

**IN THE SUPREME COURT OF NOVA SCOTIA**  
**Citation:** Chemtura Canada Co. (Re), 2008 NSSC 14

**Date:** 2008-01-21  
**Docket:** SH 283921  
**Registry:** Halifax

**In the Matter of:**

The Amalgamation of Chemtura Canada Co./Cie  
and Anderol Canada Corp.

Applicant

- and -

**In the Matter of:**

The *Companies Act* of Nova Scotia, being Chapter 81 of the  
**Revised Statutes of Nova Scotia**, 1989, *as amended*

**Judge:** The Honourable Justice John D. Murphy

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**LIBRARY HEADING**

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**Judge:** The Honourable Justice John D. Murphy

**Heard:** *{In Chambers}* October 18, 2007 in Halifax, Nova Scotia

**Subject:** Amalgamations - Publication Ban - Sealing of Financial Statements

**Summary:** Two operating companies obtained court approval to amalgamate. The amalgamated company asked the Court to seal the financial statements which had been filed in support of a request to have the Court waive giving of notice of the approval application to the amalgamating companies' creditors, according to s.134(7) of the *Companies Act*.

**Issue:** Should the financial statements be sealed? - Is publication ban warranted?

**Result:** Documentation should not be sealed.

Applicant did not meet the test for publication ban/confidentiality order developed by Supreme Court of Canada in **Dagenais/Mentuck/Sierra Club**, which is the burden described in advice circulated to counsel when, effective July 1, 2007, the Court changed its practice of routinely sealing financial statements of amalgamating companies.

Confidentiality order was not necessary to prevent a serious risk to an important commercial interest in the context of litigation because reasonably-alternative measures would not prevent the risk. Nova Scotia Court of Appeal decision in **Shannex Health Care Management v. Nova Scotia Attorney General** distinguished, based on the legislation applicable and the evidence.

In this case, the “open court principle” outweighs the salutary effect of a confidentiality order. Providing public access to information upon which the Court relied in exercising discretion to waive the statutory requirement that creditors receive notice is more important than the desire of amalgamating companies to keep their financial information confidential.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.  
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