

**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**

**AMENDED
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 December 4, 2025.

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.

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; and
 - (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 SAIL, and not Global Holdings, is the legal owner of the Shares and that the Share Purchase Agreement cannot be enforced against third parties, including the Monitor;
 - (iii) declares that Global Holdings has breached the Share Purchase;
 - (iv) orders that Global Holdings return to SAIL the Shares;
 - (v) 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;

Failure to Comply with Legal Formalities; Breach of Contract

45. In the alternative, SAIL and Global Holdings failed to comply with the necessary legal formalities under Spanish law to give effect to the Share Purchase Agreement and the transactions contemplated therein;
46. SAIL, and not Global Holdings, is the legal owner of the Shares and the Share Purchase Agreement cannot be enforced against third parties, including the Monitor;
47. Global Holdings has breached the Share Purchase Agreement in failing to pay the Purchase Price;
48. 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;
49. 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;

50. This Court has the jurisdiction over the Impugned Transaction and the Share Purchase Agreement (notwithstanding its governing law being Spanish) to determine the enforceability of same and any breach thereof;

Other Grounds

51. The provisions of the CCAA, in particular sections 11 and 36.1 thereof;
52. The provisions of the BIA, in particular section 96;
53. 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;
54. The inherent and equitable jurisdiction of the Court; and
55. 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:

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

~~September 27, 2025~~
November 25, 2025

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

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Proceeding commenced at Toronto

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MONITOR

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