

Court File No. CV-12-9539-00CL

**Timminco Limited
Bécancour Silicon Inc.**

TWENTIETH REPORT OF THE MONITOR

May 9, 2013

**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.

**TWENTIETH REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS MONITOR**

INTRODUCTION

1. On January 3, 2012, Timminco Limited (“**Timminco**”) and its wholly owned subsidiary, Bécancour Silicon Inc. (“**BSI**”, together with Timminco, the “**Timminco Entities**”) made an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) and an initial order (the “**Initial Order**”) was made by the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), granting, *inter alia*, a stay of proceedings against the Timminco Entities until February 2, 2012, (the “**Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor of the Timminco Entities (the “**Monitor**”). The proceedings commenced by the Timminco Entities under the CCAA will be referred to herein as the “**CCAA Proceedings**”.
2. The Stay Period has been extended a number of times. Pursuant to the Order of the Honourable Mr. Justice Morawetz dated January 30, 2013, the Stay Period currently expires on May 15, 2013.

3. Pursuant to the Order of the Honourable Mr. Justice Morawetz dated March 9, 2012 (the “**Bidding Procedures Order**”), the Timminco Entities were authorized to enter into the Stalking Horse Agreement and the Bidding Procedures were approved, each as defined in the Monitor’s Fourth Report.
4. As described in the Monitor’s Seventh Report, the marketing process was completed and the Auction was conducted by the Timminco Entities, in consultation with the Monitor, on April 24 and 25, 2012, pursuant to the Bidding Procedures Order. At the conclusion of the Auction, the asset purchase agreement entered into between the Timminco Entities and QSI Partners Ltd. (the “**QSI APA**”) and the asset purchase agreement between the Timminco Entities and FerroAtlantica, S.A. (the “**Ferro APA**”) were collectively designated as the Successful Bid.
5. The Ferro APA was approved pursuant to an Order granted by the Court on May 22, 2012. The QSI APA was approved pursuant to an Order granted by the Court on June 1, 2012. Closing under the Ferro APA occurred on June 14, 2012. Closing under the QSI APA occurred on June 13, 2012.
6. On June 15, 2012, the Honourable Mr. Justice Morawetz granted an order approving a procedure for the submission, review and adjudication of claims against the Timminco Entities and of claims against the directors and officers of the Timminco Entities (the “**Claims Procedure Order**”). The Claims Bar Date was set at 5:00 p.m. Toronto time on July 23, 2012.
7. By Order of the Honourable Mr. Justice Newbould dated August 17, 2012, Russell Hill Advisory Services Inc. (“**Russell Hill**”) was appointed as Chief Restructuring Officer (the “**CRO**”) of the Timminco Entities and the engagement letter dated July 24, 2012, between Russell Hill and the Timminco Entities (the “**CRO Agreement**”) was approved.

8. The CRO Agreement was for an initial term of six months with any extension to be negotiated with the Monitor subject to approval of the Court. By Order of the Honourable Mr. Justice Morawetz dated March 5, 2013 (the “**CRO Extension Order**”), the CRO Agreement was extended to May 15, 2013.
9. On August 28, 2012, the Honourable Mr. Justice Newbould granted an Order authorizing and directing an interim distribution to be made by the Monitor to Investissement Quebec (“**IQ**”), a secured creditor of BSI (the “**Interim Distribution Order**”). The Interim Distribution Order authorized an initial distribution of \$25,393,057.43. In accordance with the endorsement of the Honourable Justice Newbould dated August 31, 2012, the Monitor made a subsequent distribution to IQ of \$1,213,000. A final distribution in the amount of \$1,714,879,90 was made on January 31, 2013 following completion of the Working Capital Settlement Agreement as defined and described in the Monitor’s Eighteenth Report.
10. The Interim Distribution Order also provided for a process for other parties that had filed a secured claim against BSI in accordance with the Claims Procedure Order to assert priority over IQ and approved a reimbursement agreement dated August 28, 2012 between BSI, the Monitor and IQ (the “**Reimbursement Agreement**”) pursuant to which IQ is obliged to reimburse any portion of the Interim Distribution necessary to satisfy any Reimbursement Claim (as defined in the Reimbursement Agreement) that is proven to have priority over IQ’s security.
11. Pursuant to an Order of the Honourable Mr. Justice Morawetz granted October 18, 2012, the Priority Claim Adjudication Protocol was approved and two claims were designated as Reimbursement Claims, being:
 - (a) A claim on behalf of Mercer Canada (“**Mercer**”), as administrator of the Haley Pension Plan, and on behalf of the beneficiaries of that plan (the “**Mercer Reimbursement Claim**”), which claim was supported by The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“**USW**”); and

- (b) A claim by Le Comité de retraite du Régime de rentes pour les employés nonsyndiqués de Silicium Bécancour Inc. and a claim by Le Comité de retraite du Régime de rentes pour les employés syndiqués de Silicium Bécancour Inc. (collectively, the “**BSI Pension Committees**”) (the “**BSI Pension Reimbursement Claims**”).
12. On October 24, 2012, both Mercer and the USW informed the Monitor and IQ that they would not be pursuing the Mercer Reimbursement Claim.
13. Pursuant to the Priority Claim Adjudication Protocol, the adjudication of whether the BSI Pension Reimbursement Claims constitute Priority Claims (as defined in the Interim Distribution Order) is to be determined exclusively by the Superior Court of Québec (Commercial Division). The matter is scheduled for hearing on May 27 and 28, 2013.
14. The Monitor has filed reports on various matters relating to the CCAA Proceedings. The purpose of this, the Monitor’s Twentieth Report, is to inform the Court on:
- (a) The Timminco Entities’ motion requesting approval of the agreement of purchase and sale between Timminco and Ehrlich Samuel Properties Inc. dated January 30, 2013, in respect of the Tycos Property (the “**Tycos Agreement**”);
- (b) The Timminco Entities’ motion requesting approval of the actions of the CRO in respect of the Memphis Property;
- (c) The Timminco Entities’ request for an Order extending the appointment of the CRO and the Monitor’s recommendation thereon; and
- (d) The Timminco Entities’ request for an Order extending the Stay Period and the Monitor’s recommendation thereon.

15. In preparing this report, the Monitor has relied upon unaudited financial information of the Timminco Entities, the Timminco Entities' books and records, certain financial information prepared by the Timminco Entities and discussions with the Timminco Entities' management and others.
16. Except as described in this Report:
 - (a) The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook;
 - (b) The Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Canadian Institute of Chartered Accountants Handbook;
17. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
18. The Monitor has prepared this Report in connection with the motion described in the Timminco Entities' Notice of Motion dated May 7, 2013, returnable May 14, 2013 (the "**May 14 Motion**"). The Report should not be relied on for other purposes.
19. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the previous reports of the Monitor, the Initial Order, the Interim Distribution Order or the Claims Procedure Order.

APPROVAL OF THE TYCOS AGREEMENT

BACKGROUND

20. Details of the Tycos Property and the Timminco Entities' efforts to market the Tycos Property are set out in the affidavit of the CRO sworn May 7, 2013 and filed in connection with the May 14 Motion (the "**CRO May 7 Affidavit**") as well as in previous materials filed in the CCAA Proceedings. The Monitor was consulted throughout the marketing process.

THE TYCOS AGREEMENT

21. A copy of the Tycos Agreement is attached as Exhibit "E" to the CRO May 7 Affidavit. The Tycos Agreement provides for a purchase price of \$250,000 and is subject to a number of conditions. The Monitor has been informed by the counsel to the Timminco Entities that each of the conditions, other than Court approval, has been satisfied.

THE MONITOR'S CONCLUSION

22. The Monitor is satisfied that the Tycos Property has been appropriately marketed; that the Tycos Agreement represents the best realization alternative in the circumstances and that the completion of the transaction contemplated by the Tycos Agreement is in the best interests of the estate.
23. Accordingly, the Monitor supports the Timminco Entities' request for approval of the Tycos Agreement.

APPROVAL OF CRO ACTIONS IN RESPECT OF THE MEMPHIS PROPERTY

24. Details of the Memphis Property and the actions taken by the Timminco Entities and the CRO to attempt to realize on the Memphis Property are set out in the CRO May 7 Affidavit as well as in previous materials filed in the CCAA Proceedings.

25. While the Memphis Property and Timminco Properties Inc. (“**TPI**”) are not subject to the CCAA Proceedings, it is possible that value may accrue to Timminco from the sale of the Memphis Property through inter-company claims and/or its indirect ownership of TPI.
26. The CRO consulted with the Monitor at the key points leading to the execution of the Memphis Agreement (as defined and described in the CRO May 14 Affidavit). The Monitor supports the Timminco Entities’ request for approval of the actions taken by the CRO in respect of the Memphis Property.

EXTENSION OF THE CRO AGREEMENT

27. The Monitor and the CRO have negotiated an agreement for extension of the CRO Agreement to July 15, 2013 or such other later date as the Monitor may approve in writing (the “**Third CRO Extension Agreement**”). A copy of the Third CRO Extension Agreement is attached as Exhibit “F” to the CRO May 7 Affidavit.
28. Although the Monitor has the right pursuant to the Second CRO Extension Agreement to consent to a further extension of the CRO Agreement, it is arguable that the Order of the Honourable Mr. Justice Morawetz granted March 5, 2013, only approved an extension of the CRO Agreement to May 15, 2013. Accordingly the Timminco Entities, with the support of the Monitor, request an Order approving the Third CRO Extension Agreement extending the CRO Agreement to July 15, 2013 or such later date as the Monitor may approve in writing.
29. The Monitor believes an extension of the CRO Agreement is appropriate to allow for the completion of the outstanding matters in the CCAA Proceeding including:
 - (a) The completion of the sale of the Tycos Property;
 - (b) The completion of the sale of the Memphis Property;
 - (c) The sale of the Toronto Maple Leaf season ticket rights;

- (d) The completion of the Silica Fumes Property Transaction and the filing of the assignment in bankruptcy of the Silica Fumes Purchaser, as previously approved by the Court; and
- (e) The determination of entitlements to funds in the estate and distribution thereof.

EXTENSION OF THE STAY PERIOD

- 30. The Stay Period currently expires on May 15, 2013. Additional time is required for the Timminco Entities to complete the matters described above. Accordingly, the Timminco Entities now seek an extension of the Stay Period to July 15, 2013.
- 31. As at the date of this report, the Timminco Entities have cash on hand, including amounts held by the Monitor, of approximately \$2.8 million. The Timminco Entities have informed the Monitor that accrued post-filing liabilities are approximately \$30,000 and on-going expenses are estimated to be in the range of approximately \$50,000-75,000 per month during the proposed extension of the Stay Period. Accordingly, the Timminco Entities appear to have sufficient funding for the extension of the Stay Period.
- 32. The Monitor continues to believe it to be in the interests of stakeholders for the outstanding matters to be brought to a satisfactory conclusion as quickly as possible. However, some additional time is required to achieve that result. Based on the information currently available, the Monitor believes that creditors would not be materially prejudiced by an extension of the Stay Period to July 15, 2013.

33. The Monitor also believes that the Timminco Entities have acted, and are acting, in good faith and with due diligence and that circumstances exist that make an extension of the Stay Period appropriate.

The Monitor respectfully submits to the Court this, its Twentieth Report.

Dated this 9th day of May, 2013.

FTI Consulting Canada Inc.
In its capacity as Monitor of
Timminco Limited and Bécancour Silicon Inc.



Nigel D. Meakin
Senior Managing Director