or that might be taken in respect of the company under an Act referred to in paragraph (1)(a);
- (b) restraining, until otherwise ordered by the court, further proceedings in any action, suit or proceeding against the company; and
- (c) prohibiting, until otherwise ordered by the court, the commencement of any action, suit or proceeding against the company

Burden of proof on application

11.02(3) The court shall not make the order unless

- (a) the applicant satisfies the court that circumstances exist that make the order appropriate; and
- (b) in the case of an order under subsection (2), the applicant also satisfies the court that the applicant has acted, and is acting, in good faith and with due diligence.

[Courts of Justice Act, RSO 1990, c C.43](#)

Sealing documents

137(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record.

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

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Proceeding commenced at Toronto

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(Returnable May 4, 2026)

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