

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION

BETWEEN:

**CLIFFS MINING COMPANY in its capacity as
Managing Agent of WABUSH MINES PLAINTIFF**

AND: ROYAL BANK OF CANADA DEFENDANT

BETWEEN:

**ROYAL BANK OF CANADA PLAINTIFF
BY COUNTERCLAIM**

**AND: CLIFFS MINING COMPANY in its capacity as
Managing Agent of WABUSH MINES DEFENDANT
BY COUNTERCLAIM**

SUPPLEMENTARY AFFIDAVIT
(Sworn January 23, 2015)

I, Jason Veloso, of the City of Cleveland, in the State of Ohio, make oath and say as follows:

1. That I am employed as Senior Attorney, Cliffs Natural Resources Inc. (“Cliffs Natural Resources”). Cliffs Mining Company in its capacity as Managing Agent of Wabush Mines (“Cliffs Mining”) is a wholly-owned subsidiary of Cliffs Natural Resources. Cliffs Mining does not have any in-house legal counsel, as such all in-house legal services that are required by Cliffs Mining are provided to it by Cliffs Natural Resources including support for this action. I have been involved with providing in-house legal services to Cliffs Mining since September, 2010 and as such have personal knowledge of the facts and things deposed to unless otherwise stated.
2. This Affidavit is sworn supplementary to my Affidavit sworn May 7, 2014 (the “May 2014 Affidavit”) in support of Cliffs Mining’s application for summary judgment/summary trial to dismiss the counterclaim as against Cliffs Mining. Capitalized terms in this Supplementary Affidavit have the same meaning as in my May 2014 Affidavit.
3. RBC seeks to add Wabush Iron Co., Limited (“Wabush Iron”) as a defendant by Counterclaim. Wabush Iron is a wholly owned subsidiary of Cliffs Mining. Cliffs Natural Resources provides in-house legal services to Wabush Iron on the same basis that it provides such services to Cliffs Mining. I have been involved with providing in-house legal services to Wabush Mines since September, 2010. This Supplementary Affidavit is

also sworn for the purpose of Wabush Iron opposing the application for it to be added as a defendant by counterclaim.

4. I have read the following Applications filed by RBC:
 - a. Application for security for costs dated October 15, 2014;
 - b. Application to strike or amend the pleadings, pursuant to Rules 14.24 and/or 38.01 of the *Rules of Supreme Court, 1986* dated January 19, 2015;
 - c. Application to add parties as Defendants by Counterclaim and make consequential amendments to pleadings pursuant to Rules 7.04, 15.01 and 15.02 of the *Rules of the Supreme Court* dated January 19, 2015;
 - d. Application to compel production of documents pursuant to Rules 32.02 and 32.07 of the *Rules of the Supreme Court, 1986* dated January 19, 2015; and
 - e. Application to set a schedule and timetable, or to stay/adjourn Plaintiff's summary trial application pursuant to Rule 18A.06(6) of the *Rules of the Supreme Court, 1986* and the Court's inherent jurisdiction dated January 19, 2015.
5. I have also read the Affidavit of Gary Ivany sworn October 15, 2014 (the "Ivany Affidavit") in support of the RBC's application for security for costs and RBC's application to strike or amend the pleadings.
6. In this Supplementary Affidavit I will respond with respect to the evidence additional to my May 2014 Affidavit relied upon by Cliffs Mining and Wabush Iron with respect to the following applications in the following order:
 - a. Application to compel production of documents;
 - b. Application to Strike or Amend Pleadings;
 - c. Application to Add Parties as Defendants by Counterclaim;

Application to Compel Production of Documents

7. As set out in my May 2014 Affidavit, that it is my understanding and belief from reviewing the file, that on December 17, 1996 Cliffs Mining Company in its capacity as Managing Agent of Wabush Mines and RBC entered into a lease agreement (the "Master Lease Agreement") pursuant to which Cliffs Mining would lease certain equipment from RBC. A copy of the Master Lease Agreement is attached to my May 2014 Affidavit as Schedule "A".

8. Cliffs Mining, as was known by RBC at all times, is merely the Managing Agent for Wabush Mines which, at the relevant time, was a joint venture between Wabush Iron Co. Limited (“Wabush Iron”), Stelco Inc. (“Stelco”) and Dofasco Inc. (“Dofasco”). The Master Lease Agreement specifically states that it is between RBC and:

“Cliffs Mining Company, the Managing Agent, acting only for and on behalf of Wabush Mines (an unincorporated joint venture of Wabush Iron Co., Limited, Stelco Inc. and Dofasco Inc.) having an office at 1100 Superior Avenue, Cleveland, Ohio 44114-2589, which declares to be duly authorized in virtue of a Management Agreement (copy of which is attached) to act on behalf of Wabush Mines and bind each of Wabush Iron Co., Limited, Stelco Inc. and Dofasco Inc. in accordance with their respective liability stated in paragraph 53.1 hereof;”

9. At the time that the Master Lease Agreement was entered into in 1996 the agreement that governed the relationship of the joint venture partners of Wabush Mines with Cliffs Mining was the Management Agreement dated as of January 1, 1967 and is between the predecessors of Cliffs Mining, Wabush Iron, Stelco and Dofasco. A copy of the Management Agreement is attached to my May 2014 Affidavit as Schedule “B”.
10. The Management Agreement was attached to the Master Lease Agreement and was provided to RBC as acknowledged in paragraph 4 of the Ivany Affidavit.
11. Specifically, on January 1, 1967 the Management Agreement was between:
- a. “Wabush Iron Co. Limited” which is Wabush Iron. As far as I am aware this corporation never changed its name, was not amalgamated or otherwise changed its status between 1967 and 1996 when the Master Lease Agreement was executed or 2003 when the option to purchase the Equipment was exercised or even until today.
 - b. “The Steel Company of Canada, Limited” which is the predecessor name of Stelco such that Stelco was the same entity in 1967 as it was in 1996 as far as is known by Cliffs Mining and Wabush Iron.
 - c. “Dominion Foundries and Steel, Limited” which is the predecessor name of Dofasco such that Dofasco was the same entity in 1967 as it was in 1996 as far as is known by Cliffs Mining and Wabush Iron.
 - d. “Pickands Mather & Co.” which is described in the Management Agreement as the manager of the consolidated joint venture of Wabush Mines. Pickands Mather & Co. changed its name to Cliffs Mining Company on February 25, 1991 such that Cliffs Mining is the party to the Management Agreement.

12. The Management Agreement was amended twice prior to the exercise of the option under the Master Lease Agreement. It is unclear to me and I do not know whether RBC requested or was given a copy of these two amendments. A copy of the amendment to the Management Agreement made as of December 1, 1980 is attached as Schedule "A". A copy of the amendment to the Management Agreement entered into as of January 1, 1999 is attached as Schedule "B".
13. I am not aware from the records of Cliffs Mining that RBC ever questioned that Cliffs Mining was only acting in its capacity as Managing Agent of Wabush Mines when dealing with RBC and the lease of the Equipment, what Wabush Mines was, whether there was any other agreement other than the Management Agreement that governed Cliffs Mining's role as Managing Agent, or suggesting that Cliffs Mining was acting in its personal capacity in entering into the Master Lease Agreement.
14. Up to 1996 when the Master Lease Agreement was executed the Management Agreement was the agreement that governed the relationship of Wabush Iron, Stelco, Dofasco and Cliffs Mining with respect to Cliffs Mining acting as Managing Agent.
15. In paragraph 13 of this Notice of Application RBC indicates it wants a copy of the "partner approval" referred to in the letter dated May 27, 2003 sent by Joyce Waschura ("Waschura") on behalf of Cliffs Mining, a copy of which is at Schedule "D" of my May 2014 Affidavit. I am unaware of any of Wabush Iron, Stelco or Dofasco ever objecting that their approval was not obtained for the option to be exercised or for the July 11, 2003 letter agreement to be entered into with RBC (a copy of which is at Schedule "E" to my May 2014 Affidavit. I am also unaware of any of Wabush Iron, Stelco or Dofasco ever indicating that Cliffs Mining did not have approval to exercise the option. I have not seen any contemporaneous document from RBC ever objecting or questioning that Cliffs Mining did not have approval to exercise the option or enter into the July 11, 2003 letter agreement as Managing Agent.
16. RBC also seeks production of the joint venture agreement made as of January 1, 1967 with respect to Wabush Mines. I am unaware that RBC ever requested a copy of this agreement in 1996 or 2003. It is the position of both Cliffs Mining and Wabush Iron that such agreement and any amendments are irrelevant in this proceeding. Cliffs Mining is not a party to this agreement and has no authority to produce this agreement. Wabush

Iron, however, will produce the agreement in order to eliminate an irrelevant issue. A copy of the joint venture agreement among Wabush Iron, Stelco, Dofasco and The Royal Trust Company made as of January 1, 1967 is attached as Schedule "C" (the "Joint Venture Agreement"). Also as of January 1, 1967, Wabush Iron, Stelco and Dofasco entered into a supplementary joint venture agreement a copy of which is attached as Schedule "D" (the "Supplemental JVA").

Application to Strike or Amend Pleadings

17. Cliffs Mining has discontinued its Claim. It is seeking no relief as against RBC either in its capacity as Managing Agent or in its personal capacity. It should be noted that Cliffs Mining in its personal capacity has never sought any relief, declaratory or otherwise, against RBC.
18. In paragraph 23 of its Notice of Application to Strike or Amend Pleadings, RBC seeks a determination that Cliffs Mining was acting in its personal capacity throughout the relevant time frame. I am not aware of any time when Cliffs Mining ever acted with respect to RBC and the lease of the Equipment other than as Managing Agent. I do not recall seeing any document exchanged with RBC where Cliffs Mining referred to itself other than as the Managing Agent. All of the documents relevant to the issue of the purchase of the Equipment are contained in my May 2014 Affidavit. All of the relevant documents clearly identify Cliffs Mining as the Managing Agent, including the documents sent from RBC found at Schedules "H" and "K" of my May 2014 Affidavit. I am not aware of any documents produced by RBC (or that otherwise exist) that identify Cliffs Mining dealing with RBC with respect to the purchase of the Equipment or any other matter related to Wabush Mines in any capacity other than as Managing Agent.
19. In paragraph 20 of the Ivany Affidavit it is asserted that Cliffs Mining was somehow the operator of Wabush Mines. It is also asserted again that Cliffs Mining failed to obtain the necessary approval prior to exercising the option as Managing Agent on May 27, 2003 as set out in Schedule "D" to my May 2014 Affidavit.
20. As set out above, I do not know the basis upon which it is stated that Cliffs Mining did not have authority as Managing Agent to send the May 27, 2003 letter to exercise the option on behalf of Wabush Mines.

21. Cliffs Mining was not the “operator” of Wabush Mines, whatever that term is supposed to mean. Rather, as is clearly set out in all of the documents, Cliffs Mining was and is the Managing Agent of Wabush Mines.

Application to Add Parties as Defendants by Counterclaim

Stelco Inc.

22. In paragraph 3 of the Ivany Affidavit is asserted that Stelco Inc. filed for protection from its creditors in September 2014 pursuant to the *Companies’ Creditors Arrangement Act* (the “CCAA”). This is not entirely correct based on a review of the publicly available court records with respect to Stelco. Rather, U.S. Steel Canada Inc. filed for protection from its creditors pursuant to the CCAA as set out below.
23. On January 29, 2004 Stelco Inc. and various related entities applied for and were granted protection under the CCAA by the Honourable Justice Farley of the Ontario Superior Court of Justice (the “Stelco Initial Order”). A copy of the Stelco Initial Order is attached as Schedule “E”.
24. On December 17, 2004 Stelco Inc. and its various related entities applied for and were granted a claims procedure order pursuant to the CCAA by the Honourable Justice Farley of the Ontario Superior Court of Justice (the “Stelco Claims Procedure Order”). A copy of the Stelco Claims Procedure Order is attached as Schedule “F”. I am unaware if RBC filed a claim against Stelco pursuant to paragraph 16 of the Stelco Claims Procedure Order on or before the Claims Bar Date which was January 31, 2005.
25. On October 4, 2005 Stelco Inc. and its various related entities applied for and were granted a supplementary claims procedure order pursuant to the CCAA by the Honourable Justice Farley of the Ontario Superior Court of Justice (the “Stelco Supplementary Claims Procedure Order”). A copy of the Stelco Supplementary Claims Procedure Order is attached as Schedule “G”.
26. On January 20, 2006 Stelco Inc. and its various related entities applied for and were granted a sanction order approving a plan of arrangement pursuant to the CCAA by the Honourable Justice Farley of the Ontario Superior Court of Justice (the “Stelco Sanction Order”). A copy of the Stelco Sanction Order is attached as Schedule “H”. The

approved plan of arrangement is Schedule “A” to the Stelco Sanction Order. Section 6.03 of the plan of arrangement released Stelco Inc. from all claims that could have been made against it.

27. In approximately 2007 the Stelco that emerged from the CCAA proceedings pursuant to the court approved plan of arrangement changed its name to U.S. Steel Canada Inc. (“USSC”).
28. On September 16, 2014 USSC applied for and was granted protection under the CCAA by the Honourable Regional Senior Justice Morawetz of the Ontario Superior Court of Justice (the “USSC Initial Order”). A copy of the USSC Initial Order is attached as Schedule “I”. The USSC Initial Order has been apparently amended twice. A copy of the USSC Second Amended and Restated Initial Order made by the Honourable Justice Wilton-Siegel of the Ontario Superior Court of Justice dated November 26, 2014 is attached as Schedule “J”.
29. On November 13, 2014 USSC applied for and was granted a claims process order under the CCAA by the Honourable Justice Wilton-Siegel of the Ontario Superior Court of Justice (the “USSC Claims Process Order”). A copy of the USSC Claims Process Order is attached as Schedule “K”. I am unaware if RBC filed a claim against USSC pursuant to paragraph 16 of the USSC Claims Process Order on or before the Claims Bar Date which was December 22, 2014.

Quebec Assets

30. It is stated in paragraph 17 of the Ivany Affidavit that the terms of the lease with RBC that governed the leased assets in Quebec are identical to the terms of the Master Lease Agreement. The terms are similar but not identical. Specifically, paragraph 51 of the Master Lease Agreement and paragraph 51 of the lease agreement with respect to the Quebec assets are different. The governing law of the Master Lease Agreement is the law of Newfoundland; whereas the governing law with respect to the leased assets in Quebec was Quebec law. A copy of the master lease agreement with respect to assets in the province of Quebec is attached as Schedule “L”.

Cliffs Mining Only Acting as Agent

31. As set out above, contrary to the contention in paragraphs 3 and 28 to 33 of this Notice of Application, at all times in dealings with RBC and the lease of the Equipment, Cliffs Mining was only acting in its capacity as Managing Agent of Wabush Mines. It had no authority to act otherwise pursuant to the Management Agreement as discussed above and did not act in its personal capacity with respect to RBC and the lease of the Equipment at any time.
32. Again, I do not know the basis for the assertion, in either paragraph 20 of the Ivany Affidavit or in the various applications brought by RBC, that Cliffs Mining did not have the authority as Managing Agent to exercise the option to purchase the Equipment. None of Wabush Iron, Stelco or Dofasco has ever contended that Cliffs Mining ever acted without authority or acted contrary to its duties as Managing Agent. As far as I am aware, nobody from RBC in 2003 ever questioned whether Cliffs Mining had the authority to exercise the option as Managing Agent and I have seen no contemporaneous documents that suggest anything different.

SWORN TO before me at the City
of Cleveland, in the State of Ohio, this
23rd day of January, 2015



JASON VELOSO

KEIRSTEN L. RIEDEL
NOTARY PUBLIC
FOR THE
STATE OF OHIO
My Commission Expires
November 22, 2019