

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

Applicants

May 18, 2012

R.B. Schwill for J.T. Timmins

A.J. Taylor and K. Esaw for Applicant

S. Weisz for Monitor

L. Cassey for QSI

A. Kauffman for IQ

J. Harnum for Mercer

I have not been persuaded that the requested relief is necessary in the circumstances. In my view a complete response has been provided by the Monitor in correspondence dated May 17, 2012 directed to Mr. Schwill.

In addition as submitted by Mr. Kauffman, the claim of Mr. Timmins is an unsecured claim (which may or may not be post-filing - my words) and such a claim is as against Timminco - not BSI. The proceeds from the F.A. Agreement are in respect of BSI, not Timminco. Mr. Schwill submits that fairness requires that the \$125,000 be set aside on the closing of the F.A. Agreement. In my view - this is not fair.

The motion of Mr. Timmins is scheduled for June 4, 2012. The QSI Transaction, if approved, may close around the same time. If closed it will give rise to sale proceeds which Mr. Cassey has acknowledged would be subject to a court process addressing priority. In essence, this is the same point put forward by the Monitor. In my view, Mr. Timmins does not require additional protection at this time.

In the result, the Motion is dismissed with the proviso that Mr. Schwill is free to raise this issue again at the June 4, 2012 hearing.

“Morawetz J.”