

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*, 1985 R.S.C., c. C-36, as amended)

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**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.**

Respondents

-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

-and-

**THE KAMI MINE LIMITED PARTNERSHIP**

-and-

**ALDERON IRON ORE CORP.**

Petitioners

**NOTICE OF OBJECTION BY THE CCAA PARTIES TO THE PETITIONERS' MOTION FOR AN ORDER ENJOINING THE RESPONDENTS TO REQUEST AND OBTAIN COPIES OF REPORTS FROM THE GOVERNMENT OF NEWFOUNLAND AND LABRADOR**

(Article 51 Code of Civil Procedure "C.p.c.")

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**TO THE HONOURABLE JUSTICE STEPHEN W. HAMILTON, J.S.C. OR ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN THE COMMERCIAL DIVISION FOR THE DISTRICT OF MONTRÉAL, THE CCAA PARTIES<sup>1</sup> SUBMIT:**

**1. INTRODUCTION**

1. The CCAA Parties hereby object to the *Motion for an Order Enjoining the Respondents to Request and Obtain Copies of Reports from the Government of Newfoundland and Labrador* (the "**Kami Motion**") of The Kami Mine Limited Partnership ("**Kami LP**") and Alderon Iron Ore Corp (collectively, the "**Kami Petitioners**").
2. In the Kami Motion, the Kami Petitioners are seeking an order compelling the CCAA Parties to use their best efforts to obtain from the government of Newfoundland and Labrador certain government reports (the "**Reports**") and to communicate same to the Kami Petitioners, the Monitor and the Court. In addition, the Kami Petitioners opine that the CCAA Proceedings should be concluded quickly and that the Scully Mine (as defined below) should be disposed of on a piecemeal basis.
3. As will be further expounded below, the CCAA Parties respectfully submit that the Kami Motion is unfounded and meritless in its entirety, as (i) the Kami Petitioners lack standing to bring a motion in these CCAA Proceedings, (ii) the requested relief has no relevance to either the CCAA Proceedings, nor to the attempts to sell the Scully Mine as a going concern, and (iii) is a thinly veiled attempt by the Kami Petitioners to jeopardize the proposed Scully Mine Transaction for the sole benefit of the Kami Petitioners and at the detriment of the Stakeholders of the Wabush CCAA Parties.
4. The CCAA Parties respectfully submit that the Kami Motion constitutes an abusive proceeding under the C.p.c., clearly designed with the malicious and vexatious intent, and ask that the Court solidarily condemn the Kami Petitioners to pay the CCAA Parties \$10,000.00 in damages representing the extra-judicial fees incurred unnecessarily in defence of the Kami Motion.
5. This Notice of Objection serves as the notice required pursuant to paragraph 55 of the Initial Order with respect to the Bloom Lake CCAA Parties granted on January 27, 2015, as amended and restated from time to time, as well as paragraph 57 of the Initial Order with respect to the Wabush CCAA Parties granted on May 20, 2015, as amended and restated from time to time.

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<sup>1</sup> Unless otherwise defined herein, all initially capitalized terms used in this Notice of Objection shall have the meanings given to them in the *Motion for the Issuance of an Approval and Vesting Order with respect to the Sale of Certain Assets and an Assignment Order with Respect to the Assignment of Certain Contracts*, served to the Service list on June 13, 2017.

## 2. BACKGROUND

6. As detailed in previous materials before the Court, certain Wabush CCAA Parties operated an iron ore mine and processing facility located north of the Town of Wabush in Newfoundland and Labrador, commonly known as either the “Wabush Mine” or the “Scully Mine” (the “**Scully Mine**”).
7. Operations at the Scully Mine were suspended in March 2014 and permanently idled in November 2014.
8. Since early 2014 and until the Wabush Filing Date, the Vendors sought investors and buyers for the Scully Mine, without any success.
9. The Scully Mine was made available in the SISP, but no offers were received by the Original Bid Deadline.
10. In the fall of 2016, the Wabush CCAA Parties received interest from several interested parties for the purchase of the Scully Mine (the “**Interested Parties**”).
11. Given the multiple Interested Parties, the Wabush CCAA Parties, in consultation with the Monitor, determined that it would be appropriate to establish a formal procedure for the sale of the Scully Mine, to ensure a fair and transparent sale process.
12. Accordingly, the Wabush CCAA Parties, in consultation with the Monitor, developed a sale procedure for the sale of the Scully Mine (the “**Scully Mine Sale Procedure**”) and communicated it to each of the Interested Parties.
13. Pursuant to the Scully Mine Sale Procedure:
  - a) each Interested Party had the opportunity to complete due diligence, including any site visits, upon entering into a confidentiality agreement satisfactory to the Vendors; and
  - b) the Vendors, with the assistance of the Monitor, were to exercise commercially reasonable efforts to satisfy any reasonable due diligence request from the Interested Parties.
14. A number of proposals were received in the Scully Mine Sale Procedure, including a highly conditional offer from one of the Kami Petitioners, Kami LP.
15. The Wabush CCAA Parties, in consultation with the Monitor, reviewed the offers received under the Scully Mine Sale Procedure, sought clarification from certain Interested Parties, and determined that the binding offer made by Tacora Resources Inc. was the highest and best proposal for the interests of their stakeholders as a whole.
16. As was reported to the Court in the Monitor’s 37<sup>th</sup> Report, the Wabush CCAA Parties determined that the proposal received from Kami LP was not viable due to its economic terms and its numerous conditions.
17. Subsequently, the Wabush CCAA Parties, in consultation with the Monitor, entered into negotiations with the Tacora Resources Inc. towards a definitive sale agreement. These

negotiations culminated in execution of the Asset Purchase Agreement in respect of the Scully Mine and other assets on June 2, 2017.

18. On June 13, 2017, the Wabush CCAA Parties filed the *Motion for the Issuance of an Approval and Vesting Order with respect to the Sale of Certain Assets and an Assignment Order with Respect to the Assignment of Certain Contracts*, in respect of the Asset Purchase Agreement dated as of June 2, 2017.
19. The Wabush CCAA Parties received service of the Kami Motion on May 29, 2017, a few days prior to the execution of the Asset Purchase Agreement.

### **3. THE KAMI PETITIONERS LACK STANDING**

20. The CCAA Parties respectfully submit that the Kami Petitioners lack standing to bring the Kami Motion and to seek the relief requested therein.
21. Indeed, the Kami Petitioners are neither creditors of any of the CCAA Parties nor stakeholders in the CCAA Proceedings.
22. The Kami Petitioners' only connection to the CCAA Proceedings is Kami LP's unsuccessful bid in the Scully Mine Sale Procedure.
23. The Kami Petitioners cannot and do not have any legitimate complaints with respect to the fairness and reasonableness of the Scully Mine Sale Procedure, and their Motion is merely window-dressing – their only real complaint is that they were unable to obtain certain assets related to the Scully Mine in a liquidation setting.
24. In light of the foregoing, the Kami Petitioners have no legal or proprietary right or standing to bring the Kami Motion, and, as will be further detailed below, the Kami Motion constitutes a vexatious attempt to derail the sale of the Scully Mine as a going concern.

### **4. THE KAMI MOTION HAS NO MERIT**

25. In addition to lacking standing, the Kami Petitioners' assertions lack any merit whatsoever.
26. Indeed, until they were first raised by the Kami Petitioners, the CCAA Parties were not aware of the existence of the Reports nor are the CCAA Parties aware of the contents thereof.
27. In addition, the Reports have no relevance whatsoever to the SISF, the Scully Mine Sale Procedure, or the effort to sell the Scully Mine on an "as is, where is" basis.
28. The Interested Parties were sophisticated parties able to exercise their own business judgment and at every step of the solicitation process, the Interested Parties were given ample opportunity to undertake a due diligence process to assess the viability of the Scully Mine.
29. It is reasonable, and in the interest of the CCAA Parties' stakeholders to seek the sale of Scully Mine as a going concern, and the Kami Petitioners cannot, by way of Motion to

the Court attempt to derail a process that was approved by the Court, supervised by the Monitor, and implemented by the CCAA Parties.

30. In any event, the Reports would not be of any assistance to the CCAA Parties: (i) should the Scully Mine Transaction be approved by the Court and completed; or (ii) in the event that the Scully Mine Transaction does not close, should the CCAA Parties consider an appropriate abandonment plan of the Scully Mine in consultation with the Monitor.
31. Finally, the Kami Petitioners have no merit in asserting that the CCAA Proceedings should be concluded and that the Scully Mine should be liquidated, as shown in numerous reports of the Monitor supporting the extension of the Stay in these CCAA Proceedings and decisions of the Court approving such extensions.

## **5. THE KAMI MOTION IS AN ABUSIVE PROCEEDING**

32. As outlined above, the Kami Motion is ill-founded in fact and in law.
33. The Kami Motion, on its face, does not raise any grounds to grant the relief sought.
34. In fact, no concrete relief is really being sought therein, as the Kami Petitioners are not requesting that the government of Newfoundland and Labrador be compelled to disclose the Reports, but are instead asking that the CCAA Parties attempt to request them, which will in all likelihood be to no avail.
35. Instead, the Kami Motion is clearly an attempt by self-interested parties in obtaining certain assets related to the Scully Mine in a liquidation setting and to derail negotiations for its sale as a going concern, despite it being in the interest of the CCAA Parties, their stakeholders and the local economy in general.
36. Indeed, knowing that the proposal made by Kami LP was rejected by the CCAA Parties, and that negotiations were ongoing with another purchaser, the Kami Petitioners attempted to influence said negotiations by filing to the public record allegations regarding the viability of the Scully Mine.
37. This attempt was ultimately unsuccessful, as an Asset Purchase Agreement has been executed for the sale of the Scully Mine as a going concern.
38. A motion before the CCAA Court cannot and should not be used as a tool to unduly influence good faith negotiations between parties and such intent makes the Kami Motion abusive and vexatious within the meaning of article 51 C.p.c.
39. The CCAA Parties therefore ask this Court to declare that the Kami Motion constitutes an abusive proceeding within the meaning of article 51 C.p.c. and to solidarily condemn the Kami Petitioners to pay to the CCAA Parties the sum of \$10,000.00 in damages representing an estimate of the fees unnecessarily incurred by the CCAA Parties as a result of the Kami Motion.
40. This Notice of Objection is well-founded in fact and in law.

**FOR THESE REASONS, MAY IT PLEASE THE COURT TO:**

**GRANT** this Notice of Objection;

**DISMISS** the *Kami Petitioners' Motion for an Order Enjoining the Respondents to Request and Obtain Copies of Reports from the Government of Newfoundland and Labrador*;

**DECLARE** that the *Kami Petitioners' Motion for an Order Enjoining the Respondents to Request and Obtain Copies of Reports from the Government of Newfoundland and Labrador* constitutes an abusive proceeding within the meaning of article 51 C.p.c. in that it was designed with the intent to delay the advancement of the CCAA Proceedings and to cause financial prejudice to the CCAA Parties;

**CONDEMN** the Kami Mine Limited Partnership and Alderon Iron Ore Corp to pay solidarily to the CCAA Parties the sum of \$10,000.00 in damages representing the extra-judicial fees incurred unnecessarily by the CCAA Parties as a result of the present abusive proceedings, the whole with legal interest at the rate of 5% per annum and the additional indemnity of Article 1619 of the *Civil Code of Quebec* from the date of the present judgment;

**RESERVE** the rights of the CCAA Parties to claim from Kami Mine Limited Partnership and Alderon Iron Ore Corp in the future punitive damages should they persist in their abusive conduct and proceedings in the present instance;

**THE WHOLE** with costs.

Montréal, June 21, 2017



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**BLAKE, CASSELS & GRAYDON LLP**  
Attorneys for the CCAA Parties

**NOTICE OF PRESENTATION**

**TO: M<sup>re</sup> Vanessa Jodoin**  
**BORDEN LADNER GERVAIS LLP**  
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Suite 900  
Montréal (QC) H3B 5H4

*Attorneys for The Kami Mine Limited  
Partnership and Alderon Iron Ore Corp.*

-and-

**SERVICE LIST**

**TAKE NOTICE** that the present *Notice of Objection by the CCAA Parties to the Petitioners' Motion for an Order Enjoining the Respondents to Request and Obtain Copies of Reports from the Government of Newfoundland and Labrador* will be presented for adjudication before the Honourable Stephen W. Hamilton, J.S.C., or another honourable judge of the Superior Court, Commercial Division, sitting in and for the district of Montréal, on **June 26, 2017**, at a time and in a in room to be determined.

**DO GOVERN YOURSELF ACCORDINGLY.**

Montréal, June 21, 2017



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**BLAKE, CASSELS & GRAYDON LLP**  
Attorneys for the CCAA Parties