

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

No: 500-11-048114-157

SUPERIOR COURT

(Commercial Division)

IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED

IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT
OF:

BLOOM LAKE GENERAL PARTNER
LIMITED, QUINTO MINING CORPORATION,
8568391 CANADA LIMITED, CLIFFS QUÉBEC
IRON MINING ULC, WABUSH IRON CO.
LIMITED, WABUSH RESOURCES INC.

Petitioners

-and-

THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP, BLOOM LAKE
RAILWAY COMPANY LIMITED,
WABUSH MINES, ARNAUD RAILWAY
COMPANY, WABUSH LAKE RAILWAY
COMPANY LIMITED

Mises-en-cause

-and-

MICHAEL KEEPER, TERENCE WATT,
DAMIEN LABEL AND NEIL JOHNSON

PETITIONERS-Mises-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

AFFIDAVIT OF MICHAEL KEEPER
(Sworn September 6, 2019)

I, **MICHAEL E. KEEPER**, of 1049 Fitzsimmons Drive, City of Brockville, in the Province of Ontario, **SOLEMNLY DECLARE AND MAKE OATH AND SAY:**

Introduction

1. I am the former Area Manager of the Wabush Mines Materials Department located in Pointe Noire, Québec. I worked with Wabush Mines for more than 36 years before retiring on May 1, 2001. When reference is made herein to the “company” it applies to my former employer, Wabush Mines;
2. I have knowledge of the matters to which I hereinafter depose except where stated to be based on information or belief and regarding such matters I believe the same to be true. Further, I have discussed the contents of this affidavit with the other Representatives (as defined below), and they also believe them to be true. This affidavit is sworn in support of a motion for approval of further costs of the non-union employees and retirees (the "**Salaried Members**");
3. Wabush Mines and the CCAA Parties (defined below) are subsidiaries of a major U.S. company called Cliffs Natural Resources ("**CNR**") (recently renamed "Cleveland Cliffs") based in Cleveland, Ohio. CNR is a major, solvent, multi-national mining and resource company;

My Background

4. I started working with Wabush Mines at their headquarters in Montreal on June 1, 1964. At first I was working in the Accounting Department for construction management. In September, 1964, when Wabush Mines closed its Montreal office and moved its offices

to Pointe Noire, QC, I became a buyer in the Purchasing Department. In 1973, I was promoted to Purchasing Agent and, subsequently, Assistant Supervisor, Material Management, all in the Purchasing Department. In 1979, Wabush Mines transferred its Purchasing Department to a new office in Westmount. I moved back to Montreal with the company and became Supervisor Material Management, responsible for Purchasing and Warehousing. In 1986, Wabush Mines transferred its Materials Department back to Pointe Noire and I moved again with the company. I remained employed at the Pointe Noire location for the next 15 years. In the early 1990s, my job title was changed to Area Manager, Materials. As indicated above, I remained employed at Wabush Mines for 36 years and 11 months, retiring in 2001 from the position of Area Manager, Materials;

5. I have spent the majority of my working life in Québec;
6. As part of my compensation as a long service employee with Wabush Mines, I earned various post-retirement benefits, such as:
 - (a) a monthly pension benefit to be paid to me on my retirement from the Contributory Defined Benefit Pension Plan for Salaried Employees of Wabush Mines, Cliffs Mining Company, Managing Agent (Nfld & Lab. Reg. No. 0021314, CRA Reg. No. 0343558) (the “**Salaried Pension Plan**”);
 - (b) entitlement to post-retirement health benefits and life insurance benefits on which we relied in our retirement years; and,

(c) other senior managers also earned an additional supplemental pension benefit (collectively with health and life insurance benefits, those are known as "other post-employment benefits" or "OPEBs")

7. I am now 75 years old and, like all other retirees of Wabush Mines, am highly dependent on the post-employment benefits and monthly pension benefits that I earned as an employee of Wabush Mines for my and my spouse's everyday livelihood;

The Wabush Mines CCAA Proceedings

8. In 2014, CNR announced that it intended to exit all of its Eastern Canada mining operations;

9. On May 20, 2015, Wabush Iron Co. Limited, Wabush Resources Inc., Wabush Mines, Arnaud Railway Company, and Wabush Lake Railway Company Limited (collectively, the "**Wabush CCAA Parties**") sought and obtained protection from their creditors from the Québec Superior Court under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**") pursuant to an initial order granted by Mr. Justice Hamilton (the "**Wabush Initial Order**"), pursuant to which FTI Canada Consulting Inc. was also appointed as the Monitor (the "**Monitor**"). The proceedings commenced by the Wabush CCAA Parties are referred to here as the "**Wabush CCAA Proceedings**" and, together with the proceedings that had been commenced under the CCAA (the "**Bloom Lake CCAA Proceedings**") by other affiliates of the Wabush CCAA Parties (the "**Bloom Lake CCAA Parties**") on January 27, 2015 (the "**CCAA Proceedings**");

10. There are approximately 690 Salaried Members of the company who are impacted by the CCAA proceedings;

11. The mining operations of the Wabush CCAA Parties had been shut down prior to the CCAA Proceedings. Prior to the commencement of the Wabush CCAA Proceedings, a sale process had been approved and commenced in the Bloom Lake CCAA Proceedings to seek buyers for the businesses and assets of both the Bloom Lake CCAA Parties and the Wabush CCAA Parties. The sale process sold the major assets of both the Bloom Lake CCAA Parties and the Wabush CCAA Parties, being the Bloom Lake Mine, the Wabush Scully Mine and the Pointe Noire processing facility to new owners who intended to restart operations;
12. Despite the sales, there are significant shortfalls in paying the Salaried Members and other creditors' claims in full. Ultimately, a plan of arrangement (the "CCAA Plan") was approved and is still in the process of being implemented;

Termination of OPEBs

13. On June 26, 2015, shortly after obtaining CCAA protection, the Wabush CCAA Parties stopped paying certain pension contributions and OPEBs. The total loss of OPEBs and the initial 25% loss to our monthly pension benefits severely impacted the livelihoods of the Wabush Mines retirees and caused significant financial hardship;

Court Order Appointing Representatives and Representative Counsel

14. As former salaried employees and retirees of the Wabush CCAA Parties, we do not have union representation to assist us;
15. Shortly after the company obtained CCAA protection and after we learned of the termination of our OPEBs, I and other salaried retirees formed a group and sought the

assistance of legal counsel (Koskie Minsky LLP) to represent us in the Wabush CCAA Proceedings;

16. On June 22, 2015, I was appointed by the court along with salaried retirees Neil Johnson, Terence Watt, and Damien Lebel (deceased as of February 24, 2019) (the "**Representatives**") as the representatives of all Non-Union Active Employees and Retirees of Wabush Mines in the Wabush CCAA Proceedings, and the firms of Koskie Minsky LLP (Toronto) and Scheib Legal (Montreal) were appointed as Representative Counsel to represent the Salaried Members in the CCAA Proceedings;¹
17. The court also ordered that the legal costs of the Salaried Members be paid by the Wabush CCAA Parties up to a specified limit for a defined period of time. As the CCAA Proceedings moved forward, the court issued additional Orders at various times ordering the payment of the Salaried Members' costs, to the limits and for the periods of time stated in those Orders;

Administration of the Pension Plan and Monthly Pension Reductions

18. As the CCAA proceedings proceeded, it became known to me and other Salaried Members that the Salaried Pension Plan from which our monthly pension benefits are paid, was significantly underfunded. This meant that the pension fund did not have sufficient funds to pay the full monthly pension benefits that we earned by employees

¹ On December 21, 2017, the Montreal firm of Fishman Flanz Meland Paquin LLP was appointed to replace Scheib Legal as Québec Representative Counsel who had resigned.

during their working years for Wabush Mines. The deficit calculated on the wind up of the Salaried Pension Plan was substantial: \$27,450,000.00;²

19. On December 16, 2015, the Newfoundland Superintendent of Pension (the "**Superintendent**") wrote to the company declaring that the Salaried Pension Plan was terminated effective on the issuance of the letter (December 16, 2015) as a result of the suspension of special payments and the discontinuance of business operations by the Wabush CCAA Parties. Attached hereto as **Exhibit "A"** is the letter dated December 16, 2015 from the Superintendent;
20. On January 26, 2016, the Salaried Members received a letter from Wabush Mines notifying them that the Superintendent had directed Wabush Mines to reduce the amount of monthly pension benefits being paid to the Salaried Members by 25% due to the underfunding in the Salaried Pension Plan. This reduction, coupled with the previous termination of our OPEBs compounded the Salaried Members' financial hardships as a result of the company's CCAA proceeding;
21. On March 1, 2016, counsel to the company wrote to the Superintendent requesting that an administrator be appointed to wind up (i.e., terminate) the Wabush Mines pension plans. Attached hereto as **Exhibit "B"** is the letter dated March 1, 2016 from counsel to the company to the Superintendent;

² The Pension Plan for Bargaining Unit Employees of Wabush Mines, Cliffs Mining Company, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company, Limited (the "**Wabush Union Plan**") was also underfunded.

22. On March 30, 2016, the Superintendent appointed the actuarial firm of Morneau Shepell ("**Morneau**") as the replacement administrator of the Salaried Pension Plan and the Wabush Union Plan to wind-up the plans. The wind up process is complex and took over two years to complete. Attached hereto as **Exhibit "C"** is the letter dated March 30, 2016 from the Superintendent to Morneau advising them of the appointment as administrator of the Salaried Pension Plan and the Wabush Union Plan;

The Role of Representative Counsel

23. The Wabush Mines CCAA proceedings have been complicated and lengthy. There were significant issues affecting the Salaried Members and their claims for their losses of OPEBs and the pension reductions;
24. Representative Counsel has provided valuable representation and assistance to the Salaried Members throughout the proceedings that we would never have been able to obtain on our own;

a) Pension Deficit Claim

25. As part of its representation of the Salaried Members, a mechanism was negotiated by Representative Counsel such that the company, as plan administrator at the time, submitted the Salaried Pension Plan wind-up deficit in its own claims process for the amount of \$27,341,000, subject to any revision to the wind-up deficit calculated by Morneau, who was later appointed as the replacement administrator of the Salaried Pension Plan. Representative Counsel also asserted a statutory deemed trust priority

claim for the pension plan deficit that was vigorously opposed by the Monitor, CCAA Parties and other creditors.³

26. Representative Counsel was ultimately successful in settling two major issues affecting the Salaried Members:

(a) A Priority Claim for the pension deficit in the Wabush Salaried Plan was settled with the Monitor and Wabush CCAA Parties that resulted in a meaningful distribution to improve the underfunding in the Salaried Pension Plan; and

(b) A class action that I and the other three Representatives commenced on behalf of all the Salaried Members before the Newfoundland Court against the non-CCAA related parties of the Wabush CCAA Parties for compensation for the losses suffered by the Salaried Members in respect of our pension reductions and OPEB losses;⁴

(together the "**Pension Settlements**")

27. On June 29, 2018, after extensive negotiations with creditors, an Amended and Restated Joint Plan of Compromise and Arrangement (the "**Amended CCAA Plan** ") was reached between the Participating CCAA Parties, as defined in the Amended CCAA Plan, and their creditors. The Participating CCAA Parties include the Wabush CCAA Parties other

³ The statutory priority claim was disputed by the Monitor and proceeded to a hearing before the Honourable Stephen W. Hamilton J.S.C. (as he was then), who did not allow the priority. Representative Counsel and the USW obtained leave to appeal to the Québec Court of Appeal and a hearing was scheduled on June 11-13, 2018 but was discontinued as a result of a settlement reached between Representative Counsel and the Monitor and Wabush CCAA Parties.

⁴ The costs of the Salaried Members in the class action proceeding were not paid by the Wabush CCAA Parties.

than Wabush Lake Railway Company. The Amended CCAA Plan is complicated and contains different payments to different creditor groups based on various factors, including the Pension Claim Settlements described above.

28. As a result of the Pension Settlements, the Salaried Pension Plan received a payment of \$18 million under the Amended CCAA Plan (a recovery of approximately 67% of the pension deficit amount), which resulted in an increase to the funded ratio for the Salaried Plan from approximately 75% as of the wind-up date to approximately 92% for Newfoundland and Québec pensioners, and 85.77% for Québec non-pensioners and 86.8% for Salaried Members who are subject to federal pension regulation. The reduction in monthly pension benefits was decreased from 25% to 8-15%, and the members received a lump sum payment to compensate them for the 25% reduction that had been imposed on them for over two years. Attached hereto as **Exhibit "D"** are copies of media articles reporting the settlements;

Next steps for the pension plan wind up

29. As part of the pension wind up process, all plan members who earned a pension and who had not exercised their transfer rights (i.e. elected a commuted value payment), had an annuity purchased for them from an insurance company to continue the payment of monthly benefits after the pension plan was wound up;
30. As part of the wind-up process, the Representatives requested that Representative Counsel and Segal Consulting, the actuaries that have been assisting the Salaried Members throughout the CCAA proceeding ("**Segal**"), provide advice in ensuring that the

best price was negotiated for the annuities so that the pension benefits could be increased as much as possible from the 25% reductions;

31. Representative Counsel and the actuarial firm Segal participated in several calls and were requested to provide assistance in a few key aspects of the annuity process which ultimately led to a successful annuity purchase. Based on the work completed by the parties, two insurance companies were selected to take over the monthly pension payments for the Salaried Members;
32. The Representatives received regular reports throughout the wind-up annuity purchase process and were involved in discussions with Representative Counsel and Segal regarding the advantages of certain annuity purchases versus others. In the end, the final funded percentage varied across jurisdictions as a result of the different pension legislation applicable to members in different provinces but overall provided a favourable increase to the funded ratio of the Salaried Pension Plan and best preserved the amounts successfully negotiated in the Pension Claim Settlement:

Jurisdiction (by group)	Pre-Settlement Funded Percentage (as at December 16, 2015)	Final Funded Percentage
Newfoundland	75.1%	92.85%
Québec (Pensioners)	75.1%	92.72%
Québec (Non-Pensioners)	75.1%	85.77%
Federal	75.1%	86.80%

b) OPEB Claim

33. Representative Counsel also prepared and submitted claims in the CCAA Claims Process in respect of the Salaried Members' terminated OPEBs;

CCAA Plan distributions to creditors

34. Estimates of potential recoveries to creditors under the CCAA Plan were set out in the Monitor's Forty-Sixth Report. The estimated recovery on account of OPEB claims of Salaried Members was low, only 7.39% to 9.33% on submitted claim amounts;
35. In September 2018, the Monitor mailed the first distribution cheques to the Salaried Members in respect of our OPEB claims;
36. Around February 2019, the Monitor mailed income tax slips to the Salaried Members in respect of the distribution payments. It was subsequently discovered that there were errors in the tax slips mailed to Salaried Members that required corrective action, otherwise incorrect and higher income tax liabilities would result for Salaried Members;
37. I received my income tax slip from the Monitor in late February 2019 and was surprised to see that it reported the entire distribution I received in September 2018 as taxable income even though we had been advised that claims based on the termination of life insurance benefits and housing reimbursements were not considered taxable and no withholdings were taken for these distributions. This meant I would have to pay tax on all amounts relating to the September 2018 distribution when I did my tax return;

38. I as well as other Salaried Members contacted Representative Counsel to request their assistance with the income tax slip error. They told me that they contacted the Monitor to address the issue;
39. Representative Counsel subsequently reported to us that prior to the September 2018 distribution, the Monitor had discussions with the Canada Revenue Agency ("CRA") and Revenue Québec with respect to withholding tax at source on the CCAA distributions to employees and retirees. It was determined by those parties that distributions for claims based on the termination of life insurance benefits and housing reimbursements were not considered taxable and no withholdings were taken for these distributions. I am advised by Representative Counsel that the Monitor paid distributions with respect to those claims first, therefore if a retiree's claim for life insurance and/or housing reimbursement was greater than his or her overall distribution, no amount was taxable and no amounts were withheld for tax purposes. I am advised by Representative Counsel that all other claims in respect of amounts owing were considered taxable depending on the person's province of residence and the amount received;
40. I began to hear from other members that were similarly confused by the income tax slips they had received. I again contacted Representative Counsel for assistance. I understand that Representative Counsel contacted the Monitor and that the Monitor contacted the CRA and Revenue Québec for further directions on the tax slips;
41. A few weeks later, Representative Counsel advised that the Monitor had been provided with further instructions by CRA and Revenue Québec and that tax slips sent to certain Salaried Members would be canceled and/or amended to reflect the correct taxable and

non-taxable status of the distributions that had been sent in September 2018 and the source withholdings, if any, that had been applied at that time;

42. Representative Counsel kept the Salaried Members informed of the developments through regular email, telephone, and website posting reporting. In addition, on April 5, 2019, Representative Counsel sent a reporting letter to all of the Salaried Members that some members would have their tax slips canceled or amended, and that members should hold off filing their tax return until they have received an amended tax slip from the Monitor;
43. I understand that the Monitor also sent out letters to deal with the tax slip errors in mid-April, 2019, and that many Salaried Members received these letters the week prior to the tax return filing deadline on April 30, 2019;
44. Given how close to the filing deadline the revised tax slips were provided, it was very beneficial for the Salaried Members to have regular updates and advice from Representative Counsel on their website and a letter to members. Many Salaried Members are elderly, do not have internet access, and were not aware of these issues that would have resulted in them paying higher income tax than required;
45. In addition to issues with tax slips, I was advised by Representative Counsel and other Representatives, that after receiving the first CCAA distributions, certain Salaried Members received letters from Employment and Social Development Canada ("ESDC") demanding that they repay Employment Insurance ("EI") benefits that they received after they were terminated by the Wabush CCAA Parties. I understand that Representative

Counsel has provided assistance to these members, specifically providing them with information regarding the CCAA distribution amounts they received;

Other Outstanding CCAA Issues

46. There are number of issues remaining in the Wabush Mines CCAA Proceedings which may require Representative Counsel's advice to the Salaried Members. A second and final distribution by the Monitor to unsecured creditors, including to the Salaried Members, is expected at some time in the future. We are currently awaiting further information from the Monitor as to when this distribution will be made and the amount;
47. In addition, a number of claims were filed late by other creditors in the CCAA Proceedings, including a claim by a creditor who wants to change its claim from unsecured to secured status which, if granted, will significantly impact the amount of the second and final distribution. The Monitor has postponed dealing with this claim as it awaits a decision from another court proceeding. Depending on the outcome, Representative Counsel may need to advise and assist the Salaried Members. Representative Counsel on this issue;
48. The Monitor also reports that, in addition to the Salaried Plan, there is a defined contribution pension plan and an RRSP plan that are still in the process of being wound up, which Representative Counsel is following as these plans include a small number of Salaried Members;

The request for further costs of the Salaried Members

49. As a result of the work performed by Representative Counsel on behalf of Salaried Members since July 29, 2018. I am advised by Representative Counsel that \$77,171.50 for Koskie Minsky LLP, and the amount of \$16,328.65 for Fishman Flanz Meland Paquin LLP is owing to the end of August, 2019 in excess of the cost amount approved in the last court order dated June 29, 2018;
50. In addition, as a result of the advice and assistance provided by Segal for the pension wind up annuity purchase process to continue the payment of regular monthly pension benefits, I am advised that \$25,830.11 for Segal Consulting is owing for the period of January 1, 2019 to February 28, 2019;
51. We also request approval of future potential costs capped at the amount of \$75,000 for the Salaried Members (plus taxes and disbursements), for the continued representation of the Salaried Members in the CCAA proceeding for the period from September 1, 2019 to the earlier of the completion and termination of the Wabush CCAA Proceedings or the discharge of Representative Counsel;
52. The amount of costs sought in this motion has no material impact on the future distribution to creditors;⁵

⁵ The amount is also small in comparison to the other professional fees paid by the Wabush CCAA Parties. The Monitor has advised that it, with its counsel, as well as counsel to the Wabush CCAA Parties, have charged a total of approximately \$37.4 million in fees to the Wabush CCAA Parties from the date of the CCAA filing of May 20, 2015 to June, 2019. I am advised by Representative Counsel that an update of the costs charged had been requested to the Monitor, but as of the date of this Affidavit, has not yet been provided.

53. We are very pleased with the results that have been achieved on behalf of Salaried Members by Representative Counsel. The Representatives have heard from many Salaried Members that having Representative Counsel has been key in securing results and protection from further losses for the Salaried Members. We look forward to finalizing the final CCAA matters that remain outstanding with advice from Representative Counsel;
54. I swear this affidavit in support of Representative Counsel's fees motion for the payment of outstanding fees and for an aggregate fee cap for future amounts.

AND I HAVE SIGNED:



MICHAEL KEEPER

SOLEMNLY AFFIRMED before me in Brockville,
the Province of Ontario, this 6th day of September
2019.

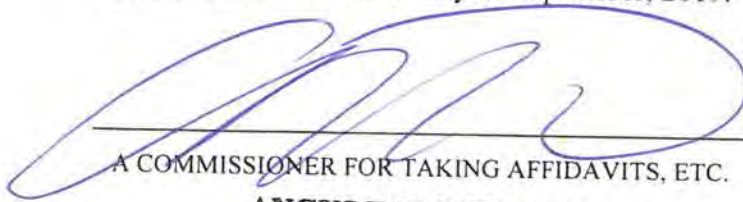


ANGUS F. BICKERTON
BARRISTER & SOLICITOR



This is **Exhibit "A"**

referred to in the Affidavit of Michael Keeper
sworn before me this 6th day of September, 2019.



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A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

ANGUS F. BICKERTON
BARRISTER & SOLICITOR

December 16, 2015

Mr. Kurt Holland
Director - Benefits
c/o Cliffs Natural Resources, Inc.
200 Public Square, Suite 3300
Cleveland, Ohio
USA
44114 – 2315

Dear Mr. Holland:

**Re: Contributory Pension Plan for Salaried Employees of Wabush Mines,
Cliffs Mining Company, Managing Agent, Arnaud Railway Company and
Wabush Lake Railway Company, Limited; (the "Plan")
NL Registration Number 0021314**

I am writing to you in your capacity as the Plan administrator. Pursuant to subsections 59(1)(b) and (d) of the *Pension Benefits Act, 1997* (the Act), I am terminating the Plan effective immediately.

On May 20, 2015, Wabush Iron Co. Limited, Wabush Resources Inc. and certain of their affiliates, including Wabush Mines, Arnaud Railway Company and Wabush Lake Railway Company Limited (collectively the "Wabush Group") were made subject to proceeding under the Companies' Creditors Arrangement Act (CCAA). As part of the CCAA proceeding, payments of special payments have been suspended as of May 2015. In addition, the Wabush Mine has been shut down and substantially all of its employees have been terminated. As a result, I am of the opinion that the Plan has failed to meet the requirements prescribed by the *Pension Benefits Act Regulations* (the Regulations) for solvency in respect of funding as required by section 12 of the Regulations, and that the employer has discontinued all of its business operations

Furthermore, it is my understanding based on recent communication with you and your legal counsel that, although there may be some prospects with respect to the sale of at least some of the Wabush Group's assets, it is highly unlikely that any potential buyer would agree to assume the assets and liabilities of the Plan. Given the Plan's future prospects and its current financial position, I consider that it would be in the best interests of members to terminate the Plan effective immediately.

Based on the above, I declare the Plan terminated effective the date of issuance of this letter, December 16, 2015.

Mr. K. Holland
December 16, 2015

Subsection 61(1) of the Act provides that upon termination of a plan the employer must pay into the pension fund all amounts that would otherwise have been required to be paid to meet the requirements prescribed by the Regulations for solvency. Under section 25 of the Regulations, this amount is required within 30 days of the date of termination of the Plan.

Additionally, subsection 61(2) of the Act requires that on plan termination the employer shall, as prescribed by the Regulations, pay into the pension fund the amount that is necessary to fund the benefits provided under the Plan. Section 25.1 of the Regulations outlines the rules with respect to the required funding.

Section 32 of the Act sets out rules with respect to the application of the deemed trust upon plan termination.

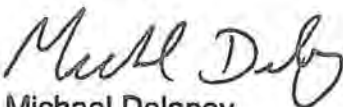
I wish to inform you that following the termination of a plan, an annual information return and actuarial termination report must be filed with my office pursuant to subsection 60(2) of the Act. Please be advised that funds cannot be transferred until the Superintendent has approved the termination report and transfer in writing. Please refer to the Act and associated regulations and Directives (in particular Nos. 8, 9 and 11) for additional details. The Directives can be found on the Service NL website.

Once the wind-up report has been approved, option statements must be provided to members in accordance with the Act and Directives. However, please note that copies/templates are required by this office prior to approving the termination report. Please refer to the requirements under Directive No. 8 (and any additional requirements under Directive No. 11).

Please inform all Plan members of my decision to declare the Plan terminated effective the date of issuance of this letter, December 16, 2015.

Should you have any questions or concerns please contact me directly at (709) 729-6014.

Yours truly,



Michael Delaney
Superintendent of Pensions
Pension Benefit Standards Division

cc: Marthe Brodeur, Cliffs Natural Resources
Natalie Bussière, Blakes
Nigel Meakin, FTI Consulting
Michel Drolet, Régie des rentes

This is **Exhibit "B"**

referred to in the Affidavit of Michael Keeper
sworn before me this 6th day of September, 2019.



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A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

ANGUS F. BICKERTON
BARRISTER & SOLICITOR

Please do not hesitate to contact the undersigned at your convenience if you need any additional information or wish to discuss the contents of this letter further.

Yours truly,

BLAKE, CASSELS & GRAYDON LLP



Natalie Bussière

NB/fp

c. c. Clifford T. Smith, *Cliffs*
Adam D. Munson, *Cliffs*
Benoit Brière, *Office of the Superintendent of Financial Institutions (OSFI)*
Nigel Meakin, *FTI Consulting*
Milly Chow, *Blake, Cassels & Graydon LLP*

This is **Exhibit "C"**

referred to in the Affidavit of Michael Keeper
sworn before me this 6th day of September, 2019.



A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

ANGUS F. BICKERTON
BARRISTER & SOLICITOR



Government of Newfoundland and Labrador
Service NL

March 30, 2016

Mr. Paul Chang, FCIA
Partner
Morneau Shepell
7071 Bayers Rd, Suite 3007
Halifax, NS B3L 2C2

Dear Mr. Chang:

**Re: Contributory Pension Plan for Salaried Employees of Wabush Mines, Cliffs Mining Company, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company, Limited; (the "Plan")
NL Registration Number 0021314**

On May 20, 2015, Wabush Iron Co. Limited, Wabush Resources Inc. and certain of their affiliates, including Wabush Mines, Arnaud Railway Company and Wabush Lake Railway Company Limited (collectively the "Wabush Group") were made subject to proceedings under the *Companies' Creditors Arrangement Act* ("CCAA").

On December 16, 2015, the Superintendent of Pensions declared a termination of the Plan.

On March 1, 2016, the Wabush Group (through their legal counsel) requested, in writing, the appointment of a replacement administrator for the Plan on or about March 14, 2016. In this letter, and subsequent correspondence dated March 23, 2016, it was stated that the Wabush Group no longer has the resources available to act as administrator for the Plan.

Pursuant to section 63 of the *Pension Benefits Act, 1997* (the "Act"), where the whole of a pension plan has been terminated and the superintendent is of the opinion that no action or insufficient action has been taken to wind-up the plan, the superintendent may appoint an administrator for the plan.

Based on the request, there is sufficient concern regarding the wind-up of the Plan and I am of the opinion that another administrator should be appointed for the Plan.

Mr. P. Chang
March 30, 2016

I understand from your correspondence, dated March 4, 2016, that Morneau Shepell is willing to act as administrator for the Plan. Therefore, pursuant to section 63 of the Act, effective the date of issuance of this letter, March 30, 2016, I hereby appoint Morneau Shepell as the administrator for the Plan.

Please refer to the Act and associated legislation for the duties and responsibilities of an administrator.

Please inform all Plan members of your appointment as soon as possible. No official communication will be issued by this office but any future calls requesting to speak with the administrator will be directed to your firm. I understand that the initial point of contact is Paula Boyd and, when appropriate, I will provide her contact information to enquiring members of the Plan.

As administrator, you are entitled to all pertinent information relating to the Plan, including; plan documentation, agreements with any third-party providers, pension database(s), all previous communication to plan members and stakeholders, documentation filed with regulatory authorities, all previous filings with the monitor and Superior Court relating to the Plan (including the Pension Claim), etc. I trust that all parties will co-operate efficiently and completely with the new administrator to minimize any potential disruption to the members. Please notify me immediately if there are any issues.

Once you have an opportunity to familiarize yourself with the Plan I would suggest that we have a meeting to discuss the completion of the wind-up. Please contact me in the next two to three weeks to arrange such a meeting.

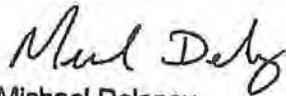
As you are aware, in your role as administrator for the Plan, you are responsible for ensuring that only permitted fees and expenses can be paid from the pension fund. I trust you will ensure that any expenses that are the responsibility of any party to the Plan will continue to be paid appropriately. I request that all expenses paid from the pension fund are filed with this office, within 30 days after the end of the month the expense is paid. However, please be advised that this office will not be approving the expenses – as this is the role of the administrator.

Finally, although the Wabush Group is relinquishing its role as administrator from March 30, 2016, it does not limit in any way the financial obligations of any employer involved in the Plan or any potential liability in respect of the fiduciary responsibilities prior to this date.

Mr. P. Chang
March 30, 2016

I trust this is satisfactory. Should you have any questions or concerns please contact me directly at (709) 729-6014.

Yours truly,



Michael Delaney
Superintendent of Pensions
Pension Benefit Standards Division

cc: Kurt Holland, Cliffs Natural Resources
Clifford Smith, Cliffs Natural Resources
Natalie Bussière, Blakes
Nigel Meakin, FTI Consulting
Michel Drolat, Retraite Québec
Cynthia Gaudreault, Willis Towers Watson
Ann-Marie White, CIBC Mellon
David Charland, Sun Life Financial

This is **Exhibit "D"**

referred to in the Affidavit of Michael Keeper
sworn before me this 6th day of September, 2019.



A horizontal line is drawn across the page, with a large, stylized blue ink signature written over it.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

ANGUS F. BICKERTON
BARRISTER & SOLICITOR

Nfld. & Labrador

\$40M to go back in Wabush Mines pension and medical plan, if deal approved



'It is a positive ... especially for widows who's husbands worked at Wabush Mines'

CBC News · Posted: May 11, 2018 5:37 PM NT | Last Updated: May 11, 2018



Wabush Pension Committee co-chair Rita Pynn says she was ecstatic when she heard news of the settlement. (Jacob Barker/CBC)

Pensioners of Wabush Mines received some welcome news early this morning after a negotiating team reached a tentative deal with Cliff's Natural Resources for \$40 million dollars to go back into their pension fund.

The arrangement is not set in stone yet and still has to be approved by a court overseeing the company's insolvency.

"I'm super excited," said Rita Pynn, co-chair of the Wabush Pension Committee.

"Even though we won't get everything back, at least we will obtain some of our funding back and it is a positive for a lot of people ... and especially for widows who's husbands worked at Wabush Mines."



The view of Wabush Mines, as seen from the town. (CBC)

Pensioners said that over \$45 million was missing from their pension fund after the mine shuttered in 2014. They saw 21 to 25 percent drops in pension payments and lost medical benefits.

They were just one of many creditors on the list of people Cliff's owed money to after Wabush Mines closed. CCAA [Companies' Creditors Arrangement Act] proceedings are being heard in a Quebec court.

"The CCAA process has gone on so long we had to have a planned arrangement to exit CCAA," said Jim Skinner, a former union president in Wabush.

"In order to do that, Cliff's indicated that they were willing to have mediation talks to settle all outstanding issues and we certainly agreed."

Skinner said the \$40 million would go back into their pension and medical plan.

"That's good money, we would've liked to have more but we were somewhat happy with [the settlement]," Skinner said.

CBC News contacted Cliff's for this story. A company spokesperson said they had no news regarding the Wabush pensioners to disclose and that the latest information can be found on the CCAA website.

The pensioners had filed a lawsuit against Cliffs to try to recover some of the funds before this mediation took place, saying Cliff's had a moral obligation plus a contractual obligation to fulfil its promises to the pensioners.

Skinner believes it was this reasoning along with public opinion and the interest Cliff's has to pursue other mining projects in Canada that compelled them to make the deal.

"We figured it was better to settle for the \$40-plus million rather than go to court and lose everything," Skinner said.

"We want to move on and give some people some comfort and to recover some of the benefits and to enjoy the retirement with the little bit of time that some of us got left."

Still problematic for next generation

Despite the fact that the provincial government sought a ruling from the Newfoundland and Labrador Court of Appeal regarding pensioners status as unsecured creditors, Skinner remains disappointed with the involvement, or lack of, from both the federal and provincial governments.





About 500 workers were employed at Wabush Mines prior to the shutdown. (CBC)

"They let the people down and the retirees and we're going to hold them to that ... we should have had 100 per cent recovery," Skinner said.

"We still need legislation in place ... We should not take any comfort that the next group of retirees will be treated the same way we've been treated."

Information meetings for pensioners will be held in Wabush next week.

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Wabush Mines retirees to regain portion of cut pension benefits

Martha Porado | March 6, 2019



Wabush Mines pensioners in Newfoundland and Quebec will see some reversal of the pension cuts that went into effect when the operations' parent company filed for creditor protection in 2015.

When Cleveland-Cliffs Inc. shuttered Canadian operations, it left the defined benefit pension plan underfunded, subjecting pensioners to a benefits cut of more than 20 per cent. As an unsecured creditor, the pension plan doesn't have priority over the company's numerous other creditors.

Read: Terms of Wabush settlement to include \$18M payment towards pension shortfall

As *Benefits Canada* reported in April 2018, terms of a settlement for Wabush Mines' former employees and retirees included an \$18-million payment to address a \$28-million pension shortfall.

While the exact numbers are still being finalized, they represent a significant improvement, says Tony DePaulo, assistant to the director for the United Steelworkers' District 6 office. "[For] the members in Newfoundland, their pension is going to be funded at 93.8 per cent. In Quebec, pensioners will end up getting up to 92 per cent."

Members in Quebec who were laid off from the mine, but who haven't yet reached retirement age, are expected to receive 89 per cent, adds DePaulo. "It's a far cry from the initial numbers of 23 per cent they were going to lose."

Read: Ontario appeal court decision could change pension landscape in bankruptcy proceedings

iA Financial Group won the bid to take on the pension, he says, so retirees will receive a lump-sum payment by the end of April and then begin to see the increased pension benefit paid out.

"It's never great when our people lose their pensions through this [Companies' Creditors Arrangement Act] process. I mean, it's no secret, we think it's legalized theft, the way these companies run away. But the people are happy we kept the fight up and, like I say, we went from them losing 23 per cent and got them up to, especially in Newfoundland, 93.8 per cent."

Cleveland-Cliffs didn't respond to *Benefits Canada's* request for comment.

N° / No. C.S.: 500-11-048114-157

SUPERIOR COURT
DISTRICT OF MONTREAL
(Commercial Division)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED
IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF:

BLOOM LAKE GENERAL PARTNER LIMITED, QUINTO MINING CORPORATION, 8568391 CANADA LIMITED,
CLIFFS QUÉBEC IRON MINING ULC, WABUSH IRON CO. LIMITED, WABUSH RESOURCES INC.

Petitioners

THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP, BLOOM LAKE RAILWAY COMPANY LIMITED,
WABUSH MINES, ARNAUD RAILWAY COMPANY, WABUSH LAKE RAILWAY COMPANY LIMITED

Mises-en-cause

FTI CONSULTING CANADA INC.

Monitor

MICHAEL KEEPER, TERENCE WATT, DAMIEN LABEL and NEIL JOHNSON (as Representatives of the Salaried/Non-
Union Employees and Retirees)

PETITIONERS-Mises-en-cause

UNITED STEELWORKERS, LOCAL 6254, UNITED STEELWORKERS, LOCAL 6285

Mises-en-cause

MORNEAU SHEPELL

Mise-en-cause

AFFIDAVIT OF MICHAEL KEEPER
(sworn September 6, 2019)

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