

C A N A D A

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

N° : 500-11-048114-157

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

BLOOM LAKE GENERAL PARTNER
LIMITED, QUINTO MINING
CORPORATION, 8568391 CANADA
LIMITED AND CLIFFS QUEBEC IRON
MINING ULC.

Petitioners / Respondants

-and-

THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP

-and-

BLOOM LAKE RAILWAY COMPANY
LIMITED

Mises-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

GROUPE UNNU-EBC S.E.N.C

-and-

EBC INC.

Creditors / Petitioners

**MOTION TO COMMUNICATE INFORMATION AND/OR
DOCUMENTATION**

(Section 11 of the *Companies Creditors Arrangement Act*)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN
COMMERCIAL DIVISION, IN AND FOR THE DISTRICT OF MONTREAL, THE
PETITIONERS GROUPE UNNU-EBC S.E.N.C. AND EBC INC., RESPECTFULLY SUBMIT
THE FOLLOWING:

I. SCOPE AND PURPOSE

1. The Petitioners herein, Groupe UNNU-EBC s.e.n.c. ("**UNNU**") and EBC Inc. ("**EBC**"), hereby request that Bloom Lake General Partner Limited and The Bloom Lake Iron Ore Mine Limited Partnership (collectively, the "**Insolvent Debtors**"), be ordered by this Honourable Court to provide to Petitioners the following information and/or documentation:
 - (i) Confirmation or denial of the purported transaction with Champion Iron Limited ("**Champion**") with respect to the sale of certain assets of the Insolvent Debtors including the Bloom Lake Mine (the "**Purported Transaction**");
 - (ii) If such Purported Transaction is confirmed, a copy of the offer made by Champion;
 - (iii) A copy of all other offers received by Moelis & Company LLC's ("**Moelis**"), FTI Consulting Canada Inc. (the "**Monitor**") and/or the Insolvent Debtors, which encompass the Insolvent Debtors' rights under Mining Lease BM 877 and the mining claims held by the Insolvent Debtors, as more fully described in the legal hypothecs in favour of the Petitioners, published in the Public Register of real and immovable Mining Rights under numbers 55 903 and 55 904 (the "**Mining Rights**"), within the context of the Sale and Investor Solicitation Procedure ("**SISP**") which was approved by the Honourable Stephen W. Hamilton of this Court, in his orders rendered on April 17th, and June 9th, 2015;
 - (iv) Access to Moelis' solicitation list of potential acquirers for the assets of the Insolvent Debtors;
 - (v) Access to Moelis' data room which was made available to potential purchasers of the assets of the Insolvent Debtors, and to all documents contained therein;
 - (vi) The precise amount of cash on hand by the Insolvent Debtors as of the current date;
 - (vii) All available data regarding the carrying costs of the Bloom Lake mine should the operation be mothballed and kept for a certain period of time with a view to disposing of it at a later date;

II. PRESENTATION OF THE PETITIONERS

2. UNNU is a corporation engaged in the excavation, transport and handling of mining material, the whole as it appears from the print-out of the Statement of Information (REQ system) issued by the Registrar of Enterprises on October 26, 2015, communicated herewith as **EXHIBIT R-1**;
3. EBC is a corporation engaged in general contracting of construction work, the whole as it appears from the print-out of the Statement of Information (REQ system) issued

by the Registrar of Enterprises on October 26, 2015, communicated herewith as **EXHIBIT R-2**;

4. On June 11, 2014, UNNU and Insolvent Debtor, The Bloom Lake Iron Ore Mine Limited Partnership (acting through its general partner, Bloom Lake General Partner Limited) entered into a construction contract bearing the date of April 1st, 2014 (the "**UNNU Construction Contract**"), in connection with construction work performed by UNNU for the benefit of The Bloom Lake Iron Ore Mine Limited Partnership, the whole as more fully appears from the copy of the UNNU Construction Contract, already filed in the Court records as Exhibit R-3 of the *Petitioners' motion to temporarily lift the stay of proceedings* presented on February 19th, 2015;
5. Both EBC and UNNU have published legal hypothecs charging the property of The Bloom Lake Iron Ore Mine Limited Partnership, in the Public Register of real and immoveable Mining Rights under numbers 55 903 and 55 904, the whole as appears from copies of said legal hypothecs and proofs of registration thereof, communicated herewith *en liasse* as **EXHIBIT R-3**;

III. THE STAY

6. An Initial Order was granted on January 27, 2015 (the "**Initial Order**") in favour of the Insolvent Debtors pursuant the Companies' Creditors Arrangement Act, R.S.C. 1985, C-36 (the "**CCAA**"), as appears from the Court record herein;
7. The Initial Order includes, *inter alia*, a stay of proceedings in favour of the Insolvent Debtors which reads as follows:

"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."

8. Following the Initial Order, several orders granting extensions of the Stay Period, as defined in the Initial Order, have been rendered by this Honourable Court, the most recent one having been rendered on July 30, 2015, extending the Stay Period to November 6th, 2015, as appears from the Court record herein;

IV. THE SISP

9. The SISP Orders were rendered on April 17th, and June 9th, 2015 (the "**SISP Orders**"), as appears from the Court record herein;
10. The SISP Orders authorized and directed the Insolvent Debtors, the Monitor and Moelis (the Sale Advisor as defined in the SISP) (collectively the "**SISP Agents**"), to take such steps as they consider necessary or desirable in carrying out the SISP in accordance with its terms;
11. In the context and in application of the SISP, final binding offers (the "**Binding Offers**") were to be received by the SISP Agents by no later than July 19th, 2015 (the "**Binding Offers Due Date**") the whole as appears from the SISP already filed into the Court record herein;
12. Despite the fact that the Binding Offers Due Date has expired more than three (3) months ago, the SISP Agents have still to communicate to the Petitioners, by way of a report to this Honourable Court, or any other way, information and/or documentation with respect to the results of the SISP;

V. THE PETITIONERS' REQUESTS AND EFFORTS TO GATHER PERTINENT INFORMATION AND/OR DOCUMENTATION FROM THE SISP AGENTS WITH RESPECT TO THE RESULTS OF THE SISP

13. On or about July 24, 2015, a first request by the Petitioners' undersigned attorneys was made by way of a letter addressed to the Insolvent Debtors' and the Monitor's attorneys, in order to obtain information and documentation with regards to the proposals from qualified bidders as well as liquidation proposals for the Insolvent Debtors' assets (the "**Proposals**") received in the context of the SISP, as appears from said letter communicated herewith as **EXHIBIT R-4**;
14. Such request was made specifically because the SISP Agents have represented to this Honourable Court in both the Monitor's Eight Report (the "**Report**") and the Insolvent Debtors' *Motion for the Issuance of an Order Extending the Stay Period* presented on or about July 30th, 2015 (the "**Extension Motion**"), that such Proposals were received by the SISP Agents after the granting of the SISP Orders, as appears from the Report and the Extension Motion filed in the Court record herein;
15. Given that no response was provided by either the Insolvent Debtors or the Monitor, a second request was made by the Petitioners' undersigned attorneys by way of a letter dated August 13th, 2015, addressed to the Insolvent Debtors' attorney, in order to obtain the relevant information and documentation with regards to either the Proposals or the Binding Offers, as appears from said letter communicated herewith as **EXHIBIT R-5**;
16. Furthermore, to show good faith and reassure the Insolvent Debtors, the Petitioners offered in their August 13th, 2015 letter, Exhibit R-5, to enter into a Confidentiality

Agreement with the Insolvent Debtors, in exchange of the receipt of the information and documentation sought, the whole as appears from Exhibit R-5;

17. Following the receipt of the letter dated August 13th, 2015, Exhibit R-5, the parties negotiated and entered into the Confidentiality Agreement as of September 16th, 2015, as appears from said Confidentiality Agreement communicated herewith under confidential seal subject to this Honourable Court's determination with respect to a sealing order as **EXHIBIT R-6**;
18. Subsequent to the execution of the Confidentiality Agreement, in order to assist them in the process of reviewing the SISP process and in evaluating the impact of the sale of the Mining Rights in the context of the SISP, Petitioners have appointed PricewaterhouseCoopers inc. ("**PWC**") as their financial advisers;
19. Moreover, immediately after the execution of the Confidentiality Agreement, on September 16th, 2015, the undersigned Petitioners' attorneys requested certain information with regards to either the Proposals or the Binding Offers, by way of a letter addressed to the Insolvent Debtors' and the Monitor's attorneys, as appears from said letter communicated herewith under confidential seal subject to this Honourable Court's determination with respect to a sealing order as **EXHIBIT R-7**;
20. Following said request, and on or about September 18th, 2015, the undersigned attorneys received from the Monitor's attorneys a letter in which certain information was communicated subject to the Confidentiality Agreement, as appears from said letter communicated herewith under confidential seal subject to this Honourable Court's determination with respect to a sealing order as **EXHIBIT R-8**;
21. The information communicated in the letter dated September 18th, 2015, Exhibit R-8, being incomplete, further information and particulars were sought from the Monitor's and the Insolvent Debtors' attorneys by way of a letter dated September 24th, 2015, as appears from said letter communicated herewith under confidential seal subject to this Honourable Court's determination with respect to a sealing order as **EXHIBIT R-9**;
22. As a result, a conference call was held on October 5th, 2015, during which additional information was communicated to the Petitioners' attorneys and to PWC;
23. Thereafter, PWC and the Monitor were in direct communication to provide information and documentation to PWC, for the benefit of the Petitioners;
24. However, it appears that the Insolvent Debtors are now failing or refusing to provide additional information to PWC and the Petitioners in order to allow them to assess and assert Petitioners' rights and remedies as secured creditors of the Insolvent Debtors with respect to the Mining Rights, the whole as appears from copies of exchanges of emails between PWC and the Monitor dated October 9, 2015 and October 14, 2015, communicated herewith *en liasse* under confidential seal subject to this Honourable Court's determination with respect to a sealing order as **EXHIBIT R-10**;

VI. NEW INFORMATION

25. On or about October 16th, 2015, the Petitioners received information with respect to the SISP, namely that employees at the Bloom Lake Mine had been advised that Champion, or one of its affiliates, would allegedly become the owner of the Insolvent Debtors' assets, including the Bloom Lake Mine and the Mining Rights;
26. This information, which was not provided by the Insolvent Debtors and/or the Monitor to Petitioners, does not fall within the scope of the Confidentiality Agreement;
27. Following the receipt of this information, and given their substantial vested interest in the result of the SISP, as it relates to the Mining Rights, Petitioners, through their undersigned attorneys, requested further information and documentation from the Insolvent Debtors' attorneys, in order to examine the SISP process carefully before agreeing to the disposition of the Mining Rights, specifying that such request was not made within the context of the Confidentiality Agreement, as appears from a letter and an email dated October 16th, 2015 communicated herewith *en liasse* as **EXHIBIT R-11**;
28. Given that no response was provided by either the Insolvent Debtors or the Monitor, a follow up letter dated October 21st, 2015 was sent to the Insolvent Debtors' attorney, reminding said counsel that time is of the essence, considering that if the Purported Transaction indeed is to proceed, the Insolvent Debtors could serve a motion for approval of the sale and issuance of a vesting order at any time, as appears from said letter communicated herewith as **EXHIBIT R-12**;
29. To this date, no answer was provided to the Petitioners by either the Monitor or the Insolvent Debtors;

VII. THE IMPORTANCE AND RELEVANCE OF THE INFORMATION AND DOCUMENTATION SOUGHT BY THE PETITIONERS

30. As described above, the Petitioners have a substantial vested interest in the result of the SISP as it relates to the Mining Rights, being the holders of the largest construction legal hypothecs in value published against the Mining Rights as appears from Exhibit R-3;
31. The Petitioners require the information and documentation sought in order to assess whether the breadth and depth of contacts identified in the context of the SISP was in line with what they would have expected for an asset of the nature of the Mining Rights and to assess the nature and quality of documentation made available to prospective purchasers;
32. Furthermore, depending on the SISP results and the proposed consideration allegedly offered by Champion for the Mining Rights, the Petitioners wish to explore the viability of an alternative strategy whereby the Mining Rights are held for a certain

period with a view of waiting for an improved resources market in the future and therefore, the possibility of improved results of a sale process at a later date;

33. The Insolvent Debtors and the Monitor suffer no prejudice whatsoever from the communication of the additional information and documentation described in paragraph 1 of the present Motion, considering that the Binding Offers Due Date expired over three (3) months ago, whereas, without the requested information, the Petitioners are deprived of the right to proceed with their own independent analysis of the SISP and its results with the assistance of PWC;
34. UNNU and EBC are therefore entitled to request from the Insolvent Debtors the communication of the information and documentation described in paragraph 1 of the present Motion;
35. The present Motion is well founded both in facts and in law.

FOR THESE REASONS, MAY IT PLEASE THIS HONOURABLE COURT:

- [1] **GRANT** the present Motion;
- [2] **ABRIDGE** the delay of presentation of the present Motion and **DECLARE** that the present Motion is properly returnable on November 5, 2015;
- [3] **ORDER** that Exhibits R-6, R-7, R-8, R-9 and R-10 filed in support of the *Motion to Communicate Information and/or Documentation* be kept under confidential seal as provided in the Confidentiality Agreement, Exhibit R-6;
- [4] **ORDER** the Bloom Lake Iron Ore Mine Limited Partnership, Bloom Lake General Partner Limited to provide Groupe UNNU-EBC S.E.N.C. and EBC Inc., within five (5) days of the issuance of this Honourable Court's order, with the following information and documentation:
 - (i) Confirmation or denial of the purported transaction with Champion Iron Limited with respect to the sale of certain assets of the Insolvent Debtors including the Bloom Lake Mine;
 - (ii) If such purported transaction with Champion Iron Limited with respect to the sale of certain assets of Bloom Lake General Partner Limited and The Bloom Lake Iron Ore Mine Limited Partnership including the Bloom Lake Mine is confirmed, a copy of the offer made by Champion Iron Limited;
 - (iii) A copy of all other offers received by FTI Consulting Canada Inc., Moelis & Company LLC's and/or Bloom Lake General Partner Limited and The Bloom Lake Iron Ore Mine Limited Partnership, which encompass Bloom Lake General Partner Limited and The Bloom Lake Iron Ore Mine Limited

Partnership's rights under Mining Lease BM 877 and the mining claims held by Bloom Lake General Partner Limited and The Bloom Lake Iron Ore Mine Limited Partnership, as more fully described in the legal hypothecs in favour of Groupe UNNU-EBC S.E.N.C. and EBC Inc., published in the Public Register of real and immoveable Mining Rights under numbers 55 903 and 55 904, within the context of the Sale and Investor Solicitation Procedure, which was approved by the Honourable Stephen W. Hamilton of this Court, in his orders rendered on April 17th, and June 9th, 2015;

- (iv) Access to Moelis & Company LLC's solicitation list of potential acquirers for the assets of Bloom Lake Iron Ore Mine Limited Partnership and Bloom Lake General Partner Limited;
- (v) Access to Moelis & Company LLC's data room which was made available to potential purchasers, and to all documents contained therein;
- (vi) The precise amount of cash on hand by Bloom Lake Iron Ore Mine Limited Partnership and Bloom Lake General Partner Limited as of the current date;
- (vii) All available data regarding the carrying costs of the Bloom Lake mine should the operation be mothballed and kept for a certain period of time with a view to disposing of it at a later date;

[5] THE WHOLE with costs.

MONTREAL, October 26, 2015



BORDEN LADNER GERVAIS LLP
Attorneys for the Petitioners
GROUPE UNNU-EBC S.E.N.C.
and EBC INC.

C A N A D A

SUPERIOR COURT
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Monitor

-and-

GROUPE UNNU-EBC S.E.N.C

-and

EBC INC.

Creditors / Petitioners

LIST OF EXHIBITS

EXHIBIT R- 1: Print-out of the Statement of Information (REQ System) issued by the Registrar of Enterprises on October 26, 2015 with respect to Groupe UNNU-EBC s.e.c.n.c;

- EXHIBIT R- 2:** Print-out of the Statement of Information (REQ System) issued by the Registrar of Enterprises on October 26, 2015 with respect to EBC Inc.;
- EXHIBIT R- 3:** *En liasse*, legal hypothecs and proofs of registration from EBC and UNNU registered under number 55 903 and 55 904;
- EXHIBIT R- 4:** Letter from the undersigned attorneys dated July 24, 2015;
- EXHIBIT R- 5:** Letter from the undersigned attorneys dated August 13, 2015;
- EXHIBIT R- 6:** **UNDER CONFIDENTIAL SEAL** Confidentiality Agreement dated September 16, 2015;
- EXHIBIT R- 7:** **UNDER CONFIDENTIAL SEAL** Letter from the undersigned attorneys dated September 16, 2015;
- EXHIBIT R-8 :** **UNDER CONFIDENTIAL SEAL** Letter from the Monitor dated September 18, 2015;
- EXHIBIT R-9:** **UNDER CONFIDENTIAL SEAL** Letter from the undersigned attorneys dated September 24, 2015;
- EXHIBIT R-10:** **UNDER CONFIDENTIAL SEAL** *En liasse, Email exchanges between PWC and the Monitor dated October 9th and 14th, 2015*
- EXHIBIT R-11:** *En liasse* Letter and email from the undersigned attorneys dated October 16th, 2015;
- EXHIBIT R-12:** Letter from the undersigned attorneys dated October 21st, 2015;

MONTREAL, October 26, 2015



BORDEN LADNER GERVAIS LLP
Attorneys for the Petitioners
GROUPE UNNU-EBC S.E.N.C.
and EBC INC.

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ATTESTATION D'AUTENTICITÉ SELON L'ARTICLE 82.1 C.P.C.

Je, soussigné, **OUASSIM TADLAOUI**, avocat, exerçant ma profession au 1000, de la Gauchetière ouest, suite 900, Montréal, Québec, H3B 5H4, district de Montréal, atteste ce qui suit :

1. En date du 26 octobre 2015, à 9h55, j'ai reçu par courriel de Monsieur Martin Houle un affidavit dûment signé par lui;
2. Monsieur Martin Houle m'a transmis ledit affidavit de l'Ancienne-Lorette, Québec, Canada;
3. La copie dudit affidavit jointe à la présente attestation est conforme au courriel ainsi reçu de Monsieur Martin Houle.

Montréal, le 26 octobre 2015

A handwritten signature in blue ink, consisting of a large, stylized 'O' followed by a horizontal line that extends to the right and ends in a small flourish.

Ouassim Tadlaoui
BORDEN LADNER GERVAIS LLP

MTL01: 3525798: v1

CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

N° : 500-11-048114-157

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-and

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Creditors / Petitioners

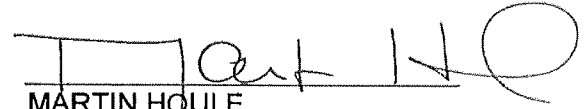
AFFIDAVIT OF MARTIN HOULE

I, the undersigned, **MARTIN HOULE**, Vice-President Finances and Administration, having a place of business at 1095, Valet Street. C.P. 158, in the city of l'Ancienne-Lorette, province of Quebec, G2E 3M3, solemnly declare:

1. I am on the representative of the Creditors / Petitioners GROUPE UNNU-EBC S.E.N.C. and EBC INC. in the present case;

2. I have read the attached *Motion to Communicate Information and/or Documentation* and all the facts set forth in the present Motion are true.

AND I HAVE SIGNED:


MARTIN HOULE

Solemnly declared before me in
L'Ancienne-Lorette, this 26th day of October 2015

 #190457
Commissioner for oaths for Québec

CANADA

SUPERIOR COURT
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-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

GROUPE UNNU-EBC S.E.N.C

-and-

EBC INC.

Creditors / Petitioners

NOTICE OF PRESENTATION

TO: Me Bernard Boucher (bernard.boucher@blakes.com)
BLAKE, CASSELS & GRAYDON S.E.N.C.R.L.
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Attorneys for : Petitioners / Respondents

TO : Me Sylvain Rigaud (sylvain.rigaud@nortonrosefulbright.com)
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1 Place Ville Marie
Bureau 2500
Montréal QC H3B 1R1

Attorneys for: Monitor

TO: SERVICE LIST

TAKE NOTICE that the present *Motion to Communicate Information and/or Documentation* will be presented for adjudication before the Honourable Stephen W. Hamilton, j.s.c., or another of the Honourable judges of the Quebec's Superior Court, Commercial Division, sitting in and for the district of Montreal, in the Montreal Courthouse located at 1, Notre-Dame Street East, Montreal, Quebec, on **November 5th, 2015**, at a time and in a room to be determined.

MONTREAL, October 26, 2015



BORDEN LADNER GERVAIS LLP
Attorneys for the Petitioners
GROUPE UNNU-EBC S.E.N.C.
and EBC INC.

**SUPERIOR COURT
DISTRICT OF MONTREAL
N° : 500-11-048114-157**

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**MOTION TO COMMUNICATE
INFORMATION AND/OR DOCUMENTATION**

ORIGINAL

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Dossier : 296328-000001

BLG

Borden Ladner Gervais