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 July 7, 2026 at 11:00 AM)

July 6, 2026

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TO: THE SERVICE LIST

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PART I – OVERVIEW

1) This Supplementary Factum supplements the Factum of CYMI Canada Inc. ("**CYMI**") dated June 8, 2026 (which has been added to the July 7, 2026 bundle for this case on Case Centre for convenience of reference as two of heads of relief sought were adjourned from the June 9 hearing) and is filed in support of (i) a further 45 day extension of BIA protection, (ii) approval of a DIP financing of $500,000 and a related priority DIP charge (relief adjourned to today from the June 9, 2026 hearing in this matter), (iii) expansion of the Administration Charge from $150,000 to $500,000 (also adjourned from the June 9 hearing), and (iv) seeks additional relief arising from a material agreement that has been filed under seal (the "**Redacted Agreement**"). In particular, in relation to that agreement, CYMI by its motion returnable July 7, 2026 (the "**July 7 Motion**"), seeks: (a) an order directing disclosure of the Redacted Agreement on appropriate terms; and (b) an order sealing certain paragraphs of the July 2, 2026 Affidavit of Oscar De la Fuente Tomé and Exhibit "C" thereto, which contains the Redacted Agreement.

2) The Redacted Agreement was identified through post-filing due diligence conducted after the issuance of the Initial Proposal Order on June 9, 2026 (the "**Initial Proposal Order**"). It constitutes a potentially significant source of recovery for creditors and is therefore material to the restructuring. As the Redacted Agreement contains confidentiality provisions restricting disclosure, CYMI seeks an order authorizing and directing disclosure for the purposes of these proceedings, together with an interim sealing order pending determination of the disclosure issue by this Court.

3) The relief sought in respect of the Redacted Agreement is complementary to, and supportive of, the stay extension, DIP financing, and Administration Charge relief previously sought and partially adjourned following the hearing of the Initial Proposal Motion on June 9, 2026.

4) With the support of its interim lender and the Proposal Trustee CYMI seeks an order for, among other things, the following:

(a) 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 July 7, 2026, and dispensing with further service thereof;

(b) 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 August 21, 2026 (the "**Stay Period**");

(c) authorizing CYMI to enter into the interim financing term sheet (the "**DIP Term Sheet**") with Control y Montajes Industriales CYMI, S.A. ("**CYMI Spain**"), as interim lender, and granting super-priority charges over CYMI's property assets and undertaking ranking in the order they appear below:

(i) granting CYMI Spain a super priority charge (the "**DIP Charge**") in an amount not to exceed $500,000 plus interest, fees and expenses, against CYMI's property, assets and undertakings as security for all of CYMI's obligations to CYMI Spain under the DIP Term Sheet;

(ii) granting an order increasing the Administration Charge granted on June 9, 2026 (the "**Administration Charge**") by $350,000 (from $150,000 to $500,000);

(d) granting an order directing disclosure of or about the Redacted Agreement or its economics on appropriate terms; and an order sealing certain paragraphs of the July 2, 2026 Affidavit of Oscar De la Fuente Tomé and Exhibit "C" thereto, which contains the Redacted Agreement;

(e) approving the second report of the Proposal Trustee, to be filed separately with the Court (the "**Second Report**"), and the activities of the Proposal Trustee set out therein; and

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

PART II - FACTS

A. Background

5) The facts underlying CYMI's financial circumstances and need to seek creditor protection by filing an NOI are set out in the Affidavit of Oscar De la Fuente Tomé affirmed June 5, 2026 and are not repeated herein.

6) On June 9, 2026, the Court granted the Initial Proposal Order which, among other things:

(a) granted an initial stay up to and including July 8, 2026;

(b) granted an Administration Charge up to $150,000 in respect of professional fees and disbursements incurred up to July 7, 2026; and

(c) adjourned the balance of the June 9, 2026 Motion, including the approval of the DIP Term Sheet and granting of the DIP Charge, to the return of this Motion on July 7, 2026.[1]

B. Updates Since the Initial Proposal Order

Mosaic Transit Group Holdback

7) Since the granting of the Initial Proposal Order, CYMI and the Proposal Trustee have continued collection efforts regarding an approximately $4.9 million receivable from Mosaic Transit Group (the "**Mosaic Holdback**"), including collecting and conducting a review of correspondence with Mosaic Transit Group representatives, reconciling account balances, reviewing back-up documentation, and assessing potential payment timing and contingencies.[2]

8) In addition, CYMI continued a review of its assets for other potential recoveries.[3]

Redacted Agreement

9) CYMI has identified a further material agreement which could be a potential source of realization for creditors which is referred hereto as the Redacted Agreement. The Redacted Agreement has a confidentiality clause which prohibits its disclosure and as such an order authorizing and directing the disclosure of same is sought on such terms as the court may determine to be appropriate. While that is being considered by this Honourable Court, an

[1] Affidavit of Oscar De la Fuente Tomé affirmed July 2, 2026 (Tome Affidavit) at para 7.
[2] Tome Affidavit at para 8.
[3] Tome Affidavit at para 9.

order sealing the Redacted Agreement and the references to it in the affidavit filed in support of this motion is sought.[4]

10) As CYMI has most of its active operations other than support for its warranty repair and maintenance obligations, and recently had to replace its directors and officers, its has lost much of its institutional memory. Accordingly CYMI's current director and officer conducted a due diligence process which included review of audit records to identify material assets. That led to locating the Redacted Agreement. No other additional material assets of CYMI were discovered in the due diligence review and CYMI believes there are no other material undiscovered assets.

<u>CRA Reassessment</u>

11) The Canada Revenue Agency ("**CRA**") has issued a reassessment reversing input tax credits on portions of the non-HST-exempt creditor list, adding approximately $233,000.00 and increasing CRA's trust claim from approximately $502,000.00 to approximately $735,000.00. CYMI is considering filing a notice of objection, on the basis that the reassessment is premature or overstated given that unsecured creditors are expected to receive some payment under a proposal.[5]

C. The Four Main Heads of Relief

(i) Authorization of the DIP Term Sheet and DIP Charge

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[4] Redacted

[5] Tome Affidavit at para 15.

12) As required by the BIA, and in advance of the June 9, 2026 motion, CYMI prepared a cash flow, and the Proposal Trustee prepared a report on same, and it was duly filed within the 10 days provided by the BIA (the "**Cash Flow**").[6]

13) The Cash Flow demonstrates that there will be sufficient cash flow to permit CYMI to operate and continue its restructuring process. In addition, CYMI prepared a budget-to-actual forecast based on the Cash Flow. A copy of the budget-to-actual forecast is attached to the Second Report of the Proposal Trustee filed in connection with this motion.[7]

14) The Cash Flow and budget-to-actual forecast indicates that CYMI could operate through the restructuring process with the projected receipts and disbursements. That said, the forecast leaves little room for error. Moreover, as payment of its main assets - i.e. the Mosaic Holdback and the receivable detailed in the Redacted Agreement, are contingent upon a number of factors, additional financing capacity is needed to allow flexibility to collect same. Accordingly, out of prudence, CYMI is seeking approval of a DIP facility to complete the development and presentation of a proposal to its creditors and to pursue realization of its main assets for the benefit of the stakeholders.[8]

15) To backstop the cash flow requirements of CYMI during the NOI Proceedings, CYMI Spain, in its capacity as the proposed lender under the DIP Term Sheet (the "**DIP Lender**"), has offered to make available to CYMI a debtor-in possession loan in the maximum amount of $500,000 (the "**DIP Loan**") pursuant to the terms of the DIP Term Sheet.[9]

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[6] First Report of Proposal Trustee dated June 6, 2026 ("**First Report**").
[7] Second Report of Proposal Trustee dated July 3, 2026 ("**Second Report**").
[8] Tome Affidavit at para 18.
[9] Tome Affidavit at para 19.

16) The DIP Term Sheet is conditional on the Court granting an order, on terms acceptable to the DIP Lender, which, among other things, grants the DIP Charge on the property assets and undertaking of CYMI, which shall rank in priority to all other security, trusts (whether Statutory or otherwise), encumbrances and claims on the property assets and undertaking of CYMI. As the cash flow without the DIP shows just enough cash to complete the process, and the DIP is a back up facility, the DIP term sheet gives CYMI Spain discretion as to what to fund.[10]

17) CYMI believes that the terms of the DIP Term Sheet are reasonable in the circumstances and should be approved. In the absence of the DIP Loan, CYMI would be in too tight a cash flow situation and would not have the standby financial backing to credibly show it can aggressively pursue the Mosaic Holdback and the receivable detailed in the Redacted Agreement, which would make its principal assets more difficult to collect, a result detrimental to all of CYMI's creditors and stakeholders.[11]

(ii) Granting of the Administration Charge

18) An administration charge of up to $150,000 was granted pursuant to the Initial Proposal Order for the period up to July 7, 2026. To ensure continued payment of the fees and expenses of each of CYMI's legal counsel, the Proposal Trustee and the Proposal Trustee's legal counsel, CYMI requests an increase in the Administration Charge granted on June 9, 2026 (which ranks behind the DIP Charge) by the amount of $350,000 (from $150,000 to $500,000) to cover the fees of the professionals assisting CYMI, including the Proposal

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[10] Tome Affidavit at para 20.
[11] Tome Affidavit at para 21.

Trustee and its counsel, and CYMI's counsel for the period commencing July 8, 2026 onwards.[12]

19) The Administration Charge is to rank in priority to all security, trusts (whether statutory or otherwise), encumbrances and claims on the property assets and undertaking of CYMI excepting the DIP Charge.[13]

20) The Administration Charge is reasonable in the circumstances. The continued services of the professionals will play an important role in CYMI's proposal proceedings, restructuring steps and asset realization. Without such charge, the foregoing professionals are unlikely to continue in their capacities in support of these NOI Proceedings.[14]

(iii) Extension of Time to File a Proposal

21) CYMI requires the Stay Period and other protections provided by the BIA so that it will have the breathing space to continue its efforts to develop a proposal to creditors. Absent an extension, CYMI would be deemed automatically bankrupt, to the prejudice of stakeholders.[15]

22) It would be detrimental to CYMI's ability to maintain operations if proceedings were commenced or rights or remedies executed against CYMI in the short period available to maximize recoveries for all stakeholders.[16]

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[12] Tome Affidavit at para 21.
[13] Tome Affidavit at para 23.
[14] Tome Affidavit at para 24.
[15] Tome Affidavit at para 32.
[16] Tome Affidavit at para 33.

23) Since the Initial Proposal Order, CYMI has, in good faith and with due diligence, consulted with the Proposal Trustee and key stakeholders to develop a viable proposal, including BNA which sought the adjournment of the DIP and Administrative Charge relief on June 9, 2026. Constructive discussions have taken place and it is not anticipated that the request for an extension will be opposed.[17]

24) Additional time up to and including August 21, 2026 is required to finalize the proposal and related stakeholder consultations.[18]

(iv) Granting Order Disclosing Redacted Agreement and Sealing Order

25) CYMI seeks an order confirming that it is required to disclose the existence and material terms of the Redacted Agreement and the payments owing thereunder to CYMI. The Redacted Agreement purports to prohibit disclosure of its economics and timing unless required by law and requires notice to the counterparty of any court order compelling disclosure. The question is whether the statutory duties of disclosure and good faith under the BIA, the *Rules of Civil Procedure*, and at common law, mean that disclosure is (i) required by law; and (ii) otherwise permit an order to be made overriding those contractual confidentiality obligations. (As the confidentiality clause at section 8 of the Redacted Agreement prohibits disclosure of any term of the Redacted Agreement, it is not set out in this factum, but can be reviewed by reviewing the unredacted version of the agreement filed confidentially with this Honourable Court.)

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[17] Tome Affidavit at para 34.
[18] Tome Affidavit at para 36.

PART III - ISSUES

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

(a) Whether to authorize the DIP Term Sheet and grant the DIP Charge;

(b) Whether to grant the Administration Charge;

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

(d) Whether to grant the disclosure of the Redacted Agreement as well as a sealing order.

PART IV - LAW AND ARGUMENT

A. The DIP Term Sheet and DIP Charge Should be Approved

27) The Court has authority under section 50.6(1) of the BIA to authorize the DIP Term Sheet and DIP Charge, subject to a consideration of the factors in section 50.6(5) of the BIA.[19]

28) Having regard to those factors, the DIP Term Sheet and the DIP Charge should be approved for the following reasons:

(a) The Cash Flow suggests that CYMI could operate through the restructuring process with the projected receipts and disbursements. That said, the forecast leaves little room for error. Accordingly, out of prudence, CYMI is seeking approval of a DIP facility, which will be available if required to support working capital and develop a proposal;

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[19] BIA, ss. 50.6(1) and (5); *Colossus Minerals Inc. (Re),* 2014 ONSC 514 at para 3.

(b) The DIP Term Sheet is conditional on the Court granting an order, on terms acceptable to the DIP Lender, which, among other things, grants the DIP Charge on the property assets and undertaking of CYMI, which shall rank in priority to all other security, trusts (whether Statutory or otherwise), encumbrances and claims on the property assets and undertaking of CYMI; and

(c) CYMI believes that the terms of the DIP Term Sheet are reasonable in the circumstances and should be approved. In the absence of the DIP Loan, CYMI would be in too tight a cash flow situation given the Mosaic Holdback.

B. The Administration Charge Should be Granted

29) Section 64.2 of the BIA provides jurisdiction to grant a super-priority charge for the purpose of securing the fees and expenses of a trustee, its legal advisors and CYMI's legal advisors.

30) The Administration Charge is reasonable in the circumstances. The continued services of the professionals are critical to the progress and success of these Proposal Proceedings and, without such charge, the foregoing professionals are unlikely to continue in their capacities in support of these Proposal Proceedings.

31) The Administration Charge serves a useful back up role in protecting professionals should any particular requests to fund professionals not be advanced under the DIP Charge. That makes the successful completion of the restructuring more likely. This is particularly true given that CYMI has limited liquidity, and therefore a charge securing professional fees ensures that the Proposal Proceedings continue effectively.

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

32) 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 August 21, 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.

D. The Redacted Agreement Should be Disclosed and a Sealing Order Should be Granted

33) The Redacted Agreement is a material asset of the estate and materially affects the viability and economics of any proposal that may be advanced by the debtor. Section 8 of the Redacted Agreement prohibits CYMI from disclosing the economics and timing of the settlement and limits public disclosure to the fact that an "amicable settlement has been reached." Section 8 further requires CYMI to notify the counterparty of any court order directing disclosure. These are private contractual obligations. They do not create an absolute bar to disclosure where disclosure is required by law or by court order.

34) The BIA imposes a statutory duty of good faith on "any interested person in any proceedings under this Act".[20] That duty applies to a debtor seeking an extension of time under s. 50.4(9). The duty requires full and fair disclosure of material facts relevant to the restructuring process. A debtor cannot seek relief under the BIA while withholding

[20] BIA, s. 4.2(1).

information concerning material assets, liabilities, or transactions that are necessary for creditors and the Court to properly assess the merits of the requested relief.

35) The duty of good faith in insolvency proceedings reflects broader principles recognized by the Supreme Court of Canada. In *Bhasin v. Hrynew*, 2014 SCC 71[21], the Court identified good faith as a general organizing principle of Canadian law and recognized a duty of honest performance requiring parties not to knowingly mislead one another in the exercise of contractual rights. In *Century Services Inc*., 2010 SCC 60, the Court emphasized that restructuring relief must be assessed in light of the debtor's good faith and the fairness of the process.[22] In *9354-9186 Québec Inc. v. Callidus Capital Corp*., 2020 SCC 10, the Court confirmed that insolvency proceedings cannot be used for improper purposes and that courts must refuse relief where good faith is lacking.[23] These principles now find express statutory recognition in s. 4.2 of the BIA.

36) Courts have consistently held that material non-disclosure may constitute a breach of the duty of good faith in insolvency proceedings. In *Re 9298-9524 Québec Inc*., 2023 QCCS 1111, leave to appeal refused, 2023 QCCA 612, the court declined to extend CCAA protection where the debtor had failed to disclose material information and had misrepresented creditor support.[24] In *Re Razor Energy Corp., Razor Holdings GP Corp*. and *Blade Energy Services Corp*., 2025 ABKB 30, the court held that the failure to communicate material information to an affected stakeholder breached the duty of good faith.[25] Likewise, in *CWB Maxium Financial Inc. v. 2026998 Alberta Ltd*., 2021ABQB

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[21] *Bhasin v. Hrynew*, 2014 SCC 71.
[22] *Century Services Inc.*, 2010 SCC 60.
[23] *9354-9186 Québec Inc. v. Callidus Capital Corp.*, 2020 SCC 10.
[24] *Re 9298-9524 Québec Inc.*, 2023 QCCS 111.
[25] *Re Razor Energy Corp., Razor Holdings GP Corp. and Blade Energy Services Corp.*, 2025 ABKB 30.

137, the court recognized that silence or omission regarding a material fact may amount to dishonesty and constitute a breach of the good-faith obligations imposed by the BIA.[26] These authorities confirm that known material information cannot be withheld where doing so would render the record before the Court or creditors misleading.

37) The same principle arises from the obligation of full and fair disclosure applicable to motions seeking discretionary relief. Rule 39.01(6) of the *Rules of Civil Procedure* requires full and fair disclosure on ex parte motions. Insolvency proceedings are, in a practical sense, partly ex parte because orders made under the BIA operate in rem and affect stakeholders who may not be participating in the proceeding. The need for complete disclosure is therefore particularly acute. In *Elsley v. Bordynuik*, 2013 ONSC 1210, the Court set aside an ex parte Mareva injunction because the moving party had failed to disclose a material settlement agreement.[27] The same principle applies here. CYMI cannot rely on a private confidentiality agreement to withhold information that is material to the Court's assessment of the restructuring process and to creditors' evaluation of CYMI's prospects.

38) Courts also possess authority to order disclosure notwithstanding confidentiality obligations where the public interest requires it. In *Langille v. Nova Scotia (Attorney General),* 2019 NSSC 340[28], applying the Supreme Court's decision in *Juman v. Doucette*, 2008 SCC 8, the Court held that confidentiality protections must yield where a competing public interest outweighs the interests served by confidentiality.[29] Here, the public interest in the fair and informed administration of an insolvency proceeding, including creditors'

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[26] *CWB Maxium Financial Inc. v. 2026998 Alberta Ltd.*, 2021 ABQB 137.
[27] *Elsley v. Bordynuik*, 2013 ONSC 1210.
[28] *Langille v. Nova Scotia (Attorney General)*, 2019 NSSC 340
[29] *Juman v. Doucette*, 2008 SCC 8

ability to assess extension requests and ultimately evaluate any proposal on a complete factual record, outweighs the contractual confidentiality interests engaged by the Redacted Agreement.

39) In any event, Section 8 of the Redacted Agreement expressly recognizes that confidentiality is not absolute. It permits disclosure where required by law or by court order. CYMI's statutory obligations of good faith and full disclosure under the BIA engage the "required by law" exception. Alternatively, the Court may expressly order disclosure. Section 8 contemplates both outcomes. To eliminate uncertainty, CYMI seeks an order confirming that disclosure is required in this proceeding and directing such disclosure on appropriate terms.

40) The Redacted Agreement is plainly material to the restructuring. It creates or affects an asset whose value is significant to the debtor's financial position and the economics of any eventual proposal. Creditors cannot properly assess an extension request or a future proposal without understanding the existence and material effect of that asset. CYMI's statutory disclosure obligations therefore require disclosure of the Redacted Agreement's existence, nature, timing and economic significance. At the same time, CYMI seeks to preserve the value of the Redacted Agreement for the benefit of the estate. Those objectives are best reconciled through appropriately tailored protective measures.

41) The Court may craft protective conditions that permit disclosure while minimizing any resulting prejudice, including:

(a) sealing the unredacted agreement and restricting access to persons who require access for purposes of the proceeding;

(b) limiting public disclosure to the material terms necessary for creditors and stakeholders to understand the Redacted Agreement's effect on the restructuring, including its economic impact, timing and general subject matter; and

(c) establishing a short comeback period following notice to the counterparty, during which the counterparty may appear and seek additional protections or variation of the disclosure order before disclosure occurs.

42) CYMI therefore seeks an order sealing the unredacted affidavit filed in support of this motion, including Exhibit C, which contains the Redacted Agreement. The applicable test is that set out in *Sierra Club of Canada v. Canada (Minister of Finance),* 2002 SCC 41[30], and refined in *Sherman Estate v. Donovan*, 2021 SCC 25[31]. The moving party must establish that: (i) public disclosure poses a serious risk to an important public or private interest; (ii) the order is necessary because no reasonably available alternative measure would sufficiently address that risk; and (iii) the benefits of the order outweigh its deleterious effects on the open court principle.

43) That test is satisfied here. Public filing of the unredacted Agreement would create a serious risk of prejudice to a significant commercial interest by jeopardizing the economic benefit the Redacted Agreement provides to the estate. A sealing order is necessary because disclosure of the unredacted Agreement on the public record would defeat the very confidentiality protections that preserve that value. The proposed relief is narrowly tailored: it preserves confidentiality only to the extent necessary, permits disclosure of material information needed by creditors and stakeholders, and affords the counterparty an

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[30] *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41.
[31] *Sherman Estate v. Donovan*, 2021 SCC 25.

opportunity to seek further protections before disclosure takes effect. In those circumstances, the benefits of the order outweigh any corresponding limitation on public access.

44) CYMI therefore requests that the Court:

(a) seal the unredacted affidavit and the unredacted Agreement pending determination of the disclosure issue;

(b) make an interim order authorizing disclosure of the Agreement and its material economic terms in this restructuring proceeding, subject to a 14-day comeback period for the counterparty after notice is provided to the counterparty by mail and email at its contact address specified in the draft order (the address on its parent company’s website); and

(c) permit the counterparty to return to Court during that comeback period to show cause why the disclosure order should be varied or supplemented.

45) This approach appropriately balances the competing interests at stake. It respects the counterparty's contractual confidentiality interests, preserves the value of the Agreement for the benefit of the estate, and ensures that the Court and creditors are not deprived of material information necessary for the BIA process to operate fairly and effectively. The statutory duty of good faith under ss. 4.2 and 50.4 of the BIA, together with the jurisprudence governing disclosure and insolvency proceedings, requires disclosure of material information concerning the Agreement. Section 8 expressly permits disclosure where required by law or court order. A sealing order with a comeback mechanism is therefore the appropriate means of reconciling the debtor's disclosure obligations with the confidentiality provisions of the Agreement.

PART V - ORDER REQUESTED

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

ALL OF WHICH IS RESPECTFULLY SUBMITTED

CBesant

Date: July 6, 2026

Chris Besant
GARDINER ROBERTS LLP

SCHEDULE "A"

LIST OF AUTHORITIES

1. *Colossus Minerals Inc. (Re)*, 2014 ONSC 514

2. *Bhasin v. Hrynew, 2014 SCC 71*

3. *Century Services Inc., 2010 SCC 60*

4. *9354-9186 Québec Inc. v. Callidus Capital Corp., 2020 SCC 10.*

5. *Re 9298-9524 Québec Inc.,* 2023 QCCS 111.

6. *Re Razor Energy Corp., Razor Holdings GP Corp. and Blade Energy Services Corp*., 2025 ABKB 30.

7. *CWB Maxium Financial Inc. v. 2026998 Alberta Ltd*., 2021 ABQB 137.

8. *Elsley v. Bordynuik*, 2013 ONSC 1210

9. *Langille v. Nova Scotia (Attorney General*), 2019 NSSC 340

10. *Juman v. Doucette*, 2008 SCC 8

11. *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41.

12. *Sherman Estate v. Donovan*, 2021 SCC 25.

SCHEDULE "B"

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.

Priority

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

Court may order security or charge to cover certain costs

64.2 (1) On notice to the secured creditors who are likely to be affected by the security or charge, the court may make an order declaring that all or part of the property of a person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) is subject to a security or charge, in an amount that the court considers appropriate, in respect of the fees and expenses of

(a) the trustee, including the fees and expenses of any financial, legal or other experts engaged by the trustee in the performance of the trustee's duties;

(b) any financial, legal or other experts engaged by the person for the purpose of proceedings under this Division; and

(c) any financial, legal or other experts engaged by any other interested person if the court is satisfied that the security or charge is necessary for the effective participation of that person in proceedings under this Division.

Priority

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

Individual

64.2 (3) In the case of an individual,

(a) the court may not make the order unless the individual is carrying on a business; and

(b) only property acquired for or used in relation to the business may be subject to a security or charge.

Restriction on disposition of assets

65.13 (1) An insolvent person in respect of whom a notice of intention is filed under section 50.4 or a proposal is filed under subsection 62(1) may not sell or otherwise dispose of assets outside the ordinary course of business unless authorized to do so by a court. Despite any requirement for shareholder approval, including one under federal or

provincial law, the court may authorize the sale or disposition even if shareholder approval was not obtained.

Factors to be considered

65.13 (4) In deciding whether to grant the authorization, the court is to consider, among other things,

(a) whether the process leading to the proposed sale or disposition was reasonable in the circumstances;

(b) whether the trustee approved the process leading to the proposed sale or disposition;

(c) whether the trustee filed with the court a report stating that in their opinion the sale or disposition would be more beneficial to the creditors than a sale or disposition under a bankruptcy;

(d) the extent to which the creditors were consulted;

(e) the effects of the proposed sale or disposition on the creditors and other interested parties; and

(f) whether the consideration to be received for the assets is reasonable and fair, taking into account their market value.

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;…

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

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. IN THE CITY OF OTTAWA, IN THE PROVINCE OF ONTARIO

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

FACTUM OF CYMI CANADA INC.

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