

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

HALEX CAPITAL INC.

Applicant

- and -

NATURAL ENERGY SYSTEMS INC.

Respondent

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

**FACTUM OF THE APPLICANT
(Returnable November 9, 2020)**

November 2, 2020

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**ONTARIO
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BETWEEN:

HALEX CAPITAL INC.

Applicant

NATURAL ENERGY SYSTEMS INC.

Respondent

**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***

PART I - INTRODUCTION

1. This factum is filed by Halex Capital Inc. ("**Halex**" or the "**Applicant**") in support of its application for an order (the "**Receivership Order**") pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**"), appointing Baigel Corp. ("**Baigel**") as receiver (in such capacity, the "**Receiver**"), with security of all of the assets, undertakings and properties (collectively, the "**Property**") of Natural Energy Systems Inc. ("**NES**").

2. NES is indebted to the Applicant in the approximate principal amount of \$265,000 for shareholder loans made pursuant to promissory notes between NES as borrower, and Halex as lender, dated January 31, 2020, March 24, 2020, April 28, 2020, May 25, 2020 and June 26, 2020

(collectively, the "**Promissory Notes**"). NES' indebtedness to Halex under the Promissory Notes is secured against all of NES' future and after-acquired property pursuant to a general security agreement dated January 31, 2020 (the "**GSA**").

3. The Promissory Notes matured on June 30, 2020 and all amounts outstanding thereunder were then due and payable. NES has defaulted under the Promissory Notes and the GSA by, among other things, failing to pay when due, the amounts payable under the Promissory Notes.

4. Pursuant to the terms of the GSA, Halex is contractually entitled to appoint the Receiver. Accordingly, on July 2, 2020, Halex delivered a demand letter to demand payment of \$265,000, together with additional accrued and unpaid interest, fees and costs in connection with the Promissory Notes (the "**Demand Letter**") and a Notice of Intention to Enforce Security pursuant to section 244 of the BIA (the "**Notice**"). While NES has taken no issue with the Promissory Notes or GSA, it has failed to pay the amounts set out in the Demand Letter and the Notice.

5. NES has no revenue, active operations or employees, and no plans to secure new financing. For these reasons, NES has no prospect of repaying the loans under the Promissory Notes.

6. Halex seeks to appoint the Receiver to market and sell the Property in a cost-effective, fair, efficient and transparent court process commensurate with NES' limited resources and liabilities.

7. In the circumstances, it is just and convenient for this Court to appoint the Receiver to preserve the value of NES' limited assets while it canvasses the market for their sale, all with a view to maximizing value for NES' stakeholders.

PART II - THE FACTS

8. The facts with respect to this motion are more fully set out in the Affidavit of Dragan Matovic sworn October 5, 2020 (the "**Initial Affidavit**").¹ All capitalized terms not otherwise defined herein have the meaning ascribed to them in the Initial Affidavit.

9. All monetary amounts referred to herein are in Canadian currency unless otherwise stated.

A. THE PARTIES

1. NES

10. NES is a private corporation incorporated pursuant to the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "**CBCA**") on November 12, 2008. NES' affairs are governed by the CBCA, a shareholders agreement dated November 12, 2008 (the "**Shareholders' Agreement**") and By-Law No. 1 effective November 12, 2008. NES' headquarters are located in Niagara Falls, Ontario.²

11. NES owns and develops proprietary and patented processes for converting organic materials, including organic waste, into a methane product gas with a high-energy content value (the "**Gas Phase Reduction Technology**").³

12. NES has no employees or business operations. NES' principal asset is Canadian Patent 2 690 884 in respect of the Gas Phase Reduction Technology (the "**IP**").⁴

¹ Affidavit of Dragan Matovic sworn October 5, 2020 [Initial Affidavit], Applicant's Application Record at Tab 2 [Application Record].

² *Ibid* at paras 4, 10, 20 Application Record at Tab 2.

³ *Ibid* at para 6, Application Record at Tab 2.

⁴ *Ibid*, Application Record at Tab 2.

2. Halex

12. Halex is a private corporation incorporated pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B. 16, as amended with investments in several industry sectors. As described in greater detail below, Halex is a secured creditor of NES with security over all of its present and after acquired property. Halex is also a shareholder of NES, having purchased 125,000 of its common shares. Halex purchased those shares for \$500,000, which, to date, is the single largest cash investment in NES.⁵

13. Halex's sole director is Dragan Matovic. Dragan Matovic is also a director of NES.⁶

B. INDEBTEDNESS TO HALEX AND OTHER CREDITORS

1. Halex Debt and Security

14. As previously noted, Halex is the largest cash investor in NES, having purchased \$500,000 of NES' common shares.⁷

15. Between January 2020 and June 2020, Halex advanced \$265,000 to NES in the form of shareholder loans pursuant to the Promissory Notes. In accordance with the Shareholders' Agreement, which provides in relevant part that "unless the Shareholders otherwise agree: [...] (c) each loan shall be secured", NES entered into the GSA in favour of Halex on January 31, 2020.⁸

⁵ *Ibid* at paras 7-10, Application Record at Tab 2.

⁶ *Ibid* at paras 1, 4, Application Record at Tab 2.

⁷ *Ibid* at para 7, Application Record at Tab 2.

⁸ *Ibid* at paras 8-10, Application Record at Tab 2.

16. NES' entrance into the GSA was authorized by a resolution of NES' board of directors dated January 30, 2020. Its salient features include:

- (a) a grant of security to secure all amounts owing from time to time by NES to Halex, including without limitation, pursuant to the Promissory Notes (the "**Indebtedness**"); and
- (b) a security interest in all of NES' present and after-acquired property (the "**Collateral**"), and as further general and continuing security for the payment and performance of the Indebtedness, an assignment, mortgage and charge of the Collateral by NES in favour of Halex.⁹

17. Halex's security over the Collateral has been perfected, including by making the necessary registrations under the *Personal Property Security Act*, R.S.O. 1990, c. P.10, as amended (the "**PPSA**").¹⁰

2. DJH Debt and Security

18. Douglas J. Hallett ("**DJH**"), a shareholder and former director of NES, has filed a financing statement in accordance with the PPSA in connection with a general security agreement dated March 15, 2014 (the "**DJH GSA**"). As general and continuing security for the payment and performance of all obligations, indebtedness and liabilities of NES to DJH, the DJH GSA grants a security interest in the Collateral (as defined in the DJH GSA), which includes, among other things, all equipment, accounts, intangibles, undertakings, and property of NES.¹¹

⁹ *Ibid* at paras 8-9, Application Record at Tab 2.

¹⁰ *Ibid* at paras 16-17, Application Record at Tab 2.

¹¹ *Ibid* at paras 16-18, 21, Application Record at Tab 2.

19. The validity of DJH's security interest as well as the quantum secured under the DJH GSA is an issue in litigation originally commenced on February 28, 2017 between NES, as plaintiff and DJH, as defendant, bearing Court File No.: CV-17-570515 (the "**Action**"). DJH has responded to the Action by way of a defence and counterclaim (together with the Action, the "**Litigation**").¹²

20. The Litigation, which has since been referred to arbitration and remains unresolved, is described in the Initial Affidavit.¹³ The Litigation and subsequent arbitration are between DJH and the Debtor. Halex is not a party to the Litigation or arbitration.¹⁴

3. Other Unsecured Indebtedness

21. In addition to Halex and DJH, NES is indebted to several unsecured creditors in respect of management services, documented business expenses, services rendered by Hallett Environmental and Technology Group Inc., shareholder loans and cash payments to various third party creditors of NES.

C. NES' FINANCIAL CONDITION & DEFAULT

22. As previously mentioned, NES has no active business operations or employees. To meet its critical obligations, NES has relied on equity and debt financing, including \$265,000 advanced by Halex pursuant to the Promissory Notes.

23. All amounts outstanding under the Promissory Notes were due and payable on June 30, 2020. The failure of NES to pay when due, whether by acceleration or otherwise, any amount

¹² *Ibid* at paras 23-25, Application Record at Tab 2.

¹³ *Ibid*, Applicant Record at Tab 2.

¹⁴ *Ibid* at para 25, Application Record at Tab 2.

payable under the Promissory Notes constitutes an event of default where such default is not cured within 14 days. Equally, NES' failure to make any payment of principal owing under any of the Promissory Notes when due constitutes an event of default under the GSA.¹⁵

24. Upon an event of default under the Promissory Notes and GSA, all amounts owing under the Promissory Notes, plus all accrued and unpaid interest become immediately due at the option of NES. Exercising its election, Halex sent the Demand Letter and the Notice on July 2, 2020 advising NES, among other things:

- (a) that it was in default under the GSA and that all indebtedness pursuant to the Promissory Notes and the GSA were immediately due and payable;
- (b) of Halex's demand for payment of \$265,000 on account of principal outstanding under the Promissory Notes as of July 1, 2020 together with additional accrued and unpaid interest, fees and costs and all other amounts payable under or in connection with the Promissory Notes; and
- (c) of Halex's intention to enforce its security on the Property.¹⁶

25. On August 7, 2020, NES advised Halex, among other things, that it took no issue with the Promissory Notes nor the accompanying GSA and that NES was exploring its options to address the demand for payment. To date, Halex has not received any payment in response to the Demand Letter and the Notice.¹⁷

¹⁵ *Ibid* at paras 9, 11, Application Record at Tab 2.

¹⁶ *Ibid* at para 13, Application Record at Tab 2.

¹⁷ *Ibid* at para 15, Application Record at Tab 2.

26. Given NES' lack of revenue and apparent inability to secure new financing since receiving the Demand Letter and the Notice, NES has no means of satisfying its indebtedness under the Promissory Notes. The interest owing under the Promissory Notes continues to accrue, the costs of the Litigation continue to mount, and NES' ability to maintain and leverage the IP deteriorates, ultimately diminishing value for NES' stakeholders.

PART III - ISSUES

27. The issues before this Court are whether:
- (a) this Court has jurisdiction to appoint the Receiver over NES;
 - (b) it is just and convenient to appoint a Receiver over the Property; and
 - (c) the terms of the proposed Receivership Order are appropriate in the circumstances.

PART IV - LAW AND ARGUMENT

A. THIS COURT HAS JURISDICTION TO APPOINT THE RECEIVER

28. Courts will have jurisdiction to appoint a receiver under subsection 243(1) of the BIA where each of the technical requirements enumerated under the BIA have been satisfied. These include that the application is brought in the locality of the debtor, by a secured creditor, for the appointment of a receiver who is a trustee under the BIA. These requirements are discussed below – each has been satisfied.

1. The Locality of the Debtor is Ontario

29. Where an application is brought for the appointment of a receiver under subsection 243(1) of the BIA, subsection 243(5) requires that it be filed in "a court having jurisdiction in the judicial

district in the locality of the debtor".¹⁸ Section 2 of the BIA defines the "locality of a debtor" as the principal place:

- (a) where the debtor has carried on business during the year immediately preceding the date of the initial bankruptcy event,
- (b) where the debtor has resided during the year immediately preceding the date of the initial bankruptcy event, or
- (c) in cases not coming within paragraph (a) or (b), where the greater portion of the property of the debtor is situated.¹⁹

30. NES is headquartered in Ontario, has its assets in Ontario and conducts its business solely in Ontario.²⁰ Thus, the locality of NES is Ontario, and this application is properly before the Ontario Superior Court of Justice.

2. The Applicant is a Secured Creditor who Provided the Requisite Notice

31. As discussed above, Halex is a secured creditor of NES pursuant to the GSA, perfected by registration under the PPSA.²¹ Thus, Halex is entitled to bring an application to enforce its security under subsection 243(1) of the BIA.²²

32. Prior to bringing its application under subsection 243(1), subsection 244(1) of the BIA mandates that Halex provide at least 10-days' notice of its intention to enforce its security.²³ The Notice was provided on July 2, 2020.²⁴

¹⁸ [Bankruptcy and Insolvency Act, RSC 1985, c. B-3](#) s 243(5) [BIA].

¹⁹ [Ibid](#) s 2, "locality of a debtor".

²⁰ Initial Affidavit, *supra* note 1 at para 4, Application Record at Tab 2.

²¹ [Ibid](#) at paras 8-10, 16, Application Record at Tab 2.

²² [BIA](#), *supra* note 18 s 243(1).

²³ [Ibid](#) s 243(1), s 244(1).

²⁴ Initial Affidavit, *supra* note 1 at para 12, Application Record at Tab 2.

3. The Receiver is a Trustee under the BIA

33. Pursuant to subsection 243(4) of the BIA, only a "trustee" may be appointed as a receiver under the Act.²⁵ Baigel is a trustee and is therefore qualified to act as Receiver of NES.

B. IT IS JUST AND CONVENIENT TO APPOINT A RECEIVER OVER THE PROPERTY

34. Section 101 of the CJA authorizes this Court to appoint the proposed Receiver where it is "just and convenient".²⁶ Similarly, subsection 243(1) of the BIA provides, in relevant part, that "a court may appoint a receiver [...] if it considers it to be just and convenient to do so".²⁷

35. When determining whether to appoint a receiver under the BIA or CJA, this Court must have regard to "all of the circumstances but in particular the nature of the property and the rights and interests of all parties in relation thereto".²⁸ An applicant requesting the appointment of a receiver need not establish that irreparable harm would result if the receiver is not appointed.²⁹

36. While the appointment of a receiver has historically been considered an extraordinary remedy, this Court has recognized that "there is ample authority for the proposition that its extraordinary nature is significantly reduced when dealing with a secured creditor who has the right to a receivership under its security arrangements".³⁰ This proposition has as its origin, *Bank of Nova Scotia v Freure Village of Clair Creek*, where Blair J. (as he then was) held that:

²⁵ [BIA](#), *supra* note 18 s 243(4).

²⁶ [Courts of Justice Act, RSO 1990, c. C.43](#) s 101.

²⁷ [BIA](#), *supra* note 18 s 243(1).

²⁸ [Bank of Nova Scotia v Freure Village of Clair Creek, \[1996\] 40 CBR \(3d\) 274](#) at para 10 [*Bank of Nova Scotia*]; [Elleway Acquisitions Ltd v Cruise Professionals Ltd, 2013 ONSC 6866](#) at para 26 [*Elleway*].

²⁹ [Bank of Nova Scotia](#), *ibid* at para 10; [Bank of Montreal Carnival National Leasing Ltd, 2011 ONSC 1007](#) at para 28 citing *Swiss Bank Corp (Canada) v Odyssey Industries Inc*, [1995] 30 CBR (3d) 49 at para 28 [*Bank of Montreal*].

³⁰ [BCIMC Construction Fund Corporation et al v The Clover on Yonge Inc, 2020 ONSC 1953](#) at para 43.

[w]hile I accept the general notion that the appointment of a receiver is an extraordinary remedy, it seems to me that where the security instrument permits the appointment of a private receiver – and even contemplates, as this one does, the secured creditor seeking a court appointed receiver – and where the circumstances of default justify the appointment of a private receiver, the "extraordinary" nature of the remedy sought is less essential to the inquiry. Rather, the "just or convenient" question becomes one of the Court determining, in the exercise of its discretion, whether it is more in the interests of all concerned to have the receiver appointed by the Court or not.³¹

37. Where the applicant's security instrument permits the appointment of a receiver, as is the case here, Morawetz J. (as he then was) in *Elleway Acquisitions Limited v The Cruise Professionals Limited* ("**Elleway**"), affirmed that the proper inquiry is whether "it is in the interests of all concerned to have the receiver appointed".³² According to Morawetz J. in *Elleway*, this determination should be guided by the following factors:

- (a) the potential costs of the receiver;
- (b) the relationship between the debtor and the creditors;
- (c) the likelihood of preserving and maximizing the return on the subject property; and
- (d) the best way of facilitating the work and duties of the receiver.

38. Taken together, the following make the appointment of the proposed Receiver just and convenient in the circumstances:

³¹ [Bank of Nova Scotia](#), *supra* note 28 at para 12. See also, [Elleway](#), *supra* note 28 at para 27; [RMB Australia Holdings Ltd v Seafield Resources Ltd](#), 2014 ONSC 5205 at paras 28-29; [Bank of Montreal](#), *supra* note 29 at paras 25, 27.

³² [Elleway](#), *ibid* at para 28.

- (a) ***NES is in Default*** – NES is in default under the Promissory Notes and the GSA and has not been able to satisfy its indebtedness thereunder in part or in full since the Demand Letter.
- (b) ***Halex is Contractually Permitted to Appoint the Receiver*** – pursuant to the GSA, Halex has a contractual right to enforce its security through the appointment of the proposed Receiver where NES is in default under the GSA or Promissory Notes.
- (c) ***NES has no Means of Satisfying its Indebtedness*** – NES has no material operations and no revenue. Further, NES has not indicated that it has any prospect of refinancing its debt. As such, NES has no present or foreseeable means of satisfying its obligations to Halex and other creditors.
- (d) ***NES does not Contest the Receivership*** – NES does not contest Halex's security, the amount claimed under the Promissory Notes or the receivership and is cognizant that the proposed receivership reflects the only viable means of Halex recovering the amounts owing under the Promissory Notes.
- (e) ***The Receivership will Maximize the Return on the Subject Property*** – NES has not leveraged the Property to generate any revenue in its recent history and has been unwilling or unable to fund a marketing and sales process for the Property, including the IP. If appointed, the proposed Receiver intends to canvass the market for the Property, including the IP in a way that is commensurate with the indebtedness to NES' creditors. A brief, fair, orderly and transparent marketing and sales process will result in the Property being sold by way of sale or credit bid.

Given NES' financial circumstances, this reflects the only reasonable avenue of satisfying some or all of the amounts owing to its creditors.

- (f) *The Receivership is in the Best Interests of Creditors* – As previously noted, Halex is not the only creditor of NES. The proposed Receiver will be able to equitably deal with the interests of all of NES' creditors, including Halex and DJH. Additionally, the proposed Receiver will be empowered to resolve certain issues between NES' creditors, to the extent they arise, including competing claims and certain of the claims underpinning the Litigation.

C. THE TERMS OF THE RECEIVERSHIP ORDER ARE APPROPRIATE

39. The proposed Receivership Order is substantially similar to the terms of the Ontario Superior Court of Justice Commercial List's model receivership order and are appropriate in the circumstances.³³

PART V - ORDER REQUESTED

40. The Applicant submits that, based on the foregoing, it is both just and convenient to appoint Baigel as Receiver of the Property, and respectfully requests the granting of the Receivership Order in the form contained in the Application Record.

³³ Blackline to Model Receivership Order, Application Record at Tab 5.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 2nd day of November, 2020



BENNETT JONES LLP

SCHEDULE A – LIST OF AUTHORITIES

Cases Cited

1. [*Bank of Montreal Carnival National Leasing Ltd*, 2011 ONSC 1007](#)
2. [*Bank of Nova Scotia v Freure Village of Clair Creek*, \[1996\] 40 CBR \(3d\) 274](#)
3. [*BCIMC Construction Fund Corporation et al v The Clover on Yonge Inc*, 2020 ONSC 1953](#)
4. [*Elleway Acquisitions Ltd v Cruise Professionals Ltd*, 2013 ONSC 6866](#)
5. [*RMB Australia Holdings Ltd v Seafield Resources Ltd*, 2014 ONSC 5205](#)

SCHEDULE B – RELEVANT STATUTES

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

Section 2

locality of a debtor means the principal place

- (a) where the debtor has carried on business during the year immediately preceding the date of the initial bankruptcy event,
- (b) where the debtor has resided during the year immediately preceding the date of the initial bankruptcy event, or
- (c) in cases not coming within paragraph (a) or (b), where the greater portion of the property of the debtor is situated.

Section 243

Court may appoint receiver

(1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

- (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
- (b) exercise any control that the court considers advisable over that property and over the insolvent person's or bankrupt's business; or
- (c) take any other action that the court considers advisable.

Restriction on appointment of receiver

(1.1) In the case of an insolvent person in respect of whose property a notice is to be sent under subsection 244(1), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless

- (a) the insolvent person consents to an earlier enforcement under subsection 244(2); or
- (b) the court considers it appropriate to appoint a receiver before then.

Definition of receiver

(2) Subject to subsections (3) and (4), in this Part, receiver means a person who

- (a) is appointed under subsection (1); or

(b) is appointed to take or takes possession or control — of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt — under

(i) an agreement under which property becomes subject to a security (in this Part referred to as a "security agreement"), or

(ii) a court order made under another Act of Parliament, or an Act of a legislature of a province, that provides for or authorizes the appointment of a receiver or receiver-manager.

Definition of receiver — subsection 248(2)

(3) For the purposes of subsection 248(2), the definition receiver in subsection (2) is to be read without reference to paragraph (a) or subparagraph (b)(ii).

Trustee to be appointed

(4) Only a trustee may be appointed under subsection (1) or under an agreement or order referred to in paragraph (2)(b).

Place of filing

(5) The application is to be filed in a court having jurisdiction in the judicial district of the locality of the debtor.

Orders respecting fees and disbursements

(6) If a receiver is appointed under subsection (1), the court may make any order respecting the payment of fees and disbursements of the receiver that it considers proper, including one that gives the receiver a charge, ranking ahead of any or all of the secured creditors, over all or part of the property of the insolvent person or bankrupt in respect of the receiver's claim for fees or disbursements, but the court may not make the order unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations.

Meaning of disbursements

(7) In subsection (6), disbursements does not include payments made in the operation of a business of the insolvent person or bankrupt.

Section 244

Advance Notice

(1) A secured creditor who intends to enforce a security on all or substantially all of

(a) the inventory,

(b) the accounts receivable, or

(c) the other property

of an insolvent person that was acquired for, or is used in relation to, a business carried on by the insolvent person shall send to that insolvent person, in the prescribed form and manner, a notice of that intention.

Period of notice

(2) Where a notice is required to be sent under subsection (1), the secured creditor shall not enforce the security in respect of which the notice is required until the expiry of ten days after sending that notice, unless the insolvent person consents to an earlier enforcement of the security.

No advance consent

(2.1) For the purposes of subsection (2), consent to earlier enforcement of a security may not be obtained by a secured creditor prior to the sending of the notice referred to in subsection (1).

Exception

(3) This section does not apply, or ceases to apply, in respect of a secured creditor

(a) whose right to realize or otherwise deal with his security is protected by subsection 69.1(5) or (6); or

(b) in respect of whom a stay under sections 69 to 69.2 has been lifted pursuant to section 69.4.

Idem

(4) This section does not apply where there is a receiver in respect of the insolvent person.

Courts of Justice Act RSO 1990, c. 43

Section 101

Injunctions and receivers

(1) In the Superior Court of Justice, an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so.

Terms

(2) An order under subsection (1) may include such terms as are considered just.

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*

HALEX CAPITAL INC.

and

NATURAL ENERGY SYSTEMS INC.

Applicant

Respondent

Court File No.: CV-20-00649326-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced in Toronto

FACTUM OF THE APPLICANT
(Returnable November 9, 2020)

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