

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

**AND IN THE MATTER OF AN APPLICATION UNDER section 243(1)
of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and
section 101 of the *Courts of Justice Act*, R.S.O. 1990, c C.43, as amended**

SUPPLEMENTARY APPLICATION RECORD

February 26, 2024

FASKEN MARTINEAU DuMOULIN LLP

Barristers and Solicitors
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto ON M5H 2T6

Stuart Brotman (LSO: 43430D)

sbrotman@fasken.com
Tel: +1 416 865 5419

Mitch Stephenson (LSO: 73064H)

mstephenson@fasken.com
Tel: +1 416 868 3502

Montana Licari (LSO: 85097G)

mlicari@fasken.com
Tel: +1 416 868 3450

Lawyers for the Applicant

TO: ANTAMEX INDUSTRIES ULC

210 Great Gulf Drive, Concord
ON L4K 5W1

Copy to:

Suite 2300, Bentall 5
550 Burrard Street
Vancouver BC V6C 2B

AND TO: THE SERVICE LIST

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

**AND IN THE MATTER OF AN APPLICATION UNDER section 243(1)
of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and
section 101 of the *Courts of Justice Act*, R.S.O. 1990, c C.43, as amended**

INDEX

Tab	Description
1	Affidavit of Connie Deng, sworn February 26, 2024

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

EXPORT DEVELOPMENT CANADA

Applicant

- and -

ANTAMEX INDUSTRIES ULC

Respondent

**AND IN THE MATTER OF AN APPLICATION UNDER section 243(1)
of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and
section 101 of the *Courts of Justice Act*, R.S.O. 1990, c C.43, as amended**

**AFFIDAVIT OF CONNIE DENG
(SWORN FEBRUARY 26, 2024)**

I, Connie Deng, of the Town of Georgina, in the Province of Ontario, MAKE OATH AND

SAY:

1. I am a legal assistant with the law firm of Fasken Martineau DuMoulin LLP, lawyers for the Applicant, and, as such, have knowledge of the matters contained in this Affidavit.

2. Attached as Exhibit "A" is an email chain dated February 23 to 25, 2024 between the lawyers for the Applicant and lawyers for the Respondents.

SWORN by Connie Deng of the Town of Georgina, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on February 26, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



DocuSigned by:
Montana Licari
AB05A91538BF496

Commissioner for Taking Affidavits
(or as may be)

MONTANA LICARI

DocuSigned by:
Connie Deng
325C1279245243C

CONNIE DENG

This is Exhibit "A" referred to in the Affidavit of Connie Deng sworn by Connie Deng of the Town of Georgina, in the Regional Municipality of York, before me at the City of Toronto, in the Province of Ontario, on February 26, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Montana Licari

AB05A01538BF496...

Commissioner for Taking Affidavits (or as may be)

MONTANA LICARI

From: [Mitch Stephenson](#)
To: [Wael Rostom](#)
Cc: [Jeffrey Levine](#); [Stuart Brotman](#); [Montana Licari](#); linc.rogers@blakes.com; [McIntyre, Caitlin](#); [Phil Reynolds](#) (philreynolds@deloitte.ca); [Williams, Richard](#)
Subject: RE: [EXT] FW: Antamex - Adjournment Request
Date: February-25-24 11:13:19 PM

Thanks, Wael.

As a preliminary point, EDC advised us today that the sureties were represented on the call today by in-house lawyers attempting to vet the legal merits of EDC's application. This was obviously inappropriate given that the invitation extended by Antamex and the sureties to EDC expressly indicated that the call was to proceed without lawyers to discuss the business terms of the sureties' proposal. We trust this will not happen again.

Your statement about EDC being unwilling to engage in any discussion about a possible adjournment is incorrect. Yesterday, we asked that Antamex and the sureties return to EDC with a detailed proposal which addressed EDC's deteriorating security position and Antamex's indebtedness to EDC. Antamex and the sureties have not done so. As set out in the Smith Affidavit, there is a substantial risk that the Landlord, competing lien claimants, and others will seek (or have already sought) to exercise self-help remedies in respect of the Leased Equipment located at the Norwich Glass Plant in Connecticut. EDC is already aware of two lawsuits commenced in respect of that equipment. I also understand from my conversations with the proposed receiver that Antamex's cash flow forecast shows significant expenditures next week. Such expenditures will further erode the value of EDC's security.

The sureties' position that they should be given two weeks to complete a "books and records" review is problematic because, among other reasons, the sureties' review discloses no clear objective and does not offer any protection for EDC's interest during the review period. On the contrary, the sureties' proposal appears to be an attempt to protect the interests of the sureties at the expense of EDC's interests as a secured lender. The proposed review can and ought to be conducted in the context of a receivership under the supervision of, and in consultation with, the receiver. If the sureties are unwilling to offer any protection for EDC's interest, EDC must move ahead as planned to mitigate its losses. We understand that the sureties were only recently made aware of Antamex's financial difficulties and its default under the EDC Loan Documents. Considering that EDC issued its demand and section 244 notice more than six (6) weeks ago, Antamex's failure to disclose these matters to the sureties until now is unacceptable and only further demonstrates the urgency of the receiver's appointment.

We ask that you please advise the Court about your client's anticipated adjournment request as soon as possible. The hearing is scheduled to be heard by Justice Black on Tuesday, February 27 at 11 am (Zoom videoconference). If you need access to CaseLines or anything else, please let us know.

Mitch

Mitch Stephenson
Partner

T +1 416 868 3502 | mstephenson@fasken.com

Fasken Martineau DuMoulin LLP

From: Wael Rostom <Wael.Rostom@mcmillan.ca>
Sent: Sunday, February 25, 2024 8:32 PM
To: Mitch Stephenson <mstephenson@fasken.com>
Cc: Jeffrey Levine <Jeffrey.Levine@mcmillan.ca>; Stuart Brotman <sbrotman@fasken.com>; Montana Licari <mlicari@fasken.com>; linc.rogers@blakes.com; McIntyre, Caitlin <caitlin.mcintyre@blakes.com>; Phil Reynolds (philreynolds@deloitte.ca) <philreynolds@deloitte.ca>; Williams, Richard <richwilliams@deloitte.ca>
Subject: RE: [EXT] FW: Antamex - Adjournment Request

Mitch,

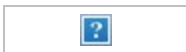
I confirm that Antamex arranged a business call today at 2 p.m. that included EDC and each of the sureties being Euler, Aviva and Nationwide. The purpose of the call was to introduce EDC to representatives of the surety companies, allow the sureties the opportunity to convey the seriousness of their engagement with this matter and to discuss a possible consent adjournment. I am advised that EDC was not willing to engage in any discussion about a possible adjournment.

Accordingly, we have been instructed to ask the court to adjourn the hearing of the receivership application for 2 weeks. I understand that each of the sureties intends to support Antamex's request.

As always, we are available if you, EDC, or Deloitte wish to speak.

Regards

Wael



Wael Rostom

Partner

Pronoun: He / Him / His - Il / Lui / Son

d 416.865.7790

wael.rostom@mcmillan.ca

Assistant: Kiran Dhillon | 416.865.7272 | kiran.dhillon@mcmillan.ca

CONFIDENTIALITY NOTICE: This email, including any attachments, may contain information that is confidential and privileged. Any unauthorized disclosure, copying or use of this email is prohibited. If you are not the intended recipient, please notify us by reply email or telephone call and permanently delete this email and any copies immediately.

Please consider the environment before printing this e-mail.

From: Mitch Stephenson <mstephenson@fasken.com>
Sent: Saturday, February 24, 2024 4:28 PM
To: Wael Rostom <Wael.Rostom@mcmillan.ca>
Cc: Jeffrey Levine <Jeffrey.Levine@mcmillan.ca>; Stuart Brotman <sbrotman@fasken.com>;

Montana Licari <mlicari@fasken.com>; linc.rogers@blakes.com; McIntyre, Caitlin <caitlin.mcintyre@blakes.com>; Phil Reynolds (philreynolds@deloitte.ca) <philreynolds@deloitte.ca>; Williams, Richard <richwilliams@deloitte.ca>

Subject: RE: [EXT] FW: Antamex - Adjournment Request

Importance: High

[EXTERNAL/EXTERNE]

Wael – You indicate below that the sureties require a two-week adjournment to perform a books and records review and make funding decisions regarding Antamex’s ongoing or anticipated projects. EDC cannot consent to an adjournment on the basis of such a vague request with no details about Antamex’s or the sureties’ intended course of action. Could you please consult with Antamex and the sureties and provide us with a more detailed proposal which addresses EDC’s deteriorating security position (particularly in respect of the US collateral) and the payment of Antamex’s Indebtedness to EDC within a reasonable timeframe? If possible, we would like to see this proposal sometime tomorrow. Deloitte is available to discuss this with you, your clients, and anyone else who may wish to discuss these matters.

Please note that I will have limited availability until 10 pm this evening, but I will be watching my emails as closely as I can.

Mitch

Mitch Stephenson

Partner

T +1 416 868 3502 | mstephenson@fasken.com

Fasken Martineau DuMoulin LLP

From: Wael Rostom <Wael.Rostom@mcmillan.ca>

Sent: Friday, February 23, 2024 7:34 PM

To: Stuart Brotman <sbrotman@fasken.com>; Montana Licari <mlicari@fasken.com>; linc.rogers@blakes.com; McIntyre, Caitlin <caitlin.mcintyre@blakes.com>; Phil Reynolds (philreynolds@deloitte.ca) <philreynolds@deloitte.ca>; Williams, Richard <richwilliams@deloitte.ca>; Mitch Stephenson <mstephenson@fasken.com>

Cc: Jeffrey Levine <Jeffrey.Levine@mcmillan.ca>

Subject: [EXT] FW: Antamex - Adjournment Request

All: Please see below.

Thank you

Wael

**Wael Rostom**

Partner

Pronoun: He / Him / His - Il / Lui / Son

d 416.865.7790

wael.rostom@mcmillan.caAssistant: Kiran Dhillon | 416.865.7272 | kiran.dhillon@mcmillan.ca

CONFIDENTIALITY NOTICE: This email, including any attachments, may contain information that is confidential and privileged. Any unauthorized disclosure, copying or use of this email is prohibited. If you are not the intended recipient, please notify us by reply email or telephone call and permanently delete this email and any copies immediately.

Please consider the environment before printing this e-mail.

From: Wael Rostom**Sent:** Friday, February 23, 2024 7:33 PM**To:** mstephenson@fasken.com**Cc:** Jeffrey Levine <jeffrey.levine@mcmillan.ca>; Phil Reynolds (philreynolds@deloitte.ca)<philreynolds@deloitte.ca>**Subject:** Antamex - Adjournment Request

Mitch,

Further to our discussion a few minutes ago, I am writing on behalf of Antamex to request a 2-week adjournment of the hearing of EDC's receivership application.

As discussed, in light EDC's pending receivership application, Antamex has engaged in discussions with its sureties, Euler Hermes North America, Aviva and Nationwide regarding providing funding.

The sureties are taking Antamex's funding request very seriously and are committing extensive resources to evaluate and respond to the request.

We had a very productive legal call with several representatives of the sureties at 5pm today. They advised us that they have retained an expert to commence a books and records and project review to evaluate the funding request. We understand that as part of that review, representatives of the sureties will be flying in on Monday morning to attend Antamex's offices. The sureties were unanimous in saying that Antamex can advise EDC, and if necessary, the Court, that the sureties are very seriously considering funding Antamex and need the time to complete their review. They unanimously support an adjournment of the receivership hearing for not less than 2-weeks. They will work diligently on their review process during that period.

Antamex believes that it is in the best interests of Antamex and all of its stakeholders, including EDC, to provide the sureties with the requested time to evaluate the funding request. Antamex has advised us that it has sufficient funds to continue to operate beyond the requested adjournment date and does not believe that there would be any prejudice to EDC's position during that period of time. On the other hand, a receivership at this time and in the current circumstances, would be detrimental to the going-concern prospects of the business, the completion of its projects and Antamex's stakeholders.

We kindly request that you seek instructions from EDC regarding the requested adjournment and provide us with your response as soon as possible. While we have been instructed to prepare materials to support the adjournment request, I hope we can agree that it would be best if funds were not spent on an unnecessary legal fight about this adjournment request.

We look forward to hearing back from you tomorrow, if possible.

Regards

Wael



Wael Rostom

Partner

Pronoun: He / Him / His - Il / Lui / Son
d 416.865.7790 | f 416.865.7048
wael.rostom@mcmillan.ca

Assistant: Kiran Dhillon | 416.865.7272 | kiran.dhillon@mcmillan.ca

McMillan LLP

Lawyers | Patent & Trademark Agents
Brookfield Place, 181 Bay Street, Suite 4400
Toronto, Ontario M5J 2T3
mcmillan.ca

CONFIDENTIALITY NOTICE: This email, including any attachments, may contain information that is confidential and privileged. Any unauthorized disclosure, copying or use of this email is prohibited. If you are not the intended recipient, please notify us by reply email or telephone call and permanently delete this email and any copies immediately.

Please consider the environment before printing this e-mail.

McMillan is committed to providing electronic communications that are relevant to you and your business. To sign up to receive other electronic communications from us or to unsubscribe from receiving electronic messages sent on behalf of McMillan, please visit the [McMillan Online Subscription Centre](#).

McMillan s'engage à vous envoyer des communications électroniques appropriées pour vous et votre entreprise. Pour vous abonner et recevoir des communications électroniques de notre part, ou pour vous désabonner et ne plus recevoir de telles communications, veuillez visiter le [centre d'abonnement en ligne de McMillan](#).

This email contains privileged or confidential information and is intended only for the named recipients. If you have received this email in error or are not a named recipient, please notify the sender and destroy the email. A detailed statement of the terms of use can be found at the following address: <https://www.fasken.com/en/terms-of-use-email/>.

Ce message contient des renseignements confidentiels ou privilégiés et est destiné seulement à la personne à qui il est adressé. Si vous avez reçu ce courriel par erreur, S.V.P. le retourner à l'expéditeur et le détruire. Une version détaillée des modalités et conditions d'utilisation se retrouve à l'adresse suivante : <https://www.fasken.com/fr/terms-of-use-email/>.

McMillan is committed to providing electronic communications that are relevant to you and your business. To sign up to receive other electronic communications from us or to unsubscribe from receiving electronic messages sent on behalf of McMillan, please visit the [McMillan Online Subscription Centre](#).

McMillan s'engage à vous envoyer des communications électroniques appropriées pour vous et votre entreprise. Pour vous abonner et recevoir des communications électroniques de notre part, ou pour vous désabonner et ne plus recevoir de telles communications, veuillez visiter le [centre d'abonnement en ligne de McMillan](#).

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**Proceeding commenced at
Toronto**

**AFFIDAVIT OF CONNIE DENG
(SWORN FEBRUARY 26, 2024)**

FASKEN MARTINEAU DuMOULIN LLP

Barristers and Solicitors
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto ON M5H 2T6

Stuart Brotman (LSO: 43430D)

sbrotman@fasken.com
Tel: +1 416 865 5419

Mitch Stephenson (LSO: 73064H)

mstephenson@fasken.com
Tel: +1 416 868 3502

Montana Licari (LSO: 85097G)

mlicari@fasken.com
Tel: +1 416 868 3450

Lawyers for the Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

**Proceeding commenced at
Toronto**

APPLICATION RECORD

FASKEN MARTINEAU DuMOULIN LLP

Barristers and Solicitors
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto ON M5H 2T6

Stuart Brotman (LSO: 43430D)

sbrotman@fasken.com
Tel: +1 416 865 5419

Mitch Stephenson (LSO: 73064H)

mstephenson@fasken.com
Tel: +1 416 868 3502

Montana Licari (LSO: 85097G)

mlicari@fasken.com
Tel: +1 416 868 3450

Lawyers for the Applicant