Court File No. BK-26-03371910-0033
Estate No. 33-3371910

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT,* R.S.C., 1985, C. B-3, AS AMENDED

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF CYMI CANADA INC. FILED IN THE CITY OF OTTAWA, IN THE PROVINCE OF ONTARIO

FACTUM OF CYMI CANADA INC.

(Returnable on August 20, 2026 at 10:00 AM)

August 19, 2026

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TO: THE SERVICE LIST

PART I – OVERVIEW

1) CYMI Canada Inc. ("**CYMI**") seeks an order for, among other things, the following:

i. abridging if necessary the time for service and filing of the notice of motion and the motion record, validating service of the notice of motion and the motion record so that this motion is properly returnable on August 20, 2026, and dispensing with further service thereof;

ii. extending the time for CYMI to file a proposal under section 50.4(9) of the Bankruptcy and Insolvency Act ("**BIA**") by 45 days to and including October 5, 2026 (the "**Stay Period**");

iii. approving the third report of the Proposal Trustee, to be filed separately with the Court (the "**Third Report**"), and the activities of the Proposal Trustee set out therein;

iv. scheduling an expedited hearing for an order directing Mosaic Transit Group ("**Mosaic**") to pay holdback funds of approximately $4.988 million owing to CYMI, including establishing a timetable for the delivery of motion materials, responding materials if any, and the hearing of such motion, and such further directions as may be necessary to facilitate an expedited hearing; and

v. such further and other relief as may be required to advance CYMI's restructuring and this Honourable Court may deem just.

2) Since the filing of the motion record, Signature on the Saint Lawrence Construction G.P. ("**SSLC**") has approved the disclosure of the material agreement between CYMI and SSLC

to creditors. Accordingly the relief sought confirming approval of the disclosure of same is not required and is no longer being pursued in this motion.

PART II - FACTS

3) The pertinent facts are outlined in the Affidavit of Oscar De la Fuente Tomé, affirmed August 18, 2026, and affidavits Oscar De la Fuente Tomé previously filed in this proceeding for the hearings on June 9, 2026 (CYMI Motion Record in the the June 9 Bundle) and July 7, 2026 (in the July 7 Bundle)

4) In essence, CYMI is an electrical contractor on major infrastructure projects that has wound down its business and is seeking to restructure while continuing its warranty and maintenance obligations on its past project work with the support of its Spanish parent company, Control Y Montajes Industriales CYMI S.A (“CYMI Spain”), which is the DIP lender in this proceeding.

5) CYMI has been acting diligently and in good faith to develop a proposal for its creditors. It is seeking an extension of its BIA stay today for 45 days to October 5, 2026 to allow time to complete the development of its proposal to its creditors.

6) CYMI has an array of creditors with potential claims totalling around $ 55 million (some of which are disputed), the largest of which are about $20 million in intercompany loans to its parent company, and a disputed arbitration claim of about $30 million by BNA Constructors Canada GP (“BNA”) in respect of work done by CYMI on the construction of the Gordie Howe Bridge between Detroit and Windsor. There are another about $5 million in claims by CRA and suppliers and the rest are nominal claims.

7) CYMI’s main assets are:

a) a $4.988 + Million construction holdback receivable arising from electrical work CYMI performed on the Finch West Light Rail Transit project in Toronto, under a contract with the lead contractor Mosaic Transit Constructors G.P. (“Mosaic”). Substantial completion was achieved on the project in late 2025 and the holdback was accordingly invoiced by CYMI in February 2026 and is overdue, but Mosaic has not paid. Its only excuse for non-payment was that it wanted CYMI to post additional security for its warranty obligations, but CYMI’s contract with Mosaic does not require security beyond the parent company guarantee it has already posted. As such the Holdback is owing and should be paid. Mosaic initially objected in March 2026 to paying on the above ground but did not respond further to requests in July and August to pay the Holdback. Some of CYMI’s creditors claim rights in that holdback. As such CYMI seeks to schedule a motion for an order directing Mosaic to pay the Holdback.

b) An $11.4 million receivable owing under a 2020 settlement agreement (the “Settlement Agreement”) with Signature on the St Lawrence Construction GP (”SSLC”), which reconstructed the Champlain Bridge over the St Lawrence River into Montreal. The Settlement provides for payment to CYMI of the residual amounts it is owed for electrical work done on that bridge project, contingent on the outcome of SSLC’s parallel suit against the Government of Canada for amounts claimed to be owing under the head construction contract. The amount payable to CYMI reduces proportionally if SSLC does not collect all that it is owed;

c) A $15 million Counterclaim against BNA in the above noted arbitration.

d) In order to finalize its proposal with its creditors,

i. CYMI needs certainty as to the collectability status of the Mosaic Receivable. Accordingly, in addition to the stay extension sought today, CYMI is seeking to set a date and schedule for an expedited hearing on a motion it proposes to bring to direct payment of that holdback, as Mosaic has not paid the holdback, as invoiced nor responded to the requests for payment in July and August..

ii. To discuss proposal concepts with creditors, CYMI needed first to be in a position to make disclosure of the Settlement Agreement with SSLC, since the amount owing thereunder was very material to any proposal it could make. However, the Settlement Agreement contained a confidentiality clause which prohibited not only disclosure of the agreement but even of the fact that anything was owing. CYMI wanted to ensure compliance with its obligations and to ensure that CYMI did not prejudice the collectability of the receivable owing under the Settlement Agreement by disclosing the agreement prematurely. Accordingly, an order was obtained in this proceeding on July 7, 2026 which permitted SSLC 14 days to object to disclosure once served with the Order. However SSLC proved difficult to locate, serve or contact, as most of its active operations wound down once reconstruction of the Champlain Bridge was complete. SSLC was finally located and served on July 28, 2026, and was further successfully contacted this week. SSLC confirmed on August 18, 2026 in writing that it does not object to disclosure. Hence discussions with creditors that take account of this material asset can now take place and the finalization of the proposal can proceed in that context.

iii. CYMI needs to try to reach a consensus on a value for the disputed arbitration claims and counterclaims between BNA and CYMI arising from CYMI's work on the Gordie Howe Bridge as they are potentially material to the success of a proposal.

8) Accordingly, CYMI proposes to use the extension period to obtain clarity as to the collectability of the Mosaic Holdback through the proposed expedited motion, and to finalize discussions with its creditors as to the terms of a proposal and finalize and lodge the proposal with the trustee so that a creditor vote can thereafter be held. If the Mosaic Holdback cannot be clarified in that time, a proposal can still be made within the extension period requested, but a more compelling proposal can be made if it is clarified. (If a further extension beyond the present extension sought to October 5 is needed to resolve any of those items, CYMI's six month aggregate extension period permitted under the BIA runs until November 11, 2026 as its notice of intention to make a proposal was filed on May 12, 2026.)

PART III - ISSUES

9) The issues on this motion are whether to grant the Initial Order, including more particularly as follows:

(a) Whether to grant the extension of time to file a proposal; and

(b) Whether the Court should establish an expedited process, including a hearing timetable, for the determination of CYMI's entitlement to the approximately $4.988 million in holdback funds owing by Mosaic.

PART IV - LAW AND ARGUMENT

A. Extension of Time for CYMI to File a Proposal Should be Granted

10) The Court has authority to grant such relief under section 50.4(9) of the BIA. CYMI's request for an extension of the stay until October 5, 2026 to file a proposal should be granted for the following reasons:

(a) CYMI is acting in good faith and with due diligence, with a view to maximizing value for the stakeholders, and developing a viable proposal to creditors;

(b) the extension of the stay is necessary for CYMI to develop a proposal;

(c) There is no material prejudice likely to result to creditors from the extension of the stay;

(d) CYMI's cash flows, with the support of the loan under the DIP Term Sheet, will enable CYMI to meet their financial obligations; and

(e) the Proposal Trustee supports the requested relief.

B. The Court Should Establish an Expedited Process for the Determination of CYMI's Entitlement to the Mosaic Holdback Funds

11) The recovery of the approximately $4.988 + million in holdback funds currently retained by Mosaic is a critical component of CYMI's restructuring efforts.

12) CYMI takes the position that the holdback funds are owing and payable to it pursuant to the relevant contractual arrangements. The determination of that issue will have a significant impact on CYMI's financial position and the formulation of the terms of a viable proposal for the benefit of creditors.

13) In the circumstances, an expedited determination of CYMI's entitlement to the holdback funds is necessary and appropriate. Delaying the adjudication of this issue risks undermining CYMI's restructuring efforts and diminishing potential recoveries for stakeholders.

14) This Court has broad jurisdiction to make procedural orders and directions necessary to facilitate the fair, efficient and timely determination of issues arising in insolvency proceedings.

15) Establishing a timetable for the service and filing of materials and the hearing of the motion regarding the Mosaic holdback funds will promote the efficient administration of these proceedings and assist CYMI in advancing a viable restructuring. CYMI proposes the following timetable:

    i. August 28, 2026: service and filing of CYMI's motion materials;
    ii. September 10, 2026: service and filing of any responding materials by Mosaic;
    iii. September 17, 2026: service and filing of CYMI's factum; and
    iv. September 24, 2026: service and filing of Mosaic's factum.
    v. A hearing date as soon as possible thereafter (depending on the date selected for the hearing, a further extension of the BIA Stay may need to be sought before October 5, 2026)

16) The proposed timetable affords the parties a fair opportunity to prepare and deliver their materials while ensuring that the issue is determined on an expedited basis. Given the significance of the approximately $4.988+ million in holdback funds to CYMI's restructuring efforts, a prompt adjudication is necessary and appropriate.

17) The requested procedural directions are consistent with the remedial purposes of the BIA and will facilitate the timely resolution of an issue that is central to CYMI's restructuring efforts. Accordingly, CYMI respectfully submits that the Court should establish the proposed timetable and grant such further directions as may be necessary.

18) Accordingly, CYMI respectfully submits that the Court should establish an expedited process for the determination of CYMI's entitlement to the Mosaic holdback funds and grant such further directions as may be necessary.

PART V - ORDER REQUESTED

19) For the reasons set out above, CYMI respectfully request that the Court grant the requested orders.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

CBesant

Date: August 19, 2026

Chris Besant
GARDINER ROBERTS LLP

SCHEDULE "A"

RELEVANT STATUTES

***Bankruptcy and Insolvency Act*, RSC 1985, c B-3**

Extension of time for filing proposal

50.4 (9) The insolvent person may, before the expiry of the 30-day period referred to in subsection (8) or of any extension granted under this subsection, apply to the court for an extension, or further extension, as the case may be, of that period, and the court, on notice to any interested persons that the court may direct, may grant the extensions, not exceeding 45 days for any individual extension and not exceeding in the aggregate five months after the expiry of the 30-day period referred to in subsection (8), if satisfied on each application that

(a) the insolvent person has acted, and is acting, in good faith and with due diligence;

(b) the insolvent person would likely be able to make a viable proposal if the extension being applied for were granted; and

(c) no creditor would be materially prejudiced if the extension being applied for were granted.

Order — interim financing

50.6 (1) On application by a debtor in respect of whom a notice of intention was filed under section 50.4 or a proposal was filed under subsection 62(1) and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the debtor's property is subject to a security or charge — in an amount that the court considers appropriate — in favour of a person specified in the order who agrees to lend to the debtor an amount approved by the court as being required by the debtor, having regard to the debtor's cash-flow statement referred to in paragraph 50(6)(a) or 50.4(2)(a), as the case may be. The security or charge may not secure an obligation that exists before the order is made.

Priority

(3) The court may order that the security or charge rank in priority over the claim of any secured creditor of the debtor.

Factors to be considered

50.6 (5) In deciding whether to make an order, the court is to consider, among other things,

(a) the period during which the debtor is expected to be subject to proceedings under this Act;

(b) how the debtor's business and financial affairs are to be managed during the proceedings;

(c) whether the debtor's management has the confidence of its major creditors;

(d) whether the loan would enhance the prospects of a viable proposal being made in respect of the debtor;

(e) the nature and value of the debtor's property;

(f) whether any creditor would be materially prejudiced as a result of the security or charge; and

(g) the trustee's report referred to in paragraph 50(6)(b) or 50.4(2)(b), as the case may be.

183 (1) The following courts are invested with such jurisdiction at law and in equity as will enable them to exercise original, auxiliary and ancillary jurisdiction in bankruptcy and in other proceedings authorized by this Act during their respective terms, as they are now, or may be hereafter, held, and in vacation and in chambers:

(a) in the Province of Ontario, the Superior Court of Justice;…

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PROCEEDING COMMENCED AT
TORONTO

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