

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N°: 500-11-048114-157

SUPERIOR COURT

Commercial Division

(Sitting as a court designated pursuant to the *Companies' Creditors Arrangement Act*, R.S.C., 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-

SYLVAIN LEMONDE, residing at 3214, rue Lareau,
Carignan, Québec, J3L 3P9

COMMISSION DES LÉSIONS PROFESSIONNELLES, a
body created by statute having a place of business at 500
René-Lévesque Blvd. West, Suite 17.401, Montréal,
Québec, H2Z 1W7

Mis-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

**MOTION FOR THE ISSUANCE OF AN ORDER DECLARING THAT THE STAY PERIOD
APPLIES IN RESPECT OF CERTAIN PROCEEDINGS¹**
(Section 11 *ff.* of the *Companies' Creditors Arrangement Act*)

TO MR. JUSTICE STEPHEN W. HAMILTON, J.S.C. OR ONE OF THE HONORABLE JUDGES OF THE SUPERIOR COURT, SITTING IN THE COMMERCIAL DIVISION FOR THE DISTRICT OF MONTRÉAL, THE BLOOM LAKE CCAA PARTIES (AS DEFINED BELOW) SUBMIT:

1. BACKGROUND

1. On January 27, 2015, Mr. Justice Martin Castonguay, J.S.C., issued an Initial Order (as subsequently amended, rectified and/or restated, the "**Bloom Lake Initial Order**")² commencing these proceedings (the "**CCAA Proceedings**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**") in respect of the Petitioners Bloom Lake General Partner Limited, Quinto Mining Corporation, 8568391 Canada Limited and Cliffs Québec Iron Mining ULC, and the Mises-en-cause The Bloom Lake Iron Ore Mine Limited Partnership ("**Bloom Lake LP**") and Bloom Lake Railway Company Limited (collectively, the "**Bloom Lake CCAA Parties**"), as appears from the Initial Order dated January 27, 2015, which forms part of the Court record and is communicated herewith for convenience as **Exhibit R-1**.
2. Pursuant to the Bloom Lake Initial Order, *inter alia*, FTI Consulting Canada Inc. was appointed as monitor of the Bloom Lake CCAA Parties (the "**Monitor**") (para. 39 of the Bloom Lake Initial Order).
3. A stay of proceedings was ordered in respect of the Bloom Lake CCAA Parties until February 26, 2015 (the "**Stay Period**") (para. 8 *ff.* of the Bloom Lake Initial Order), during which, *inter alia*, all rights and remedies against or in respect of the Bloom Lake CCAA Parties, or affecting the Business of the Bloom Lake CCAA Parties, the Property of the Bloom Lake CCAA Parties or any part thereof were stayed and suspended except with leave of this Court (para. 17 of the Bloom Lake Initial Order).
4. On February 20, 2015 and on April 17, 2015, Mr. Justice Stephen W. Hamilton amended the Bloom Lake Initial Order, *inter alia*, extending the Stay Period to April 30, 2015 and then to July 31, 2015, as appears from the Amended Initial Order dated February 20, 2015 and from the Order dated April 17, 2015, both of which form part of the Court

¹ Except as otherwise provided for herein, all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Bloom Lake Initial Order (as defined herein).

² On May 20, 2015, Mr. Justice Hamilton, issued an Initial Order (as subsequently amended, rectified and/or restated the "**Wabush Initial Order**") extending the scope of the CCAA Proceedings to the Petitioners Wabush Iron Co. Limited and Wabush Resources Inc. and the Mises-en-cause Wabush Mines, an unincorporated contractual joint venture, Arnaud Railway Company and Wabush Lake Railway Company Limited (collectively, the "**Wabush CCAA Parties**"; collectively with the Bloom Lake CCAA Parties, the "**CCAA Parties**"), as appears from the Court record. The Wabush CCAA Parties and the terms of the Wabush Initial Order are not at issue in herein.

record and are communicated herewith for convenience respectively as **Exhibit R-2** and **Exhibit R-3**.

5. On July 30, 2015, Mr. Justice Hamilton, issued an order extending the Stay Period (and the stay of proceedings in respect of the Wabush CCAA Parties) to November 6, 2015, as appears from the Order dated July 30, 2015, which forms part of the Court record and is communicated herewith for convenience as **Exhibit R-4**.
6. On November 5, 2015, Mr. Justice Hamilton, issued an order extending the Stay Period (and the stay of proceedings in respect of the Wabush CCAA Parties) to January 29, 2016, as appears from the Order dated November 5, 2015, which forms part of the Court record and is communicated herewith for convenience as **Exhibit R-5**.
7. Also on November 5, 2015, Mr. Justice Hamilton issued an Order (the "**Claims Procedure Order**") approving and implementing a claims procedure (the "**Claims Procedure**"), as from the Claims Procedure Order, which forms part of the Court record and is communicated herewith for convenience as **Exhibit R-6**.
8. Paragraphs 8 and 17 of the Bloom Lake Initial Order read as follows:

8. **ORDERS** that, until and including November 6, 2015, or such later date as the Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the CCAA Parties, or affecting the business operations and activities of the CCAA Parties (the "**Business**") or the Property (as defined herein below), including as provided in paragraph 11 herein below except with leave of this Court. Any and all Proceedings currently under way against or in respect of the CCAA Parties or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court, the whole subject to subsection 11.1 CCAA.

[...]

17. **ORDERS** that during the Stay Period, and subject to, inter alia, subsection 11.1 CCAA, all rights and remedies, including, but not limited to modifications of existing rights and events deemed to occur pursuant to any agreement to which any of the CCAA Parties is a party as a result of the insolvency of the CCAA Parties and/or these CCAA proceedings, any events of default or non-performance by the CCAA Parties or any admissions or evidence in these CCAA proceedings, of any individual, natural person, firm, corporation, partnership, limited liability company, trust, joint venture, association, organization, governmental body or agency, or any other entity (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the CCAA Parties, or affecting the Business, the Property or any part thereof are hereby stayed and suspended except with leave of this Court.

2. ORDER SOUGHT

9. By way of this Motion, the CCAA Parties seek a declaration that the Stay Period applies to proceedings pending against the Mise-en-cause Bloom Lake LP before the Mise-en-cause *Commission des lésions professionnelles* (the “**Commission**”).

3. THE COMMISSION PROCEEDINGS

10. The Mis-en-cause Sylvain Lemonde has made a claim with the *Commission de la santé et de la sécurité du travail* (the “**CSST**”) in relation to an alleged workplace injury that would have been suffered on March 27, 2014 (the “**Lemonde Claim**”) in CSST file number R-140315961-1.
11. On August 29, 2014, the CSST rejected the Lemonde Claim, as appears from the letter from the CSST communicated herewith as **Exhibit R-7 under confidential seal**, in order to preserve Mr. Lemonde’s privacy.
12. On November 11, 2014, the CSST dismissed a request from Mr. Lemonde to review its rejection of the Lemonde Claim, as appears from the letter and the decision of the CSST communicated herewith *en liasse* as **Exhibit R-8 under confidential seal**, in order to preserve Mr. Lemonde’s privacy.
13. On November 14, 2014, Mr. Lemonde appealed the foregoing decision of the CSST to the Commission.
14. On or about July 29, 2015, Bloom Lake LP received notice (the “**Notice of Hearing**”) from the Commission that a hearing in relation to the Lemonde Claim, in Commission file number 557353 62A 1411 (the “**Commission Proceedings**”), would be held on November 18, 2015, as appears from the Notice of Hearing communicated herewith as **Exhibit R-9**.
15. In light of the November 5, 2015 Order extending the Stay Period to January 29, 2016 (Exhibit R-5), the Commission Proceedings and the Lemonde Claim are now subject to the Stay Period.

4. SUSPENSION OF THE COMMISSION PROCEEDINGS

16. The CCAA Parties respectfully submit that the Commission Proceedings and the Lemonde Claim before the Commission are subject to the Stay Period, and ask the Court to issue a declaration in this regard.

4.1 The Commission is Not Acting as a “Regulatory Body”

17. The Commission is not acting as a regulatory body pursuant to Section 11.1 of the CCAA, but is instead acting as an administrative tribunal to adjudicate claims.
18. Section 11.1(1) of the CCAA defines a regulatory body as follows:

11.1 (1) In this section, “regulatory body” means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a

province and includes a person or body that is prescribed to be a regulatory body for the purpose of this Act. [emphasis added]

19. Firstly, the Commission is not prescribed to be a regulatory body pursuant to the *Companies' Creditors Arrangement Regulations*, SOR/2009-219.
20. Secondly, in the Notice of Hearing (Exhibit R-9), the Commission describes itself as "*un tribunal spécialisé en matière de santé et sécurité du travail*".
21. Thirdly, the Commission's jurisdiction is set out at Section 369 of *An Act Respecting Industrial Accidents and Occupational Diseases*, CQLR c. A-3.001 (the "**IAOD Act**"), as being a tribunal that makes determinations on proceedings brought under various sections of the IAOB Act and *An Act Respecting Occupational Health and Safety*, CQLR c. S-2.1:

369. The board shall, to the exclusion of any other tribunal, make determinations on

- (1) proceedings brought under section 359, 359.1, 450 or 451;
- (2) proceedings brought under section 37.3 or 193 of the Act respecting occupational health and safety (chapter S-2.1).

22. As appears from the IAOB Act and from the Commission's own description of itself in the Notice of Hearing, the Commission does not enforce or administer any Act, but rather serves a judicial role to make determinations on proceedings brought pursuant to the applicable legislation.

4.2 The Commission Cannot Enforce a Payment

23. Subsidiarily, and without prejudice to the foregoing, even if the Commission were to be considered a regulatory body within the meaning of the Section 11.1(1) of the CCAA, it is the Bloom Lake CCAA Parties' view that the Commission Proceedings do not qualify for protection from the stay otherwise afforded to a regulatory body under Section 11.1(1) of the CCAA because the Commission Proceedings relate to the enforcement of a payment.
24. Section 11.1(2) of the CCAA provides that regulatory proceedings which relate to the enforcement of a payment ordered by the regulatory body is not exempted from a stay of proceedings made pursuant to section 11.02 of the CCAA.
25. Section 11.1(2) reads as follows:

11.1[...](2) Subject to subsection (3), no order made under section 11.02 affects a regulatory body's investigation in respect of the debtor company or an action, suit or proceeding that is taken in respect of the company by or before the regulatory body, other than the enforcement of a payment ordered by the regulatory body or the court.
26. The Commission Proceedings relate to a pre-filing claim for compensation for an alleged workplace injury.

27. Although Bloom Lake LP is not responsible for the payment of benefits to an employee who has suffered a work-related injury as defined under the IAOD Act, the only relief that the Commission could, under some exceptional circumstances, order against Bloom Lake LP in favour of Mr. Lemonde by way of the Commission Proceedings is the enforcement of a monetary payment.
28. The claims set out in the Commission Proceedings can and should properly be the subject of the Claims Procedure to be administered in the context of these CCAA Proceedings pursuant to the terms of the Claims Procedure Order (Exhibit R-6) issued by this Court.
29. The jurisprudence is to the effect that orders issued by regulatory bodies which will have the ultimate effect of having the debtor pay a sum of money are claims (albeit contingent claims), which are not exempted by Section 11.1(2) of the CCAA from a stay of proceedings pursuant to Section 11.02 of the CCAA.

4.3 A Viable Compromise or Arrangement Could Not be Made if the Commission Proceedings Are Not Stayed

30. Subsidiarily, and without prejudice to the foregoing, even if Section 11.1(2) of the CCAA were to have the effect of removing the Commission Proceedings from the application of the Stay Period, the CCAA Parties respectfully submit that this Honourable Court should exercise its discretion pursuant to Section 11.1(3) of the CCAA to stay the Commission Proceedings.
31. As mentioned above, the Commission Proceedings relate to a pre-filing claim in relation to an alleged workplace injury.
32. Such a pre-filing claim is best dealt with in the context of the Claims Procedure that has been developed to be administered in the context of these CCAA Proceedings pursuant to the Claims Procedure Order issued by the Court.
33. In fact, if all employees wishing to assert pre-filing claims against the CCAA Parties were allowed to institute and to prosecute such claims before the Commission outside of the Claims Procedure approved by the Court, the treatment of claims against the CCAA Parties would quickly become unmanageable. The CCAA Parties would be left expending a tremendous amount of energy and resources to adjudicate employee claims that could properly be evaluated without a hearing by the Monitor pursuant to the Claims Procedure, with possible recourse to a claims officer and/or this Court, if necessary.
34. This would negate one of the central features of the CCAA, which is to establish a single proceeding model to ensure that most or all claims against a debtor are entertained in a single forum, and allows debtors to maintain the *status quo* during negotiations with creditors.
35. In light of the foregoing, it would be difficult for the CCAA Parties to manage the claims procedure for the purpose of putting forward a viable compromise or arrangement if the Stay Period does not apply to the Commission Proceedings and to any similar proceedings that could be brought before the Commission.

36. Furthermore, it is not contrary to the public interest that the Commission be affected by the Stay Period, as any employee or other claimant who wishes to assert a claim against the CCAA Parties before the Commission can instead submit a proof of claim in the context of the Claims Procedure approved by this Court by way of the Claims Procedure Order.
37. Therefore, the conditions of Section 11.1(3) have been met, and this Honourable Court should issue an order declaring that Section 11.1(2) does not apply to in respect of the Commission Proceedings.

5. PROCEDURAL MATTERS

38. The CCAA Parties submit that the notices given of the presentation of the present Motion are proper and sufficient.
39. Pursuant to paragraph 54 of the Bloom Lake Initial Order, all motions in these CCAA Proceedings are to be brought on not less than ten (10) calendar days' notice to all Persons on the service list. Each motion must specify a date (the "**Initial Return Date**") and time for the hearing.
40. The service of the present Motion serves as notice pursuant to paragraphs 47 and 54 of the Bloom Lake Initial Order.
41. Paragraph 55 of the Bloom Lake Initial Order requires that any Person wishing to object to the relief sought on a motion in the CCAA Proceedings must serve responding motion materials or a notice stating the objection to the motion and grounds for such objection (a "**Notice of Objection**") in writing to the moving party and the Monitor, with a copy to all persons on the service list, no later than 5 p.m. Montréal time on the date that is four (4) calendar days prior to the Initial Return Date (the "**Objection Deadline**"). Accordingly, any parties wishing to object to the relief sought on this Motion must serve responding motion materials or a Notice of Objection by no later than 5 p.m. Montréal time on November 30, 2015.
42. Paragraph 56 of the Bloom Lake Initial Order further provides that if no Notice of Objection is served by the Objection Deadline, the Judge having carriage of the motion may determine whether a hearing is necessary, whether such hearing will be in person, by telephone or in writing and the parties from whom submissions are required (collectively, the "**Hearing Details**").
43. Paragraph 57 of the Bloom Lake Initial Order provides that the Monitor shall communicate with the Judge and the service list with respect to the Hearing Details.

6. CONCLUSIONS

44. In light of the foregoing, the Bloom Lake CCAA Parties hereby seek the issuance of an Order substantially in the form of the draft Order communicated herewith as **Exhibit R-10**, which provides for a declaration that the Commission Proceedings are subject to the Stay Period.
45. The present Motion is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:


GRANT the present Motion;

ORDER that the letters and decision of the *Commission de la santé et de la sécurité du travail* filed in support of the present Motion as Exhibits R-7 and R-8 shall be sealed, kept confidential and not form part of the public record, but rather shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further order of the Court;

ISSUE an order in the form of the draft Order communicated in support hereof as Exhibit R-10;

WITHOUT COSTS, save and except in case of contestation.

Montréal, November 13, 2015



BLAKE, CASSELS & GRAYDON LLP
Attorneys for the Bloom Lake CCAA Parties

AFFIDAVIT

I, the undersigned, **CLIFFORD T. SMITH**, the Executive Vice-President and a director of Bloom Lake General Partner Limited and Cliffs Québec Iron Mining ULC, the President of Wabush Resources Inc. and Wabush Iron Co. Limited, and Vice-President of Arnaud Railway Company and Wabush Lake Railway Company Limited, each having a place of business at 1155 Robert-Bourassa Blvd. (formerly Rue University), Suite 508, in the city and district of Montréal, Québec, solemnly affirm that all the facts alleged in the present *Motion for the Issuance of an Order Declaring that the Stay Period Applies in respect of Certain Proceedings*, are true.

AND I HAVE SIGNED:



CLIFFORD T. SMITH

SOLEMNLY DECLARED before me
at Cleveland, Ohio,
this 13th day of November, 2015



Notary Public

ADAM D. MUNSON, Atty.
NOTARY PUBLIC
STATE OF OHIO
My Commission Has No
Expiration Date
Section 147.03 R.C.

NOTICE OF PRESENTATION

TO: Service List

TAKE NOTICE that the present *Motion for the Issuance of an Order Declaring that the Stay Period Applies in respect of Certain Proceedings* will be presented on a *pro forma* basis before the Honourable Stephen W. Hamilton, J.S.C., or another of the honourable judges of the Superior Court, Commercial Division, sitting in and for the district of Montréal, in the Montréal Courthouse located at 1, Notre-Dame Street East, Montréal, Québec, on **December 4, 2015** at a time and in a room to be determined.

DO GOVERN YOURSELF ACCORDINGLY.

Montréal, November 13, 2015



BLAKE, CASSELS & GRAYDON LLP
Attorneys for the Bloom Lake CCAA Parties

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT

Commercial Division

(Sitting as a court designated pursuant to the *Companies'
Creditors Arrangement Act*, R.S.C., c. C-36, as amended)

N^o: 500-11-048114-157

**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

SYLVAIN LEMONDE

COMMISSION DES LÉSIONS PROFESSIONNELLES

Mis-en-cause

and

FTI CONSULTING CANADA INC.

Monitor

LIST OF EXHIBITS

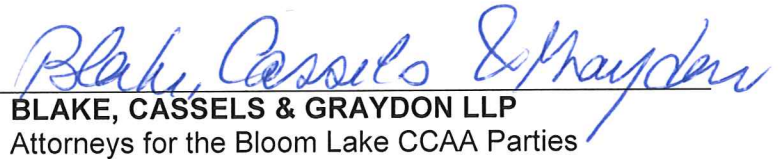
(In support of the *Motion for the Issuance of an Order Declaring that the Stay Period Applies in
respect of Certain Proceedings*)

-
- R-1** Initial Order in respect of the Bloom Lake CCAA Parties dated January 27, 2015;
- R-2** Amended Initial Order in respect of the Bloom Lake CCAA Parties dated February 20, 2015;
- R-3** Order dated April 17, 2015;
- R-4** Order dated July 30, 2015;
- R-5** Order dated November 5, 2015;

- R-6 Claims Procedure Order dated November 5, 2015;
- R-7 **Under Seal** – Letter from the *Commission de la santé et de la sécurité du travail* dated August 29, 2014;
- R-8 **Under Seal** – Letter from and decision issued by the *Commission de la santé et de la sécurité du travail*, both dated November 11, 2014, *en liasse*;
- R-9 Notice of Hearing from the *Commission des lésions professionnelles* in the file bearing number 557353 62A 1411 dated July 13, 2015;
- R-10 Draft Order.

The exhibits are available at the following link: <https://blakes.sharefile.com/d-sc34e910315e422f8>

Montréal, November 13, 2015


BLAKE, CASSELS & GRAYDON LLP
Attorneys for the Bloom Lake CCAA Parties

N°: 500-11-048114-157

**SUPERIOR COURT
DISTRICT OF MONTREAL
(Commercial Division)**

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

BLOOM LAKE GENERAL PARTNER LIMITED & AL.

Petitioners

-and-

**THE BLOOM LAKE IRON ORE MINE LIMITED
PARTNERSHIP & AL.**

Mises-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

SYLVAIN LEMONDE & AL.

Mis-en-cause

**MOTION FOR THE ISSUANCE OF AN ORDER
DECLARING THAT THE STAY PERIOD APPLIES
IN RESPECT OF CERTAIN PROCEEDINGS,
AFFIDAVIT, NOTICE OF PRESENTATION
AND EXHIBITS**

ORIGINAL

M^{re} Bernard Boucher

BB-8098

BLAKE, CASSELS & GRAYDON LLP

Barristers & Solicitors

600 de Maisonneuve Blvd. West, Suite 2200

Montréal, Québec H3A 3J2

Telephone: 514-982-4006

Fax: 514-982-4099

Email: bernard.boucher@blakes.com

Our File: 11573-371

