Court File No.: BK-26-03382861-0032
Estate No.: 32-3382861

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED

IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF FIELD AVIATION COMPANY INC. and FIELD AVIATION EAST LTD.

FACTUM OF FIELD AVIATION COMPANY INC. AND FIELD AVIATION EAST LTD.
(Stay Extension and Proposal Trustee approvals)
(Returnable October 2, 2026)

September 30, 2026

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PART I - OVERVIEW

1. Field Aviation Company Inc. ("**Field Canada**") and Field Aviation East Ltd. ("**Field East**", and together with Field Canada, the "**Field Entities**") are insolvent aerospace engineering and modification companies that have each filed notices of intention to make a proposal (the "**NOI Proceedings**") under section 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**"). After successfully implementing a Court-approved sale and investment solicitation process (the "**SISP**") and completing sale transactions for substantially all the Field Entities' assets, the Field Entities' restructuring efforts are substantially complete. The principal remaining matters are the completion of certain modification work (the "**Draken Program**") that Field Canada is performing on an aircraft owned by FR Aviation Limited ("**Draken**") and the export of that aircraft.

2. Due to applicable aviation and export laws governing the Business (defined below), Field Canada must subsist as an operating entity until the modified aircraft is exported from Canada. Despite the parties' best efforts, the Draken Program is not expected to be completed, and the aircraft is not expected to be exported, by the expiry of the current stay of proceedings on October 3, 2026. Accordingly, the stay of proceedings needs to be extended to permit the authorized export of the aircraft from Canada.

3. As such, the Field Entities bring this motion seeking (i) a 45-day extension of the time to file a proposal and the attendant stay of proceedings, up to and including November 17, 2026 (the "**Stay Extension**"); and (ii) approval of the Third Report of AlixPartners Restructuring, Inc. in its capacity as proposal trustee (in such capacity, the "**Proposal Trustee**") dated September 30, 2026 (the "**Third Report**"), the activities and fees of the

Proposal Trustee and its counsel, Bennett Jones LLP ("**Bennett Jones**"), as well as an accrual in respect of fees incurred or to be incurred by the Proposal Trustee and Bennett Jones in the course of the NOI Proceedings (the "**Fee Accrual**"), each as described in the Third Report. The Field Entities are not aware of any opposition to the relief sought on this motion.

4. The proposed Stay Extension will allow Field Canada to complete the Draken Program for the benefit of its stakeholders, including its major customer, Draken, and the employees retained to complete the program. No stakeholder will be prejudiced by the Stay Extension, as Draken is expected to fund all incremental costs through the Stay Extension. The alternative, an immediate bankruptcy of Field Canada, would imperil the legal export of the aircraft from Canada.

5. The Court should also approve the Third Report, and the activities, fees and Fee Accrual described therein. The Proposal Trustee has continued to play an integral role in the NOI Proceedings. Its activities and fees, including the Fee Accrual, are reasonable and appropriate in the circumstances.

PART II - FACTS

A. Background

6. Field Canada is an aerospace engineering and modification company that designs, integrates and certifies aircraft special missions systems and structural modifications for government and commercial operations (the "**Business**"). Field East is a non-operating,

wholly owned subsidiary of Field Canada. The Business is highly regulated under federal aviation laws.[1]

7. On June 5, 2026, following an extended period of financial distress and protective measures taken by their former secured creditor, Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**") and Wells Fargo Bank, National Association (together with Wells Fargo, "**Wells**"), the Field Entities commenced the NOI Proceedings.[2]

8. The Field Entities' restructuring efforts are substantially complete. The Field Entities, with the assistance of the Proposal Trustee, have made significant progress in advancing their restructuring and wind-down process. Among other things, the Field Entities:[3]

   (a) implemented the SISP and subsequently obtained Court approval for the sale of substantially all the Field Entities' assets to the stalking horse bidders, PAL Aerospace Ltd. and De Havilland Aircraft of Canada Limited (the "**Stalking Horse Transactions**"), on July 27, 2026. The Stalking Horse Transactions closed on July 31, 2026;

   (b) fully repaid Wells from the proceeds of the Stalking Horse Transactions in accordance with a distribution order granted on July 24, 2026;

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[1] Motion Record of the Field Entities ("**MR**"), Tab 2, Affidavit of Brian M. Love sworn September 25, 2026 ("**Love Affidavit**") at para 3.
[2] Love Affidavit, para 4. At the time of its appointment as Proposal Trustee, AlixPartners Restructuring, Inc. was known as KSV Restructuring, Inc.
[3] Love Affidavit, para 6; Third Report of the Proposal Trustee dated September 30, 2026 ("**Third Report**") at para 3.1.

(c) realized on certain residual assets that did not form part of the Stalking Horse Transactions, including a transaction with Voyageur Aviation Corp. approved on July 24, 2026;

(d) facilitated the removal of an aircraft and related assets owned by another customer from Field Canada's premises; and

(e) substantially wound down their operations and reduced their workforce.

B. The Draken Program

9. The principal remaining step in the NOI Proceedings is completing the Draken Program. The Draken Program relates to certain modification work that Field Canada has been performing on an aircraft for Draken pursuant to an agreement among Field Canada, Draken, Wells Fargo and ASES, LLC dated June 5, 2026 (the "**Draken Accommodation Agreement**"). The Court previously approved the Draken Accommodation Agreement in these NOI Proceedings.[4] Under the Draken Accommodation Agreement, Draken agreed to fund Field Canada's labour, infrastructure, and facility costs for the Draken Program on a cost-plus basis, providing sufficient liquidity for Field Canada to recall program-specific employees.[5] Once all modification work on the Draken aircraft is complete, the aircraft is to be exported from Canada using an export permit under Field Canada's name.

10. The original outside date under the Draken Accommodation Agreement was July 17, 2026. Due to delays in completing the Draken Program, this outside date has been extended twice

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[4] *Field Aviation Company (Re)*, 2026 ONSC 3498 at paras 17-18 and 29.
[5] Love Affidavit, paras 5 and 9; Third Report, para 3.2.

and is now set for September 30, 2026. Each extension was done with approval and on agreement of all retained employees, both unionized and non-unionized.

11. Field Canada is the exporter identified under the existing export permit for the aircraft. The permit is specific to Field Canada and cannot simply be transferred to or used independently by another party. Field Canada also maintains registrations and authorizations required in connection with its possession, modification and export of the aircraft (being a controlled good). Accordingly, Field Canada needs to continue to subsist as an operating entity until the aircraft is exported from Canada.[6]

12. Despite the best efforts of Draken and Field Canada, the aircraft will not be ready for export by the current outside date of September 30, 2026 or the expiry of the current stay of proceedings on October 3, 2026. The parties expect that the requested 45-day extension period will be sufficient to complete the Draken Program and export the aircraft from Canada. Draken and Field Canada are in the process of finalizing a further extension agreement through November 17, 2026, which is expected to, among other things, provide for the continuing employment of program-specific employees and memorialize Draken's commitment to cover the costs of the Stay Extension so that the Field Entities' stakeholders are not prejudiced by the Stay Extension.[7]

PART III - THE ISSUES

13. The issues on this motion are whether the Court should:

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[6] Love Affidavit, para 11.
[7] Love Affidavit, paras 10 and 12-13; Third Report, paras 3.2(1)-(2).

(a) grant the Stay Extension; and

(b) approve the Third Report, and the fees, activities and Fee Accrual, each as described therein.

PART IV - LAW & ANALYSIS

A. The Court should grant the Stay Extension

14. The Field Entities seek to extend the time to file a proposal with the official receiver, and the attendant stay of proceedings, by 45 days, up to and including November 17, 2026. The stay period is currently set to expire after October 3, 2026, at which time the Field Entities will be deemed bankrupt absent approval of the Stay Extension.[8]

15. Pursuant to section 50.4(9) of the BIA, the Court may extend the time to file a proposal if it is satisfied 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.[9] When determining whether an extension is appropriate, the Court should take a broad approach that considers the interests of all potentially affected parties.[10]

16. The proposed Stay Extension is appropriate in the circumstances. The Field Entities have acted diligently and in good faith throughout the NOI Proceedings. Since the last court appearance, they have, among other things, closed the Stalking Horse Transactions,

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[8] BIA, s 50.4(8).
[9] BIA, s 50.4(9).
[10] *Cantrail Coach Lines Ltd (Re)*, 2005 BCSC 351 at para 12.

disposed of substantially all remaining assets, repaid Wells in full and substantially wound down their operations.[11] The Field Entities have also advanced the Draken Program, requiring negotiated extensions with Draken, the landlord and retained employees.[12]

17. The Stay Extension is necessary to permit the Draken aircraft to be exported from Canada in an authorized manner. Field Canada is the exporter named under the existing export permit, which is specific to Field Canada and cannot be transferred to or used independently by another party. As such, Field Canada must subsist as an operating entity and cannot be bankrupt at the time of export of the aircraft (absent the issuance of a new export permit in the name of Draken or its agent).[13] The parties expect the Draken Program to be completed and the aircraft exported within the proposed 45-day extension period.[14]

18. No creditor will be materially prejudiced by the Stay Extension. Wells, as the sole secured creditor, has been fully repaid and Draken will fund all costs of the Stay Extension such that the recoveries expected to be available to the Field Entities' other stakeholders will not be impacted by the Stay Extension. The Field Entities' cash flow forecast projects sufficient liquidity through the proposed extension period,[15] and the Proposal Trustee supports the Stay Extension.[16]

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[11] Love Affidavit, para 6; Third Report, para 3.1.
[12] Love Affidavit, paras 7, 10 and 12; Third Report, paras 3.2(1)-(2).
[13] Love Affidavit, para 11.
[14] Love Affidavit, paras 5 and 11; Third Report, para 3.2.
[15] Third Report, para 4(3) and Appendix "E".
[16] Third Report, para 5(2).

B. The Court should approve the Third Report and fees, activities and Fee Accrual described therein

(a) Third Report and Proposal Trustee activities

19. The Court should approve the Third Report of the Proposal Trustee and the activities described therein. It is common for the Court to approve the reports and activities of its officer in insolvency proceedings, including proposal proceedings,[17] and there are good policy and practical reasons to do so. Those reasons include:

(a) allowing the court officer to move forward with the next steps in the insolvency proceedings;

(b) allowing the court officer to bring its activities before the Court;

(c) allowing an opportunity for the concerns of stakeholders to be addressed and any problems rectified;

(d) enabling the Court to satisfy itself that the officer's activities have been conducted in a prudent and diligent manner;

(e) providing protection for the court officer not otherwise provided by the applicable insolvency legislation; and

(f) protecting creditors from delay that may be caused by re-litigation of steps taken to date or potential indemnity claims by the court officer.[18]

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[17] See e.g. Endorsement of Justice Steele dated March 27, 2026, JointCraft Inc, Court File No. BK-26-03318323-0031 at paras 26-28 [*JointCraft*]; Endorsement of Justice Osborne dated April 15, 2024, *The Body Shop Canada Limited*, Court File No. BK-24-03050418-0031 at paras 31-32.

[18] *Target Canada Co (Re)*, 2015 ONSC 7574 at paras 22-23 [*Target Canada*], cited in *JointCraft* at para 27; Endorsement of Justice Steele dated July 27, 2026, *Field Aviation Company Inc*, Court File No. BK-26-03382861-0032 at para 22.

20. This Court routinely approves the reports and activities where the court officer has acted in good faith and in accordance with its mandate and applicable legislation.[19] Consistent with these principles, the Proposal Trustee has continued to assist with the administration of the NOI Proceedings, including with respect to: (i) the closing of the Stalking Horse Transactions; (ii) the Draken Program; (iii) communications with creditors, employees and other stakeholders; (iv) potential priority claims asserted by Export Development Canada and the landlord; (v) employee matters, including claims under the *Wage Earner Protection Program Act* (Canada); (vi) monitoring the Field Entities' receipts and disbursements and reviewing their cash flow forecasts and liquidity; and (vii) preparing the Third Report and review of related motion materials.[20]

21. In carrying out these activities, the Proposal Trustee has acted in good faith, in accordance with its mandate and the BIA, and in compliance with the prior orders granted in the NOI Proceedings. No party has objected to the Proposal Trustee's activities.

22. Finally, the draft order incorporates the limitation adopted by the Court in *Target Canada*, providing that only the Proposal Trustee, in its personal capacity and only with respect to its personal liability, shall be entitled to rely upon or utilize such approval.[21]

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[19] *First Source Financial Management v Chacon Strawberry Fields Inc*, 2024 ONSC 7229 at para 55; see e.g. *JointCraft*, para 28.
[20] Third Report, para 6(1).
[21] *Target Canada*, paras 7 and 21-26; MR, Tab 3, Draft Order (Stay Extension and Proposal Trustee approvals) ("**Stay Extension Order**") at para 3.

(b) Fees and Fee Accrual

23. The Field Entities also seek approval of the fees and disbursements of the Proposal Trustee and its counsel as set forth in the Third Report, including the Fee Accrual, through the extension period.[22] This relief is appropriate in the circumstances.

24. The factors this Court considers when determining whether to approve the fees and disbursements of a proposal trustee and its counsel include: (i) the nature, extent and value of the assets being handled; (ii) the complications and difficulties encountered; (iii) the degree of assistance provided by the company, its officers or its employees; (iv) the time spent; (v) the proposal trustee's knowledge, experience and skill; (vi) the diligence and thoroughness displayed; (vii) the responsibilities assumed; (viii) the results achieved; and (ix) the cost of comparable services when performed in a prudent and economical manner.[23]

25. The Proposal Trustee and its counsel have undertaken substantial work in connection with the Field Entities' restructuring efforts, including the SISP, the transactions completed thereunder and the Field Entities' ongoing wind-down process.[24] The fees charged by the Proposal Trustee and Bennett Jones, including their projected Fee Accrual, are commensurate with market rates and are appropriate for the nature and value of the assets involved in the NOI Proceedings. Accordingly, the Court should approve the fees and disbursements of the Proposal Trustee and its counsel.

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[22] Stay Extension Order, paras 4-5; see Third Report, para 7, Appendix "G" and Appendix "H".
[23] *JointCraft*, para 30, citing *Bank of Nova Scotia v Diemer*, 2014 ONCA 851 at paras 33 and 44-45.
[24] Love Affidavit, para 18; Third Report, para 6.

PART V - RELIEF REQUESTED

26. For the reasons set out herein, the Court should grant the Stay Extension and approve the Third Report and the activities, fees and Fee Accrual described therein.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 30th day of September, 2026.



September 30, 2026

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SCHEDULE "A"
LIST OF AUTHORITIES

1. *Field Aviation Company (Re)*, 2026 ONSC 3498.

2. *Cantrail Coach Lines Ltd (Re)*, 2005 BCSC 351.

3. Endorsement of Justice Steele dated March 27, 2026, *JointCraft Inc*, Court File No. BK-26-03318323-0031.

4. Endorsement of Justice Osborne dated April 15, 2024, *The Body Shop Canada Limited*, Court File No. BK-24-03050418-0031.

5. *Target Canada Co (Re)*, 2015 ONSC 7574.

6. Endorsement of Justice Steele dated July 27, 2026, *Field Aviation Company Inc*, Court File No. BK-26-03382861-0032.

7. *First Source Financial Management v Chacon Strawberry Fields Inc*, 2024 ONSC 7229.

8. *Bank of Nova Scotia v Diemer*, 2014 ONCA 851.

I certify that every authority cited in the factum is authentic and every quotation from an authority that appears in the factum accurately reproduces the text of the authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).



Date September 30, 2026

Denna Jalili

SCHEDULE "B"
RELEVANT STATUTES

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

50.4 (8) Where an insolvent person fails to comply with subsection (2), or where the trustee fails to file a proposal with the official receiver under subsection 62(1) within a period of thirty days after the day the notice of intention was filed under subsection (1), or within any extension of that period granted under subsection (9),

(a) the insolvent person is, on the expiration of that period or that extension, as the case may be, deemed to have thereupon made an assignment;

(b) the trustee shall, without delay, file with the official receiver, in the prescribed form, a report of the deemed assignment;

(b.1) the official receiver shall issue a certificate of assignment, in the prescribed form, which has the same effect for the purposes of this Act as an assignment filed under section 49; and

(c) the trustee shall, within five days after the day the certificate mentioned in paragraph (b.1) is issued, send notice of the meeting of creditors under section 102, at which meeting the creditors may by ordinary resolution, notwithstanding section 14, affirm the appointment of the trustee or appoint another licensed trustee in lieu of that trustee.

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.

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED

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Proceedings commenced at **Toronto**

FACTUM OF FIELD AVIATION COMPANY INC. AND FIELD AVIATION EAST LTD.

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