

C A N A D A

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-

FTI CONSULTING CANADA INC.

Monitor

**MOTION BY THE MONITOR FOR DIRECTIONS
WITH RESPECT TO LATE CLAIMS**

(Sections 11 and 23(k) of the *Companies' Creditors Arrangement Act*)

TO MR. JUSTICE STEPHEN W. HAMILTON, J.S.C. OR TO ONE OF THE HONORABLE JUDGES OF THE SUPERIOR COURT, SITTING IN THE COMMERCIAL DIVISION FOR THE DISTRICT OF MONTRÉAL, THE MONITOR SUBMITS:

I. INTRODUCTION

1. On January 27, 2015, the Honourable Justice Martin Castonguay, J.S.C., issued an initial order (as subsequently amended, rectified and/or restated, the **Bloom Lake Initial Order**) pursuant to the *Companies' Creditors Arrangement Act* (**CCAA**) in respect of the Petitioners Bloom Lake General Partner Limited (**Bloom Lake GP**), Quinto Mining Corporation (**Quinto**), 8568391 Canada Limited, and Cliffs Québec Iron Mining ULC (**CQIM**), as well as Mises-en-cause The Bloom Lake Iron Ore Mine Limited Partnership (**Bloom Lake LP**) and Bloom Lake Railway Company Limited (**Bloom Lake Railway**) (collectively, the **Bloom Lake CCAA Parties**), as appears from the Court record;
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**), and a stay of proceedings was granted in respect of the Bloom Lake CCAA Parties until February 26, 2015 (as subsequently extended from time to time, and most recently until September 30, 2016 by order dated April 20, 2016, the **Bloom Lake Stay Period**);
3. On May 20, 2015, the Honourable Justice Stephen W. Hamilton, J.S.C., issued an order (as subsequently amended, rectified and/or restated, the **Wabush Initial Order**) extending the scope of these CCAA proceedings to the Petitioners Wabush Iron Co. Limited (**Wabush Iron**) and Wabush Resources Inc. (**Wabush Resources**), as well as Mises-en-cause Wabush Mines, an unincorporated contractual joint venture (**Wabush Mines**), Arnaud Railway Company (**Arnaud Railway**), and Wabush Lake Railway Company Limited (**Wabush Railway**) (collectively, the **Wabush CCAA Parties**, and together with the Bloom Lake CCAA Parties, the **CCAA Parties**), as appears from the Court record;
4. Pursuant to the Wabush Initial Order, *inter alia*, the Monitor was appointed as the monitor of the Wabush CCAA Parties, and a stay of proceedings was granted until June 19, 2015 (as subsequently extended from time to time, and most recently until September 30, 2016 by order dated April 20, 2016, the **Wabush Stay Period**, and collectively with the Bloom Lake Stay Period, the **Stay Period**);
5. On November 5, 2015, the Honourable Justice Stephen W. Hamilton, J.S.C., issued an order (as amended on November 16, 2015, the **Claims Procedure Order**), which approved and established a procedure for the filing of creditors' claims against the CCAA Parties and their directors and officers (the **Claims Procedure**), as appears from a copy of the Claims Procedure Order, a copy of which is filed in support herewith for ease of reference as **Exhibit R-1**;
6. Capitalized terms not otherwise defined herein have the meaning ascribed thereto in the Claims Procedure Order (R-1);

7. Both the Bloom Lake Initial Order and the Wabush Initial Order provide that the Monitor assist the CCAA Parties in dealing with their creditors over the course of the Stay Period, and declare that the Monitor may apply to the Court for directions as becomes necessary in discharging its duties, the whole as appears from paragraphs 39 and 63 of the Bloom Lake Initial Order (in its amended version dated February 20, 2015) and paragraphs 39 and 65 the Wabush Initial Order (in its rectified version dated May 28, 2015);
8. Moreover, Paragraphs 61 and 68 of the Claims Procedure Order (R-1) entitle the Monitor to apply to the Court for advice and directions in connection with the discharge or variation of its powers and duties thereunder;
9. The Monitor hereby applies for directions with respect to the filing of claims by certain creditors of the CCAA Parties which failed to file their proofs of claim by the applicable Claims Bar Date, as further explained herein;

II. CLAIMS PROCEDURE

10. The Claims Procedure provides that any creditor wishing to assert a claim against one of the CCAA Parties shall do so by completing a form of Proof of Claim and by delivering said form, together with the relevant supporting documentation, to the Monitor on or before the applicable Claims Bar Date, the whole as provided in paragraphs 21, 24 and 57 of the Claims Procedure Order (R-1);
11. The Claims Procedure Order (R-1) provided for a notification procedure whereby the Monitor was to mail the Creditors' Instructions to all Known Creditors of the CCAA Parties, in addition to posting said Creditors' Instructions to the Monitor's Website, as well as the publication of a Newspaper Notice regarding same;
12. To do so, it was ordered that the CCAA Parties were to provide the Monitor with the Creditors List of all Known Creditors, together with the addresses and contact information of all Known Creditors (the **Known Creditors List**), as provided for in paragraph 12 of the Claims Procedure Order (R-1);
13. The Creditors' Instructions were posted to the Monitor's Website and mailed to all listed on the Known Creditors List on November 18, 2015, and the Newspaper Notice was published in The Telegram, The Globe and Mail, as well as La Presse, on November 19, 2015, as reported in the Monitor's Fifteenth Report dated December 31, 2015;
14. The Creditors' Instructions included, *inter alia*, clear indications as to the applicable Claims Bar Date, and the consequences for failing to respect same;
15. Specifically, the Claims Procedure Order (R-1) defines the Claims Bar Date as meaning 5:00 p.m. on December 18, 2015, or such other date as may be ordered by the Court, as appears from paragraph 4.12 thereof;

16. With respect to Restructuring Claims, the Restructuring Claims Bar Date is defined as the later of either (a) the Claims Bar Date; (b) 5:00 p.m. on the day that is twenty-one (21) days after either of (i) the date that the applicable Notice of Disclaimer or Resilisation becomes effective, (ii) the Court Order settling a contestation a such a Notice of Disclaimer or Resiliation, or (iii) the date of the event giving rise to the Restructuring Claim; or (c) such other date as may be ordered by the Court, the whole as appears from paragraph 4.61 of the Claims Procedure Order (R-1);
17. With respect to Claims of Represented Employees, the Claims Procedure Order (R-1) provided for a mechanism whereby Representatives' Counsel, upon receipt of the Wabush Represented Employee Claimants List, were tasked with the filing of Notices of Dispute or, in the case of unlisted Represented Employees, Proofs of Claim, the whole as appears from paragraphs 29, 30 and 31 thereof;
18. Pursuant to paragraphs 22 and 25 of the Claims Procedure Order (R-1), creditors failing to file their Proof of Claim by the Claims Bar Date or, as the case may be, the Restructuring Claims Bar Date, shall:
 - (a) be forever barred, estopped and enjoined from asserting or enforcing any Claim against any of the CCAA Parties, and all such Claims shall be forever extinguished;
 - (b) not be permitted to vote on any Plan on account of such Claim(s);
 - (c) not be permitted to participate in any distribution under any Plan, from the proceeds of any sale of the CCAA Parties' assets or otherwise, on account of such Claim(s); and
 - (d) not be entitled to receive further notice in respect of the Claims Procedure or these CCAA Proceedings generally, in relation to such Claim(s);

III. LATE CLAIMS

19. Since December 18, 2015, twenty-three (23) parties (each, a **Late Claimant**) filed a Claim after the applicable Claims Bar Date (each such Claim, a **Late Claim**) as further detailed herein below;
20. Of these, Claims were filed by Representatives' Counsel on behalf of three (3) individuals not listed on the Wabush Represented Employee Claimants List. Such Claims were asserted against each of the eleven (11) CCAA Parties (collectively, the **Late Employees Claims**);
21. Despite the fact that Proofs of Claim filed in respect of the Late Employees Claims indicate that the Late Employee Claims are asserted against all of the Bloom Lake CCAA Parties and the Wabush CCAA Parties, Representatives' Counsel indicated that they in fact only pertain to the latter, as appears from the letter to the Monitor dated April 29, 2016, communicated herewith as **Exhibit R-2** and subsequently confirmed in a telephone conversation between Representatives' Counsel and the Monitor;

22. Paragraphs 4.57 and 4.58 of the Claims Procedure Order (R-1) define Represented Employees as non-unionized employees and retirees of the Wabush CCAA Parties;

(a) Bloom Lake LP

23. The Late Claims filed against Bloom Lake LP, excluding the Late Employees Claims, are the following:

Date of Receipt by Monitor	Name of Creditor	Amount (CAD\$)
December 21, 2015	JVM Environment Inc.	22,568.30
December 21, 2015	JVM Environment Inc. ¹	22,568.30
December 23, 2015	Mack Ste-Foy Inc.	3,312.00
January 15, 2016	Location Montfer	47,723.79
January 21, 2016	Francois Alarie Pharmacien	2,047.12
January 26, 2016	Campbell Scientific (Canada) Corp.	27,138.93
February 1, 2016	BBA Inc. ²	215,541.30
February 29, 2016	Tata Steel Global Procurement Co. Pte. Ltd	88,994.68
April 29, 2016	HosePower Canada	47,462.94
TOTAL		477,357.36
¹ Filed as a Restructuring Claim;		
² Filed in support of a motion dated January 28, 2016 (docket #304).		

24. As noted in the above summary, BBA Inc. filed on or about January 28, 2016 a motion seeking the authorization to file a Late Claim in the amount of \$ 215,541.30 against Bloom Lake LP, as appears from the Court record;
25. None of these Late Claims are asserted against Bloom Lake LP as secured claims;

(b) Bloom Lake GP

26. Other than the Late Employees Claims, the only Late Claim filed against Bloom Lake GP is the following:

Date of Receipt by Monitor	Name of Creditor	Amount (CAD\$)
January 21, 2016	Acier Leroux	8,018.38

(c) CQIM

27. The Late Claims filed against CQIM, excluding the Late Employees Claims, are the following:

Date of Receipt by Monitor	Name of Creditor	Amount (CAD\$)
December 22, 2015	Roynat Inc. ¹	2,908.68
December 22, 2015	Transport Canada	20,614.29
December 22, 2015	Transport Canada ¹	11,910.04
January 15, 2016	Location Montfer	47,723.79
January 15, 2016	Groupe LD Inc.	45,991.93
March 7, 2016	Geomog Inc.	17,108.28
TOTAL		146,257.01
¹ Filed as a Restructuring Claim.		

28. None of these Late Claims are asserted against CQIM as secured claims;

(d) Wabush Mines

29. The Late Claims filed against Wabush Mines are the following:

Date of Receipt by Monitor	Name of Creditor	Amount (CAD\$)
December 22, 2015	Transport Canada	15,723.42
December 22, 2015	Government of Newfoundland & Labrador	677,120.00
December 23, 2015	AGAT Laboratories	36,975.18
January 15, 2016	Groupe LD Inc.	3,745.89
January 15, 2016	Voltam Inc. ¹	26,771.81
February 24, 2016	Geneq Inc.	4,219.55
March 2, 2016	Caterpillar Global Mining LLC	661,513.78
March 3, 2016	Twin Falls Power Corporation Limited	780,021.06
April 14, 2016	CIT Financial Ltd. ²	20,425.53
April 29, 2016	Charmaine Cull ³	33,000.00
April 29, 2016	Guylaine Joncas ³	128,680.00
April 29, 2016	Sharlene Baird ³	31,730.80

Date of Receipt by Monitor	Name of Creditor	Amount (CAD\$)
TOTAL		2,419,927.02
¹ Originally filed as a D&O Claim; ² Filed as a Restructuring Claim; ³ Late Employees Claims asserted against all Wabush CCAA Parties.		

30. Voltam Inc. confirmed to the Monitor that it did not intend to file a D&O Claim and erroneously used the D&O Proof of Claim form (Schedule A), instead of the applicable Proof of Claim form (Schedule H) to assert its Claim against Wabush Mines; Voltam Inc. subsequently filed its Claim using the proper form (Schedule H) and confirmed its withdrawal of its D&O Claim;

31. None of the Late Claims filed against Wabush Mines are asserted as secured claims;

IV. COMMUNICATIONS WITH LATE CLAIMANTS

32. Following the receipt of the various Late Claims, the Monitor has been in communication with each of the Late Claimants which had failed to provide an explanation as to their tardiness;

33. Further to these communications, the Monitor has concluded that the reasons explaining the delay for the filing of the Late Claims were either:

- (a) the Late Claimant did not appear on the Known Creditors List, such that no Creditors' Instructions were mailed to its attention; or
- (b) the Late Claimant did appear on the Known Creditors List, but the address provided by the CCAA Parties differed from the mailing address used by said Late Claimant, such that it did not receive the Creditors' Instructions mailed to its attention; or
- (c) the Creditors' Instructions were mailed to the Late Claimant's address, but either got lost in transit, misplaced upon receipt, or otherwise improperly processed by the Late Claimant, such that no Proof of Claim was completed and communicated to the Monitor by the applicable Claims Bar Date; or
- (d) in the case of Caterpillar Global Mining LLC, whose claim against Wabush Mines was filed on March 2, 2016, the Monitor was informed that the Late Claimant only became aware of its claim further to an audit by the Canada Revenue Agency, which audit remained ongoing until January of 2016; or
- (e) in the case of the Late Employees Claims, the Late Claimants did not appear on the Wabush Represented Employee Claimants List;

34. In all cases, the Monitor is satisfied that the delay in filing the Late Claims is attributable to inadvertence on the part of the Late Claimant, and that none of the Late Claimants has been acting in bad faith or with a view to derive some form of strategic advantage;

V. IMPACT OF PERMITTING LATE CLAIMS

35. The combined amounts of Late Claims filed to date, including the thirty-three (33) Late Employees Claims, represent a total of close to \$ 5 million, whereas the total of all claims filed to date against all of the CCAA Parties is approximately \$ 12.85 billion;
36. As the Court is aware, no distribution on account of unsecured claims has yet been authorized;

(a) Bloom Lake CCAA Parties

37. The Late Claims filed against Bloom Lake LP, totalling \$ 477,357.36 (excluding the Late Employees Claims), represent less than 0.0275% of the total claims asserted against this CCAA Party;
38. The Late Claims filed against CQIM, totalling \$ 146,257.01 (excluding the Late Employees Claims), represent less than 0.0020% of the total claims asserted against this CCAA Party;
39. The Late Claim filed against Bloom Lake GP, totalling \$ 8,018.38 (excluding the Late Employees Claims), represent approximately 0.0013% of the total claims asserted against this CCAA Party;

(b) Wabush CCAA Parties

40. The Late Claims filed against Wabush Mines, totalling \$ 2,419,927.02 (including the Late Employees Claims), represent approximately 0.13% of the total claims asserted against this CCAA Party;
41. The only Late Claims filed against the other Wabush CCAA Parties are the Employees Late Claims totalling \$ 193,410.80, and represent approximately 0.21% of the total claims asserted against Arnaud Railway, 0.05% of the total claims against Wabush Iron, 0.3% of the total claims against Wabush Railway, and 0.03% of the total claims against Wabush Resources;
42. In the context of these CCAA Proceedings, given that the review of claims pursuant to the Claims Procedure Order (R-1) remains ongoing and that no distribution has yet been effected, the Monitor is satisfied that permitting the review of the Late Claims would not cause any significant prejudice to the CCAA Parties' creditors, including with respect to the marginal dilutive impact that this could entail, should the Late Claims be allowed with respect to the CCAA Parties against which they are being asserted;

VI. PROCEDURAL MATTERS

43. The Monitor submits that the notices given of the presentation of the present Motion are proper and sufficient;

44. Pursuant to paragraph 54 of the Bloom Lake Initial Order and paragraph 56 of the Wabush Initial Order, all motions in these CCAA Proceedings are to be brought on no less than ten (10) calendar days' notice to all Persons on the service list, and each such motion must specify a date (the **Initial Return Date**) and time for the hearing;
45. The service of the present Motion serves as notice pursuant to paragraphs 47 and 54 of the Bloom Lake Initial Order and paragraphs 47 and 56 of the Wabush Initial Order;
46. Paragraph 55 of the Bloom Lake Initial Order and paragraph 57 of the Wabush Initial Order require 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 (the **Notice of Objection**) in writing to the CCAA Parties 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 Person wishing to object to the relief sought on this Motion must serve a Notice of Objection by no later than 5 p.m. Montréal time on May 27, 2016;
47. Paragraph 56 of the Bloom Lake Initial Order and paragraph 58 of the Wabush Initial Order further provide 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**). If no Notice of Objection is duly served prior to the Objection Deadline, the Monitor intends to ask the Court to grant this Motion by consent and without the necessity of a formal hearing;
48. Paragraph 57 of the Bloom Lake Initial Order and paragraph 59 of the Wabush Initial Order provide that the Monitor shall communicate with the Judge and the service list with respect to the Hearing Details;

VII. INSTRUCTIONS SOUGHT

49. In light of the foregoing, the Monitor hereby seeks the issuance of an Order substantially in the form of the Draft Order communicated herewith as **Exhibit R-3**, which provides that the Claims Bar Date or, as the case may be, the Restructuring Claims Bar Date applicable to each Late Claim shall be deemed to be the date of receipt by the Monitor of such Late Claim, such that the Monitor can proceed with the review and adjudication of said Late Claims pursuant to the Claims Procedure Order (R-1). For greater certainty, the Monitor notes that the bringing of this Motion does not indicate that the Late Claims will be determined to be Allowed Claims and the Late Claims may be allowed, revised or disallowed pursuant to the provisions of the Claims Procedure Order if the within Motion is granted;
50. The CCAA Parties have been consulted by the Monitor and support the conclusions sought herein;
51. The present Motion is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present Motion;

ISSUE an order in the form of the Draft Order communicated herewith as Exhibit R-2;

WITHOUT COST, save and except in case of contestation.

Montréal, May 20, 2016

Norton Rose Fulbright Canada, LLP

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Our reference : 01028478-0001

NOTICE OF PRESENTATION

TO: SERVICE LIST

TAKE NOTICE that the present *Motion by the Monitor for Instructions with Respect to Late Claims* will be presented for adjudication 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 **June 1, 2016**, at a time and in a room to be determined, if a Notice of Objection is filed on or before the Objection Deadline.

DO GOVERN YOURSELF ACCORDINGLY.

Montréal, May 20, 2016

Norton Rose Fulbright Canada, LLP

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and

FTI CONSULTING CANADA INC.

Monitor

LIST OF EXHIBITS

(In support of the *Motion for the Issuance of an Order Extending the Stay Period*)

- R-1 Claims Procedure Order, as amended on November 16, 2015;
- R-2 Letter from Representatives' Counsel to the Monitor dated April 29, 2016;
- R-3 Draft Order.

Montréal, May 20, 2016

Norton Rose Fulbright Canada, LLP

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