

500-09-027026-178
COUR D'APPEL DU QUÉBEC
(Montréal)

En appel d'un jugement de la Cour Supérieure, district de Montréal, rendu le 25 juillet 2017 par l'honorable juge Stephen W. Hamilton

N°: 500-09-027026-178

VILLE DE FERMONT

PARTIE APPELANTE –
(Créancière / Opposante)

c.

BLOOM LAKE GENERAL PARTNER LIMITED ET AL.

PARTIE INTIMÉE –
(Débitrices / Requérantes)

et

THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP ET AL.

MISES EN CAUSE –
Mises en cause

et

FTI CONSULTING CANADA INC.

MISE EN CAUSE –
Contrôleur

et

SYNDICAT DES MÉTALLOS, SECTIONS LOCALES 6254 ET 6285

MIS EN CAUSE –
Mis en cause

EXPOSÉ DE LA PARTIE APPELANTE

En date du 27 décembre 2017 (Volume 2, pages 355 – 562)

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CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
Commercial Division

File: No: 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, CLIFFS QUÉBEC IRON
MINING ULC, WABUSH IRON CO.
LIMITED AND WABUSH RESOURCES
INC.**

Petitioners

- and -

**THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP, BLOOM LAKE
RAILWAY COMPANY LIMITED,
WABUSH MINES, ARNAUD RAILWAY
COMPANY AND WABUSH LAKE
RAILWAY COMPANY LIMITED**

Mises-en-cause

- and -

FTI CONSULTING CANADA INC.

Monitor

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

INTRODUCTION

1. On January 27, 2015, Bloom Lake General Partner Limited (“**Bloom Lake GP**”), Quinto Mining Corporation (“**Quinto**”), 8568391 Canada Limited and Cliffs Québec Iron Mining ULC (“**CQIM**”) (collectively, the “**Bloom Lake Petitioners**”) sought and obtained an initial order (as amended, restated or rectified from time to time, the “**Bloom Lake Initial Order**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) from the Superior Court of Québec (the “**Court**”), providing for, *inter alia*, a stay of proceedings against the Bloom Lake Petitioners until February 26, 2015, (the “**Bloom Lake Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor (the “**Monitor**”). The relief granted in the Bloom Lake Initial Order was also extended to The Bloom Lake Iron Ore Mine Limited Partnership (“**Bloom Lake LP**”) and Bloom Lake Railway Company Limited (together with Bloom Lake LP, the “**Bloom Lake Mises-en-Cause**” and together with the Bloom Lake Petitioners, the “**Bloom Lake CCAA Parties**”). The proceedings commenced under the CCAA by the Bloom Lake CCAA Parties will be referred to herein as the “**CCAA Proceedings**”.

2. On May 20, 2015, the CCAA Proceedings were extended to include Wabush Iron Co. Limited (“**WICL**”), Wabush Resources Inc. (“**WRI**” and together with WICL, the “**Wabush Petitioners**”), Wabush Mines, Arnaud Railway Company and Wabush Lake Railway Company Limited (collectively the “**Wabush Mises-en-Cause**” and together with the Wabush Petitioners, the “**Wabush CCAA Parties**”) pursuant to an initial order (as amended, restated or rectified from time to time, the “**Wabush Initial Order**”) providing for, *inter alia*, a stay of proceedings against the Wabush CCAA Parties until June 19, 2015, (the “**Wabush Stay Period**”) and approving an interim financing term sheet dated May 19, 2015 (as amended, the “**Interim Financing Term Sheet**”), providing an interim facility of up to US\$10 million (the “**Interim Financing**”). The Bloom Lake CCAA Parties and the Wabush CCAA Parties will be referred to collectively herein as the “**CCAA Parties**”.
3. The Bloom Lake Stay Period and the Wabush Stay Period (together, the “**Stay Period**”) have been extended from time to time and currently expires on June 30, 2017.
4. On April 17, 2015, Mr. Justice Hamilton J.S.C. granted an Order (the “**SISP Order**”) approving, as it relates to the Bloom Lake CCAA Parties, a sale and investor solicitation process (as may be amended from time to time, the “**SISP**”) involving the business and assets of the Bloom Lake CCAA Parties. The SISP was subsequently amended and restated to reflect the inclusion of the Wabush CCAA Parties in the CCAA Proceedings and was approved *nunc pro tunc* as it relates to the Wabush CCAA Parties pursuant to an Order granted June 9, 2015 (together with the April 17, 2015 Order, the “**SISP Order**”).
5. On June 22, 2015, Mr. Justice Hamilton J.S.C. granted an Order (the “**June 22 Rep Order**”) *inter alia*:

- (a) Appointing Michael Keeper, Terence Watt, Damin Lebel and Neil Johnson as representatives (the “**Representatives**”) of the Salaried Members (as defined in the June 22 Rep Order); and
 - (b) Appointing Koskie Minsky LLP and Nicholas Scheib (collectively “**Representative Counsel**”) as legal counsel to the Representatives.
6. On November 5, 2015, Mr. Justice Hamilton J.S.C. granted an Order approving a procedure for the submission, evaluation and adjudication of claims against the CCAA Parties and their current and former directors and officers (as amended, the “**Claims Procedure Order**”).
7. To date, the Monitor has filed thirty-five reports in respect of various aspects of the CCAA Proceedings. The purpose of this, the Monitor’s Thirty-Sixth Report (this “**Report**”), is to provide information to the Court with respect to:
 - (a) The April 24 Forecast, as defined in the Monitor’s Thirty-Fourth Report;
 - (b) The CRA ITA Audit, as defined in the Monitor’s Thirty-Fourth Report;
 - (c) The reference of certain questions to the Supreme Court of Newfoundland and Labrador (Court of Appeal) (the “**Newfoundland COA**”) by the Lieutenant-Governor in Council for the Province of Newfoundland and Labrador pursuant to Orders in Council 2017-103 and 2017-137 (the “**Newfoundland Reference**”) and the Monitor’s activities and position with respect thereto;
 - (d) The current status of the Wabush Mine Sale Procedure, as defined in the Monitor’s Thirty-Second Report;

- (e) The CCAA Parties' motion (the "**Allocation Motion**") for an Order, *inter alia*:
 - (i) Approving the allocation methodology to be applied with respect to proceeds of realization and the costs of the CCAA Proceedings (the "**Allocation Methodology**");
 - (ii) Authorizing the repayment of the amount of approximately \$4.1 million in inter-company funding advanced by Bloom Lake LP to CQIM since the start of the CCAA Proceedings pursuant to the provisions of the Bloom Lake Initial Order; and
 - (iii) Authorizing the payment of certain amounts owing in respect of property taxes, claims for which are secured on the proceeds of realization of the applicable real property; and
- (f) Representative Counsel's motion (the "**Rep Counsel Fee and Scope Motion**") for an Order:
 - (i) Authorizing the payment by the Wabush CCAA Parties of the legal costs of the Salaried Members; and
 - (ii) Amending the June 22 Rep Order to include activities related to the Newfoundland Reference.

TERMS OF REFERENCE

8. In preparing this Report, the Monitor has relied upon unaudited financial information of the CCAA Parties, the CCAA Parties' books and records, certain financial information prepared by the CCAA Parties and discussions with various parties (the "**Information**").

9. 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 Chartered Professional Accountants of Canada Handbook; and
 - (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 Chartered Professional Accountants of Canada Handbook.
10. The Monitor has prepared this Report in connection with the Allocation Motion and the Rep Counsel Fee and Scope Motion, each returnable May 31, 2017. The Report should not be relied on for other purposes.
11. 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.
12. 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 Bloom Lake Initial Order, the Wabush Initial Order or previous reports of the Monitor.

EXECUTIVE SUMMARY

13. Capitalized terms used in the Executive Summary are as defined in the relevant section of the Report.
14. With respect to the Allocation Motion, the Monitor:

- (a) Is of the view that the proposed Allocation Methodology is appropriate, fair and reasonable in the circumstances and supports the CCAA Parties' request for approval of the proposed Allocation Methodology;
 - (b) Supports the CCAA Parties' request for authorization to repay the Bloom Lake Inter-Company Funding; and
 - (c) Supports the CCAA Parties' request for authorization to pay from the net proceeds of sale of real estate, after the application of the Allocation Methodology, outstanding property taxes that are not in dispute or otherwise contested, provided that there exists no competing claim which may rank equal or higher than such property taxes.
15. With respect to the Rep Fee and Scope Motion, the Monitor:
- (a) Has no objection to the cap on legal fees proposed in the Rep Counsel Fee and Scope Motion, noting that actual costs must be validly incurred in accordance with the June 22 Rep Order; and
 - (b) Has no objection to the proposed amendment of the June 22 Rep Order to include the Newfoundland Reference, though reserves the right to raise objections to the appropriateness and reasonableness of any fees incurred in respect of the Newfoundland Reference by Representative Counsel given the Monitor's position with respect to the Newfoundland Reference.

THE APRIL 24 FORECAST

16. Paragraph 18 of the Monitor's Thirty-Fourth Report stated:

“18. The Monitor has been assisting the CCAA Parties in the preparation of the April 24 Forecast. Completion of the April 24

Forecast has been delayed pending counsel to the CCAA Parties finalizing its forecast of legal costs for the period. The April 24 Forecast will be filed with the Court once it is completed.”

17. Since the date of the Monitor’s Thirty-Fourth Report, the Monitor has followed up several times regarding the forecast of legal costs for the period. Despite these efforts, the Monitor has not yet been provided a forecast of the CCAA Parties legal costs for its review and, accordingly, the April 24 Forecast has not yet been completed. Counsel to the CCAA Parties has informed the Monitor that the forecast of legal costs for the period will be provided by no later than May 31, 2017.

THE CRA ITA AUDIT

18. The CRA ITA Audit was discussed at paragraphs 40 to 42 of the Monitor’s Thirty-Fourth Report. Paragraph 42 of the Monitor’s Thirty-Fourth Report stated:

“42. On the call on April 20, 2017, the Monitor requested copies of the correspondence from CRA and of the responses provided to CRA. To date, those documents have not been provided to the Monitor.”

19. Counsel to the CCAA Parties subsequently confirmed that copies of the correspondence from CRA and of the responses provided to CRA would be provided but that redactions would, in their view, be necessary as the documents include information relating to non-CCAA Parties.
20. On May 25, 2017, counsel to the CCAA Parties provided redacted copies of the correspondence from CRA and the responses provided to CRA.

21. As the documents were only received on the eve of this Report, the Monitor has not yet reviewed the documents and, accordingly, is unable to provide any further update at this time or any comment on the potential implications of the CRA ITA Audit, if any, on the estates of the CCAA Parties.

THE NEWFOUNDLAND REFERENCE

22. The Newfoundland Reference refers the following questions to the Newfoundland COA (the “**Reference Questions**”), as set out in Order in Council 2017-013 issued on March 27, 2017:

- (a) The Supreme Court of Canada has confirmed in *Sun Indalex Finance, LLC v. United Steelworkers*, 2013 SCC 6, that, subject only to the doctrine of paramountcy, provincial laws apply in proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985 c. C-36. What is the scope of section 32 of the *Pension Benefits Act, 1997, S.N.L. 1996, c. P-4.01* deemed trusts in respect of:
- (i) Unpaid current service costs;
 - (ii) Unpaid special payments; and,
 - (iii) Unpaid wind-up liability?
- (b) The Salaried Plan is registered in Newfoundland and regulated by the *Pension Benefits Act, 1997*.
- (i) Does the *Pension Benefits Standards Act, R.S.C. 1985, c-32* deemed trust also apply to those members of the Salaried Plan who worked on the railway (i.e., a federal undertaking)?

- (ii) If yes, is there a conflict with the *Pension Benefits Act, 1997* and *Pension Benefits Standards Act*? If so, how is the conflict resolved?
 - (iii) Does the Quebec *Supplemental Pensions Plan Act, CQLR, c. R-15.1* also apply to those members of the Salaried Plan who reported for work in Quebec?
 - (iv) If yes, is there a conflict with the *Pension Benefits Act, 1997* and the Quebec *Supplemental Pensions Plan Act*? If so, how is the conflict resolved?
 - (v) Do the Quebec *Supplemental Pensions Plan Act* deemed trusts also apply to Quebec Salaried Plan members?
- (c) Is the *Pension Benefits Act, 1997* lien and charge in favour of the pension plan administrator in section 32(4) of the *Pension Benefits Act, 1997* a valid secured claim in favour of the plan administrator? If yes, what amounts does this secured claim encompass?
23. The Monitor has endeavoured to discuss with counsel to the Province the limitation of the Reference Questions to matters of statutory interpretation of section 32 of the *Pension Benefits Act, 1997, S.N.L, 1996, c. P-4.01* (the “**PBA**”) in the abstract without seeking to adjudicate matters that the CCAA Court has already determined will be dealt with in the CCAA Proceedings¹. Counsel to the Province declined to engage in any meaningful discussions in that regard.
24. On May 5, 2017, the Honourable Mr. Chief Justice Green of the Newfoundland COA granted an *ex parte* Order (the “**May 5 Reference Order**”), a copy of which is attached hereto as Appendix A, *inter alia*:

¹ The Order of the Honourable Mr. Justice Hamilton granted January 30, 2017 (the “**January 30 Jurisdiction Order**”), which has not been appealed, addressed various jurisdictional issues and other preliminary objections with respect to the Pension Priority Motion.

- (a) Inscribing the Newfoundland Reference for hearing;
 - (b) Providing for notice of the inscription of the Newfoundland Reference to various parties;
 - (c) Requiring Notices of Intention to Intervene to be filed by May 31, 2017;
 - (d) Providing for publication of newspaper notices by no later than May 26, 2017;
 - (e) Setting the timetable for the perfection of the Newfoundland Reference and disposition of other preliminary matters; and
 - (f) Setting a status hearing for June 9, 2017, to address various matters (the “**June 9 Hearing**”).
25. On May 9, 2017, counsel to the Monitor wrote to counsel to the Province (the “**May 9 Letter**”) to formally express its views on the Newfoundland Reference, including the view that the Reference Questions should be limited to the matters relating exclusively to the interpretation of section 32 of the PBA and that all other matters relating to the Wabush CCAA Parties or the Wabush CCAA Proceedings should be dealt with exclusively by the CCAA Court. A copy of the May 9 Letter, without schedules, is attached hereto as **Appendix B**.
26. On May 15, 2017, the Monitor filed a Notice of Intention to Intervene. Also on May 15, 2017, the Monitor filed an application with the Newfoundland COA (the “**Monitor’s Reference Application**”) for an order granting the following relief:
- (a) That, pursuant to Rule 31 (2) of the Civil Appeal Rules, the May 5 Reference Order be reheard by a panel of the Newfoundland COA;
and

(b) That paragraph 5 of the May 5 Reference Order² be stayed until full argument can be heard with respect to the timing and scope of the Newfoundland Reference.

27. The Monitor's Reference Application, a copy of which is attached hereto as **Appendix C**, was returnable May 23, 2017. The Newfoundland COA declined to hear the Monitor's Reference Application on May 23, 2017, and it will now be addressed at the hearing scheduled for June 9, 2017.

STATUS OF POTENTIAL TRANSACTION FOR SALE OF WABUSH MINE

28. An update with respect to the potential sale of the Wabush Mine was last provided in the Monitor's Thirty-Fourth Report. In the Monitor's Thirty-Fourth Report, it was reported that the Wabush CCAA Parties, in consultation with the Monitor, were in the process of endeavouring to negotiate a mutually acceptable asset purchase agreement.

29. Since the date of the Monitor's Thirty-Fourth Report, the parties have made considerable progress with efforts to negotiate a mutually acceptable asset purchase agreement. While no agreement has been executed at the date of this Report and there is no certainty that an agreement will be executed, the Monitor is optimistic that an agreement will be executed in the near future. Further details of the current state of affairs with respect to the negotiation of a mutually acceptable asset purchase agreement are set out in **Confidential Appendix D**.

30. If an agreement of purchase and sale is executed, the Monitor will provide details of the agreement, any conditions precedent and its recommendation on the proposed transaction in connection with any motion for approval of such transaction by the CCAA Parties.

² Paragraph 5 of the May 5 Reference Order provides for the publication of newspaper notices.

THE ALLOCATION MOTION

BACKGROUND

31. As the Court is aware, various approval and vesting orders issued in the CCAA Proceedings specifically provide that the transactions were approved without prejudice to the rights of creditors to object to the allocation of proceeds. Accordingly, prior to any distribution to creditors it is necessary to obtain a final determination of the appropriate allocation of the proceeds of realizations among each of the CCAA Parties and amongst various asset classes.
32. As is common in CCAA proceedings involving groups of related companies, many of the costs incurred by the CCAA Parties during the CCAA Proceedings have been shared costs for the benefit of each of the CCAA Parties which would have been difficult, if not impossible, to specifically allocate.
33. As each of the CCAA Parties are separate legal entities with separate creditor constituencies³, it is necessary to provide for an appropriate, fair and reasonable allocation of costs in order to ensure that creditors of one CCAA Party are not prejudiced as compared to the creditors of other CCAA Parties. Accordingly, it is necessary for an appropriate allocation of the costs of the CCAA Proceedings among each of the CCAA Parties and amongst various asset classes to be determined.
34. As noted in its Thirty-First Report, the Monitor provided its recommendation for a proposed allocation methodology to the CCAA Parties and that recommendation was under consideration by the CCAA Parties.
35. The CCAA Parties have informed the Monitor that they have reviewed and considered the allocation methodology proposed by the Monitor and agree that it represents a fair and reasonable approach. Accordingly, the CCAA Parties have now filed the Allocation Motion seeking approval of the Allocation Methodology.

³ Other than Wabush Mines JV, which as an unincorporated joint venture, is not a legal entity.

THE ALLOCATION METHODOLOGY

36. The proposed allocation methodology was developed by the Monitor on a principled basis with a view to enabling proceeds of realization and the costs of the CCAA Proceedings to be allocated on a fair and reasonable basis consistent with the allocation methodology approved in other CCAA proceedings⁴. The Proposed Allocation Methodology is as follows:
- (a) Realizations from transactions would be allocated amongst specific assets and specific CCAA Parties as set out in each transaction agreement, which, in each case, are the allocations proposed by an arm's length purchaser;
 - (b) Non-transaction related realizations specifically attributable to a CCAA Party would be allocated to that CCAA Party. For example cash on hand at the commencement of the CCAA Proceedings and collection of accounts receivable;
 - (c) Non-transaction related realizations not specifically attributable to a CCAA Party would be allocated pro-rata based on total realizations. For example, interest on funds held by the Monitor;
 - (d) Costs specifically attributable to an asset or asset category would be applied to that asset or category. For example, railcar storage fees would be applied against railcar proceeds;
 - (e) Costs specifically attributable to a CCAA Party would be allocated to that CCAA Party. For example, Bloom Lake mine and Wabush Mine direct operating costs would be allocated to BLLP and to Wabush Mine JV respectively;

⁴ Including the CCAA proceedings of Timminco Limited and Bécancour Silicon Inc.

- (f) Costs not specifically attributable to a CCAA Party would be allocated pro-rata based on net realizations after specifically attributable costs. For example, costs of management and legal and professional costs. Within this category, legal and professional fees billed on the Bloom Lake accounts will be allocated amongst the Bloom Lake CCAA Parties, legal and professional fees billed on the Wabush accounts will be allocated amongst the Wabush CCAA Parties and legal and professional fees billed on the joint Bloom/Wabush accounts will be allocated amongst all of the CCAA Parties; and
 - (g) As the Wabush Mines joint venture is not a legal entity, it does not have assets and liabilities in its own right. Accordingly any realizations and costs notionally allocated to Wabush Mines in the foregoing steps would be allocated to the joint venturers, WICL and WRI, based on their respective joint venture interests.
37. The Monitor has not included details of the calculation of the effect of the application of the proposed Allocation Methodology in this Report as the Monitor is of the view that the Allocation Methodology should be considered on a principled basis, without reference to the result for any specific creditor. The Monitor does note however, that the estimates of the potential range of distributions to unsecured creditors of each of the CCAA Parties provided at paragraph 69 of the Monitor's Thirty-Fourth Report were calculated applying the proposed Allocation Methodology.
38. The Monitor is of the view that the proposed Allocation Methodology is appropriate, fair and reasonable in the circumstances and supports the CCAA Parties' request for approval of the proposed Allocation Methodology.

REPAYMENT OF INTER-COMPANY FUNDING

39. As previously reported in several of the Monitor's reports, most recently in the Monitor's Thirty-Fourth Report, the amount of approximately \$4.1 million in inter-company funding has been advanced by Bloom Lake LP to CQIM since the start of the CCAA Proceedings pursuant to the provisions of the Bloom Lake Initial Order (the "**Bloom Lake Inter-Company Funding**").
40. The provisions of the various approval and vesting orders granted in respect of sales that have generated sale proceeds require that such proceeds be held by the Monitor pending further Order of the Court. Accordingly, an Order of the Court is required to allow the repayment of the Bloom Lake Inter-Company Funding.
41. If the Allocation Methodology is approved, CQIM will have sufficient funds to repay the Bloom Lake Inter-Company Funding. Failure to repay the Bloom Lake Inter-Company Funding would be detrimental to the interests of the creditors of Bloom Lake LP and would provide a wind-fall benefit to the creditors of CQIM.
42. Accordingly, the Monitor supports the CCAA Parties' request for authorization to repay the Bloom Lake Inter-Company Funding.

DISBURSEMENT OF PROCEEDS TO PAY PROPERTY TAXES

43. As the Court is aware, pre- and post-filing amounts are outstanding in respect of property taxes accruing to the closing date of various transactions involving the sale of real estate. Those amounts have statutory priority on the proceeds of the realization of the real estate to which they relate, subject to any valid deemed trust in respect of the Pension Claims.

44. The provisions of the various approval and vesting orders granted in respect of sales that have generated sale proceeds require that such proceeds be held by the Monitor pending further Order of the Court. Accordingly, an Order of the Court is required to allow disbursement of sale proceeds on account of priority property tax claims. The CCAA Parties now seek an Order authorizing the payment from the net proceeds of sale of real estate, after the application of the Allocation Methodology, of outstanding property taxes that are not in dispute or otherwise contested, provided that there exists no competing claim which may rank equal or higher than such property taxes⁵.
45. Various claims for property taxes have been made by the Ville de Fermont and the Ville de Sept Iles. Those claims include both pre- and post-filing amounts, amounts relating periods subsequent to the closing of the sale of the real estate which have been assumed by the relevant purchaser, interest and amounts subject to contestation or appeal as discussed in earlier reports of the Monitor. In addition, if the contestations and appeals are successful, refunds may be owing to the CCAA Parties, creating a potential amount that may be set-off against the amounts owing. The aggregate amounts of the claims as currently understood by the Monitor are summarized as follows:

	Ville de Fermont		Ville de Sept Iles			
	Bloom Lake GP	Bloom Lake LP	CQIM	WRI	Wabush Mines	Arnaud
	\$000	\$000	\$000	\$000	\$000	\$000
Principal	24,144.7	24,693.5	4,787.6	4,557.5	26.7	600.8
Interest	2,270.0	2,317.2	252.2	226.1	1.4	31.5
Disputed amounts	(23,325.8)	(23,635.8)	(2,111.1)	(5,594.6)	(15.4)	(269.8)
Undisputed Amount	3,088.9	3,374.9	2,928.7	(811.0)	12.7	362.5

⁵ For greater certainty, including any potential deemed trust claims in respect of the Pension Plans.

46. In addition to the amounts set out above, approximately \$124,000 is claimed as owing by the Town of Wabush in respect of property taxes related to properties in the Town of Wabush.
47. The claims of Ville de Sept Iles and the Town of Wabush against WRI, WICL, Wabush Mines and Arnaud Railway Company are subject to potential priority claims in respect of the Pension Plans. Accordingly, no amounts would be paid on account of such claims until the Pension Priority Motion has been finally determined.
48. If the Allocation Methodology is approved and the request for authorization to make payments in respect of undisputed property tax claims is granted, it is anticipated that net proceeds from the sale of real estate, after allocation of costs, would be available to make payments to Ville de Fermont and Ville de Sept Iles in respect of their claims against Bloom Lake LP and CQIM respectively. No amount would be paid on account of the claim of Ville de Fermont against Bloom Lake GP as there are no proceeds of sale of real estate in Bloom Lake GP.
49. The specific amount of such payments can only be calculated once the Allocation Methodology has been approved and up to date billing information has been obtained in respect of the costs of the CCAA Proceedings. Accordingly, it is not possible at this time to calculate the specific amounts that would be available for payment. However, based on current estimates, the Monitor expects that if the Allocation Motion is granted, there would be sufficient net proceeds after application of the Allocation Methodology to pay the undisputed amount of the claim of Ville de Fermont against Bloom Lake LP in part and to pay the undisputed amount of the claim of Ville de Sept Iles against CQIM in full.

50. The Monitor supports the CCAA Parties' request for authorization to pay from the net proceeds of sale of real estate, after the application of the Allocation Methodology, outstanding property taxes that are not in dispute or otherwise contested, provided that there exists no competing claim which may rank equal or higher than such property taxes. Any payment would be made first on account of the principal amount of any pre-closing post-filing amount owing, secondly on account of the principal amount of any pre-filing amount owing and thirdly on account of any interest validly accrued on the secured claims.

REP COUNSEL FEE AND SCOPE MOTION

51. Payment of legal costs of Rep Counsel was last approved by the Court in an Order granted October 28, 2016 (the "**October 28 Rep Fee Order**"). The October 28 Rep Fee Order provided for payment by the Wabush CCAA Parties of the legal fees, taxes and disbursements of Representative Counsel for the period October 1, 2016, to January 31, 2017, up to an amount of \$35,000 per month in legal fees subject to a total cap for such legal fees of \$140,000.
52. The Rep Counsel Fee and Scope Motion seeks an Order:
- (a) Authorizing the payment by the Wabush CCAA Parties of the legal fees of the Salaried Members for the period to January 31, 2017, that were in excess of the cap on such fees in the October 28 Rep Fee Order;
 - (b) Authorizing the payment by the Wabush CCAA Parties of the legal costs of the Salaried Members for the period February 1 to June 30, 2017, up to an amount of \$40,000 per month in legal fees subject to a total cap for such legal fees of \$200,000; and
 - (c) Amending the June 22 Rep Order to include activities related to the Newfoundland Reference.

53. Legal fees of Representative Counsel for the period October 1, 2016, to January 31, 2017, were \$154,165.00, \$14,165.00 in excess of the total cap provided for in the October 28 Rep Fee Order.
54. Representative Counsel has informed the Monitor that legal fees incurred in the period February 1 to April 30, 2017, total \$41,853.50, leaving a balance of \$158,146.50 against the proposed overall cap on legal fees for the period.
55. Paragraphs 5 and 6 of the June 22 Rep Order state:
 5. GRANTS the motion of the Petitioners-Mises-en-cause (the "Representatives") appointing them as representatives of all salaried/non-Union employees and retirees of the Wabush CCAA Parties (namely, Wabush Iron Co. Limited, Wabush Resources Inc., Wabush Mines, Arnaud Railway company and Wabush Lake Railway Company Limited) or any person claiming an interest under or on behalf of such employees or former employees or pensioners and surviving spouses, or group or class of them (excluding Opt-Out Individuals, as defined below, if any), (collectively, the "Salaried Members"), in these CCAA proceedings, for the purpose of representing the Salaried Members in these CCAA proceedings and in particular with respect to proving, settling or compromising the rights and claims of the Salaried Members in these CCAA proceedings, who shall be bound by the actions of the Representatives and Representative Counsel (as defined below) in these CCAA proceedings;
 6. GRANTS the appointment of Koskie Minsky LLP and Nicholas Scheib (collectively, "Representative Counsel") as legal counsel to the Representatives in their capacity as representatives for the Salaried Members in these CCAA proceedings with the mandate to provide assistance to the Salaried Members so that the Salaried

Members are able to participate in the CCAA proceedings and the restructuring process in a more efficient manner, including to assist the Salaried Members in the evaluation of their entitlements and claims in a cost-effective and timely manner;”

56. As discussed earlier in this Report, the Monitor takes that position that the Newfoundland Reference should be limited to matters of statutory interpretation in the abstract, that the Reference Questions should not be specific to the Wabush CCAA Proceedings or the Wabush Pension Plans, and that all matters relevant to the Pension Priority Motion can, and should, be dealt with by the Court in the CCAA Proceedings. The Monitor is of the view that this position is consistent with the January 30 Jurisdiction Order.
57. In the Monitor’s view, it is not clear that any costs incurred or to be incurred by Representative Counsel in connection with the Newfoundland Reference fall within the parameters of the June 22 Rep Order and arguably do not do so. Accordingly, the Rep Counsel Fee and Scope Motion seeks to amend the June 22 Rep Order to specifically include costs incurred in respect of the Newfoundland Reference.
58. The Monitor requested that Representative Counsel provide a break-down between the major areas of activity in the CCAA Proceedings of the estimated legal fees for the period February 1 to June 30, 2017, on which the proposed cap was based. The break-down provided by Representative Counsel included \$25,000 related to the Newfoundland Reference. Invoices have not been received from Representative Counsel for February, March or April 2017 and additional time related to the Newfoundland Reference could be included in those invoices.
59. The Monitor understands that the CCAA Parties take no position with respect to the Rep Counsel Fee and Scope Motion.

60. The Monitor continues to be of the view that the involvement of Representative Counsel is beneficial. The Monitor has no objection to the cap on legal fees proposed in the Rep Counsel Fee and Scope Motion, noting that actual costs must be validly incurred in accordance with the June 22 Rep Order.
61. With respect to payment of fees of Representative Counsel related to the Newfoundland Reference, the Monitor comments as follows:
- (a) Given the participation of Representative Counsel, the Province of Newfoundland and the regulators of the Wabush Pension Plans in the hearing that resulted in the January 30 Jurisdiction Order, and the fact that the January 30 Jurisdiction Order was not appealed, it is not clear that any fees incurred to date by Representative Counsel related to the Newfoundland Reference were necessary or fall within the scope of the June 22 Rep Order;
 - (b) Given the scope of the May 5 Reference Order, the refusal of the Province to limit the scope of the Reference Questions and the refusal of the Newfoundland COA to hear the Monitor's application prior to the June 9 Hearing, the Monitor understands the desire of Representative Counsel to participate in the June 9 Hearing; and
 - (c) The reasonableness and appropriateness of Representative Counsel participating in the Newfoundland Reference will need to be determined following the June 9 Hearing and the hearing of the Pension Priority Motion scheduled to be heard June 28 and 29, 2017.
62. The Monitor has no objection to the proposed amendment of the June 22 Rep Order to include the Newfoundland Reference, though reserves the right to raise objections to the appropriateness and reasonableness of any fees incurred in respect of the Newfoundland Reference by Representative Counsel given the Monitor's position with respect to the Newfoundland Reference.

The Monitor respectfully submits to the Court this, its Thirty-Sixth Report.

Dated this 26th day of May, 2017.

FTI Consulting Canada Inc.

In its capacity as Monitor of

Bloom Lake General Partner Limited, Quinto Mining Corporation,

8568391 Canada Limited, Cliffs Québec Iron Mining ULC,

Wabush Iron Co. Limited, Wabush Resources Inc.,

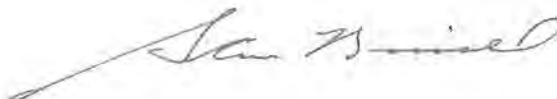
The Bloom Lake Iron Ore Mine Limited Partnership,

Bloom Lake Railway Company Limited, Wabush Mines,

Arnaud Railway Company and Wabush Lake Railway Company Limited



Nigel D. Meakin
Senior Managing Director



Steven Bissell
Managing Director

Appendix A

The May 5 Reference Order

Original

File No. 2017 01H 0029

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

IN THE MATTER OF Section 13 of Part
I of the *Judicature Act*, RSNL 1990, c. J-4

AND

IN THE MATTER OF Section 32 of the
Pension Benefits Act, 1997, SNL 1996, c.
P-4.01

AND

IN THE MATTER OF a Reference of
The Lieutenant-Governor in Council to the
Court of Appeal for its hearing,
consideration and opinion on the
interpretation of the scope of s. 32 of the
Pension Benefits Act, 1997

ORDER

BEFORE: Green C.J.N.L.

WHEREAS the Attorney General of Newfoundland and Labrador has applied for an order that
the Reference be inscribed for hearing and for an order for directions;

AND UPON HEARING Rolf Pritchard Q.C. and Philip Osborne on behalf of the Attorney
General;

IT IS ORDERED AND DIRECTED THAT:

1. The Reference be inscribed for hearing;
2. The Attorney General shall give notice of the inscription of the Reference and of this
Order, in the attached form marked "A", to:

Filed	May 5/17	JB
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- (a) The Attorney General of Canada;
- (b) The attorneys-general of each other province and territory of Canada;
- (c) FTI Consulting Canada Inc. (the "Monitor" in the Québec Proceeding);
- (d) Those persons named as petitioners in a proceeding in the Québec Superior Court (Commercial Division) identified as File No. 500-11-048114-157 (the "Québec Proceeding"), namely:
 - (i) Bloom Lake General Partner Limited;
 - (ii) Quinto Mining Corporation;
 - (iii) 8568391 Canada Limited;
 - (iv) Cliffs Quebec Iron Mining ULC;
 - (v) Wabush Iron Co. Limited; and
 - (vi) Wabush Resources Inc.;(collectively, the "Petitioners");
- (e) Those persons representing non-unionized pensioners in the Québec Proceeding, namely, Michael Keeper, Terence Watt, Damien LeBel and Neil Johnson (the "Non-unionized Pensioners");
- (f) The bodies representing unionized pensioners in the Québec Proceeding, namely, Syndicat des Métallos, Sections Locales 6254 et 6285 (the "Unionized Pensioners");
- (g) Morneau Shepell Ltd., in its capacity as Replacement Plan Administrator, as named in the Québec Proceeding (the "Replacement Plan Administrator");
- (h) Her Majesty in Right of Newfoundland, as represented by the Superintendent of Pensions (the "NL Superintendent");



- (i) The Attorney General of Canada, acting on behalf of the Office of the Superintendent of Financial Institutions, as named in the Québec Proceeding (the "Canadian Superintendent");
 - (j) Régime de rentes du Québec, as named in the Québec Proceeding (the "Québec Regulator"); and
 - (k) Ville de Sept-Îles (the "Town").
3. The persons notified in paragraph 2 of this Order shall on or before May 31, 2017 file a Notice of Intention to Intervene with the Registry of the Court if they wish to intervene and be heard, either orally or in writing, in the Reference. Thereafter, such persons who file a Notice shall, unless otherwise ordered by the Court, have the right to be heard in the Reference.
4. Any other persons claiming to be interested parties to the Reference and wishing to intervene and be heard, either orally or in writing, shall on or before May 31, 2017 apply to the Court for leave to intervene, with the application returnable on June 9, 2017.
5. The Attorney General shall cause a notice, in the attached form marked "B", to be published on at least two occasions before May 26, 2017 in each of the newspapers listed in the attached schedule marked "C" and provide proof of publication by filing an affidavit in the Court.
6. Every other party on the service list in the Québec Proceeding, attached as schedule "D", who was not previously listed in paragraph 2 of this Order (collectively, the "Other Parties"), shall be given the notice published in the newspapers under paragraph 5 and they may apply for leave to intervene in the Reference under paragraph 4.



7. The Attorney General of Newfoundland and Labrador, the Attorney General of Canada the other Attorneys General and any person who has given Notice of Intention to Intervene under paragraph 3 or has applied to intervene and been granted intervenor status under paragraph 4 may be at liberty to adduce evidence on the Reference by the filing of materials, subject to further direction and order of the Court.
8. The timetable for the perfection of the Reference and the disposition of other preliminary matters shall, subject to further direction, amplification or modification by the Court, be as set forth in the attached schedule marked "E".
9. A status hearing shall be held on June 9, 2017 at 10:00 A.M. to address, amongst other things:
 - (a) Applications to intervene under paragraph 4 of this order;
 - (b) Whether any group of intervenors may be able to be treated as a class for the purpose of appointing a representative under section 19 of the *Judicature Act*;
 - (c) The nature of any evidence to be filed on the Reference and the manner and timing of its presentation;
 - (d) Any adjustments to the timetable for perfection of the Reference;
 - (e) The setting of dates and times for dealing with any other preliminary applications;
and
 - (f) The giving of any further directions or making of such further orders as may be necessary or desirable to advance the hearing of the Reference.
10. The Attorney General of Newfoundland and Labrador, the Attorney General of Canada and any other person who has given Notice of Intention to Intervene under paragraph 3 or who has applied to intervene and been granted intervenor status under paragraph 4 have

leave to apply for further directions and orders as may be appropriate and as their
interests may appear.

DATED at St. John's, NL this 5th day of May 2017.

Bishop

**COURT
OFFICER**

JTB


Schedule A 

NOTICE

Be advised that

- 1 The Lieutenant-Governor in Council for the Province of Newfoundland and Labrador has referred several questions (the Reference) to the Supreme Court of Newfoundland and Labrador, Court of Appeal (the NLCA) by Orders in Council 2017-103 and 2017-137. These Orders in Council are attached as Appendix 1.
- 2 Chief Justice Green ordered on April 27, 2017 that you be notified of the Reference and given an opportunity to apply to intervene. The order is attached as Appendix 2.
- 3 If you wish to intervene in the Reference and be heard, orally or in writing, you must file a Notice of Intention to Intervene in the NLCA Registry by **May 31, 2017**.
- 4 If you file a Notice of Intention to Intervene, you have the right to appear at and participate at a status hearing scheduled to be held on **June 9, 2017**.
- 5 The contact information for the NLCA is

Supreme Court of Newfoundland and Labrador
Court of Appeal
287 Duckworth Street, P.O. Box 937
St. John's, NL A1C 5M3
COAregistry@supreme.court.nl.ca (709) 729-0066

Schedule B 

NOTICE

Be advised that by Orders in Council 2017-103 and 2017-137 the Lieutenant-Governor in Council for the Province of Newfoundland and Labrador has, pursuant to the *Judicature Act*, RSNL 1990, c. J-4 (the "Act"), referred to the Supreme Court of Newfoundland and Labrador, Court of Appeal (the "NLCA") the following questions:

1. The Supreme Court of Canada has confirmed in *Sun Indalex Finance, LLC v. United Steelworkers*, 2013 SCC 6, that, subject only to the doctrine of paramountcy, provincial laws apply in proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985 c. C-36. What is the scope of section 32 of the *Pension Benefits Act*, 1997, SNL 1996 cP-4.01 deemed trusts in respect of:
 - a) unpaid current service costs;
 - b) unpaid special payments; and
 - c) unpaid wind-up deficits?

2. The Salaried Plan is registered in Newfoundland and Labrador and regulated by the *Pension Benefits Act, 1997*.
 - a)
 - (i) Does the federal *Pension Benefits Standards Act*, RSC 1985, c-32 deemed trust also apply to those members of the Salaried Plan who worked on the railway (i.e., a federal undertaking)?
 - (ii) If yes, is there a conflict with the *Pension Benefits Act, 1997* and *Pension Benefits Standards Act*? If so, how is the conflict resolved?
 - b)
 - (i) Does the Quebec *Supplemental Pension Plans Act*, CQLR, c. R-15.1 also apply to those members of the Salaried Plan who reported for work in Quebec?
 - (ii) If yes, is there a conflict with the *Pension Benefits Act, 1997* and the Quebec *Supplement Pension Plans Act*. If so, how is the conflict resolved?
 - (iii) Do the Quebec *Supplemental Pension Plans Act* deemed trusts also apply to Quebec Salaried Plan members?

3. Is the *Pension Benefits Act, 1997* lien and charge in favour of the pension plan administrator in section 32(4) of the *Pension Benefits Act, 1997* a valid secured claim in favour of the plan administrator? If yes, what amounts does this secured claim encompass? (The reference as a whole being hereinafter referred to as the "Reference")

Pursuant to the Order of Chief Justice Green dated April 27, 2017, the Reference has been inscribed and the following procedure, unless amended by further Order or direction of the NLCA, shall govern the Reference:


1. All persons claiming to be interested parties to the Reference and wishing to intervene and be heard, either orally or in writing, shall on or before May 31, 2017

- apply to the NLCA for leave to intervene, with the application returnable on June 9, 2017.
2. A status hearing shall be held at the NLCA on June 9, 2017 at 10:00 A.M. to address, amongst other things:
 - a) applications to intervene referenced at item 1 above;
 - b) whether any group of intervenors may be able to be treated as a class for the purpose of appointing a representative under section 19 of the Act;
 - c) the nature of any evidence to be filed on the Reference and the manner and timing of its presentation;
 - d) any adjustments to the timetable for perfection of the Reference;
 - e) the setting of dates and times for dealing with any other preliminary applications; and
 - f) the giving of any further directions or making of such further orders as may be necessary or desirable to advance the hearing of the Reference.

 3. The schedule for filing documents and the hearing of the Reference is, subject to future modifications, as follows:
 - a) the Attorney General of Newfoundland and Labrador ("AGNL") to file his factum no later than July 26, 2017;
 - b) the Attorney General of Canada, any other Attorney Generals and any intervenors to file their factums no later than August 23, 2017;
 - c) the AGNL to file his reply factum, if necessary, no later than September 8, 2017; and
 - d) the Reference to be heard on September 20 and 22, 2017.

The contact information for the NLCA is:


Supreme Court of Newfoundland and Labrador
Court of Appeal
287 Duckworth Street, P.O. Box 937
St. John's, NL A1C 5M3
COAregistry@supreme.court.nl.ca (709) 729-0066

Schedule C 

The Attorney General shall cause a notice to be published on at least two occasions before May 26, 2017 in each of the newspapers listed below:



1. *The Globe and Mail*
2. *The Telegram* (St. John's)
3. *The Western Star* (Corner Brook)
4. *The Aurora* (Labrador West)
5. *Le Nord Côtier* (Sept-Îles)
6. *Le Trait d'union du Nord* (Fermont)

Schedule D 

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

SUPERIOR COURT
(Commercial Division)

(Sitting as a court designated pursuant to the *Companies' Creditors Arrangement Act*, R.S.C., c. 36, as amended)

N^o: 500-11-048114-157

**IN THE MATTER OF THE PLAN OF COMPROMISE OR
ARRANGEMENT OF:**

**BLOOM LAKE GENERAL PARTNER LIMITED,
QUINTO MINING CORPORATION,
8568391 CANADA LIMITED,
CLIFFS QUEBEC IRON MINING ULC,
WABUSH IRON CO. LIMITED
AND
WABUSH RESOURCES INC.**

Petitioners

-and-

**THE BLOOM LAKE IRON ORE MINE LIMITED
PARTNERSHIP,
BLOOM LAKE RAILWAY COMPANY LIMITED,
WABUSH MINES,
ARNAUD RAILWAY COMPANY
AND
WABUSH LAKE RAILWAY COMPANY, LIMITED**

Mises-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

**SERVICE LIST
(UPDATED AS OF APRIL 18, 2017)**

<p><i>Counsel for the Petitioners</i></p> <p><i>Blake, Cassels & Graydon LLP</i> 1 Place Ville Marie, Suite 3000 Montréal, Québec H3B 4N8</p> <p>Attention: Bernard Boucher (Montréal) Sébastien Guy (Montréal) Steven Welsz (Toronto) Milly Chow (Toronto) Aryo Shalviri (Toronto)</p> <p>Email: bernard.boucher@blakes.com sebastien.guy@blakes.com steven.welsz@blakes.com milly.chow@blakes.com aryo.shalviri@blakes.com</p>	<p><i>The Monitor</i></p> <p><i>FTI Consulting Canada Inc.</i> TD Waterhouse Tower 79 Wellington Street West Suite 2010, P.O. Box 104 Toronto, ON M5K 1G8</p> <p>Attention : Nigel Meakin Email : nigel.meakin@fticonsulting.com</p> <p>Attention: Steven W. Bissell Email: steven.bissell@fticonsulting.com</p> <p>Attention: Michael Basso Email: michael.basso@fticonsulting.com</p> <p>Attention: Ellen Dong Email: ellen.dong@fticonsulting.com</p>
<p><i>Counsel for the Monitor</i></p> <p><i>Norton RoseFulbright LLP</i> Suite 2500, 1 Place Ville Marie Montréal, QC H3B 1R1</p> <p>Attention : Sylvain Rigaud (Montréal) Chrystal Ashby (Montréal) Andre Anne Fortin (Montréal) Tony Reyes (Montréal) Evan Cobb (Toronto)</p> <p>Email : sylvain.rigaud@nortonrosefulbright.com chrystal.ashby@nortonrosefulbright.com evan.cobb@nortonrosefulbright.com AndreAnne.Fortin@nortonrosefulbright.com Tony.Reyes@nortonrosefulbright.com</p>	<p><i>Independent Counsel for the Board of Directors of the Petitioners</i></p> <p><i>Lax O'Sullivan Scott Lisus LLP</i> 145 King Street West, Suite 2750 Toronto, ON M5H 1J8</p> <p>Attention: Andrew Winton Email: awinton@counsel-toronto.com</p> <p>Attention: Matthew Gottlieb Email: mgottlieb@counsel-toronto.com</p>

<p>Counsel for Cliffs Mining Company <i>Thornton Grout Finnigan LLP,</i> Suite 3200, 100 Wellington Street West, P.O. Box 329, Toronto-Dominion Centre, Toronto, ON M5K 1K7 Attention: Grant B. Moffat Email: gmoffat@tgf.ca</p> <p><i>Dentons</i> 1 Place Ville Marie 39th Floor, Montréal Québec H3B 4M7 Attention: Roger Simard Louis Dumont Email: roger.simard@dentons.com louis.dumont@dentons.com</p> <p><i>Hicks Morley</i> 77 King Street West, 39th Floor Box 371, TD Centre Toronto, ON M5K 1K8 Attention: Elizabeth M Brown John Prezioso Email: elizabeth-brown@hicksmorley.com john-prezioso@hicksmorley.com</p>	
<p>3858031 Canada Inc. (ASSI) <i>Besnier Dion Rondeau S.E.N.C. Avocats</i> 865, Boul. Laure, Sept-Îles (Québec) G4R 1Y6 Attention : Hubert Besnier Email : hbesnier.bdr@cqocable.ca</p>	<p>3887952 Canada Inc. (Équipements Nordiques) <i>Besnier Dion Rondeau S.E.N.C. Avocats</i> 865, Boul. Laure, Sept-Îles (Québec) G4R 1Y6 Attention : Luc Dion Email : besnier.avocats@cqocable.ca</p>
<p>8901341 Canada Inc. <i>Canadian Development and Marketing Corporation</i> <i>Osler, Hoskin & Harcourt LLP</i> 1000 De La Gauchetière Street West, Suite 2100, Montréal QC H3B 4W5 Attention: Julien Morissette Email: jmorissette@osler.com</p>	<p>Administration Portuaire de Sept-Îles <i>Fasken Martineau</i> PO Box 242, The Stock Exchange Tower 800 Victoria Place, Suite 3700 Montréal, QC H4Z 1E9 Attention: Luc Morin Guillaume-Pierre Michaud Email: lmorin@fasken.com gmichaud@fasken.com</p>

- 4 -

<p>AIA Automation Inc. <i>Besnier Dion Rondeau S.E.N.C. Avocats</i> 865, Boul. Laure, Sept-Îles (Québec) G4R 1Y6 Attention : Luc Dion Email : besnier.avocats@cqcable.ca</p>	<p>Air Inuit Ltd. <i>Langlois, avocats sencri</i> 1250, boul. René-Lévesque Ouest Montréal Qc H3B 4W8 Attention: Gerry Apostolatos Daniel Baum Email: gerry.apostolatos@langlois.ca daniel.baum@langlois.ca</p>
<p>Attorney General of Canada Department of Justice – Canada Surintendant des Institutions Financières Guy-Favreau Complex 200 René-Lévesque Blvd. West, 9th Floor Montréal, Québec H2Z 1X4 Attention: Pierre Lecavalier Email: pierre.lecavalier@justice.qc.ca</p>	<p>Axor Experts-Conseil Inc. <i>Besnier Dion Rondeau S.E.N.C. Avocats</i> 865, Boul. Laure, Sept-Îles (Québec) G4R 1Y6 Attention : Luc Dion Email : besnier.avocats@cqcable.ca</p>
<p>Bank of America <i>Osler, Hoskin & Harcourt LLP</i> 1000 De La Gauchetière Street West, Suite 2100 Montréal QC H3B 4W5 Attention: Martin Desrosiers Email: mdesrosiers@osler.com</p>	<p>BBA Inc. <i>Lavery, De Billy S.E.N.C.R.L.</i> 1, Place Ville-Marie, bureau 4000 Montréal, Québec H3B 4M4 Attention : Jean-Yves Simard Despina Mandllaras Email : jysimard@lavery.ca dmandllaras@lavery.ca</p>
<p>Béton Provincial Ltée 8090, rue Boyer Casler postal 87041 Québec, Québec G1G 5E1 Attention: Annie Guérette Email: a.guerette@betonprovincial.com</p>	<p>Beumer Corporation <i>Fasken Martineau</i> PO Box 242, The Stock Exchange Tower 800 Victoria Place, Suite 3700 Montréal, QC H4Z 1E9 Attention: Annie Bernard Brandon Farber Email: abernard@fasken.com bfarber@fasken.com</p>

<p>Bremo Inc (a.k.a. Rematech Division Bremo) <i>Bouchard Pagé Tremblay Avocats</i> 825, boul. Lebourgneuf, bureau 510 Québec, Québec G2J 0B9</p> <p>Attention : Katherine Boulianne Email : katherineboulianne@bplavocats.com</p>	<p>Canadian Iron Ore Railcar Leasing LP <i>McMillan LLP</i> Brookfield Place, Suite 4400 181 Bay Street, Toronto, Ontario M5J 2T3</p> <p>Attention : Wael Rostom Michael J. Hanlon and Emile Catimel-Marchand</p> <p>Email: wael.rostom@mcmillan.ca; michael.hanlon@mcmillan.ca Emile.Catimel-Marchand@mcmillan.ca</p>
<p>Canadian Transportation Agency 15 Eddy Street Gatineau, Quebec J8X 4B3</p> <p>Attention : Allan Matte Email: Allan.Matte@otc-cta.qc.ca</p>	<p>Caterpillar Financial Services Limited <i>Miller Thomson SENCRL / LLP</i> 1000, rue De La Gauchetière Ouest, Suite 3700 Montréal (Québec) H3B 4W5</p> <p>Attention : Michel La Roche Email : mlaroche@millerthomson.com</p>
<p>CIT Financial Ltd. <i>Miller Thomson SENCRL / LLP</i> 1000, rue De La Gauchetière Ouest, Suite 3700 Montréal (Québec) H3B 4W5</p> <p>Attention : Jean-François Gauvin Email : jfgauvin@millerthomson.com</p>	<p>City of Fermont <i>Cain Lamarre Casgrain Wells S.E.N.C.R.L.</i> 255, rue Racine Est, bureau 600, case postale 5420 Chicoutimi (Québec) G7H 6J6</p> <p>Attention : François Bouchard Jean-François Delisle</p> <p>Email : francois.bouchard@clcw.qc.ca; jean.francois.delisle@clcw.ca</p>
<p>Concassés de la Rive-Sud Inc. and Hatch Ltée <i>McCarthy Tétrault S.E.N.C.R.L., s.r.l.</i> Bureau 2500 1000, rue De La Gauchetière Ouest Montréal QC H3B 0A2</p> <p>Attention : Gabriel Querry Miguel Bourbonnais</p> <p>Email : gquerry@mccarthy.ca mbouronnais@mccarthy.ca</p>	<p>Construction Fortin & Lévesque Inc. <i>BCF s.e.n.c.r.l. / LLP</i> 1100, boulevard René-Lévesque Ouest, 25e étage, Montréal (Québec) H3B 5C9 CANADA</p> <p>Attention : Bertrand Giroux Email : bertrand.giroux@bcf.ca</p>

<p>Construction L.F.G. Inc. <i>Avocats BSL Inc.</i> 160 rue de l'Évêché West, Suite 202 Rimouski, QC G5L 4H9 Attention: Chantal Gagnon Guillaume Amiot Email: cgagnon@avocatsbsl.com gamiot@avocatsbsl.com</p>	<p>CSL Group Inc. <i>Davies Ward Phillips & Vineberg LLP</i> 155 Wellington Street West Toronto, ON M5V 3J7 Attention: Robin Schwill Email: rschwill@dwpv.com With a copy to: Julie Lambert, Assistant General Counsel Email: julie.lambert@csllships.com</p>
<p>Dexter Québec Inc. <i>Fasken Martineau</i> PO Box 242, The Stock Exchange Tower 800 Victoria Place, Suite 3700 Montréal, QC H4Z 1E9 Attention : Brandon Farber Email : bfarber@fasken.com</p>	<p>DVB Bank S.E. <i>Bennett Jones LLP</i> Ben 4500 Bankers Hall East, 855 2nd Street S.W. Calgary, Alberta T2P 4K7 Att: Patrick J. Brennan Email: brennanp@bennettjones.com</p>
<p>Dynamitage Castonguay Ltée <i>Hackett Campbell Bouchard s.e.n.c.</i> 80 rue Peel, Sherbrooke QC J1H 4K1 Attention: Me Julien Collin-Piché Email: julien.collin@hcblegal.com</p>	<p>Eabametoong First Nation; Ginoogaming First Nation; Constance lake First Nation; Long Lake #58 First Nation; Aroland First Nation; and Marten Falls First Nation <i>Miller Thomson SENCRL / LLP</i> 1000, rue De La Gauchetière Ouest, bureau 3700, Montréal (Québec) H3B 4W5 Att : Stéphane Hébert; Email : shebert@millerthomson.com</p>
<p>Gérald Leblond Ltée <i>Avocats BSL Inc.</i> 160 rue de l'Évêché West, Suite 202 Rimouski, QC G5L 4H9 Attention: Chantal Gagnon Guillaume Amiot Email: cgagnon@avocatsbsl.com gamiot@avocatsbsl.com</p>	<p>Golder Associates Ltd. <i>BCF s.e.n.c.r.l. / LLP</i> 1100, boulevard René-Lévesque Ouest, 25e étage, Montréal (Québec) , H3B 5C9 Attention : Bertrand Giroux Email : bertrand.giroux@bcf.ca</p>

<p>Government of Newfoundland and Labrador <i>Department of Justice and Public Safety</i></p> <p>Attention: Todd Stanley, Assistant Deputy Minister – Courts and Legal Services</p> <p>Email: toddstanley@gov.nl.ca</p>	<p>Groupe Unnu-EBC s.e.n.c. and EBC Inc.</p> <p><i>Borden Ladner Gervais</i> 1000 De La Gauchetière Street West, Suite 800 Montréal, QC H3B 5H4</p> <p>Attention: Gabriel Lefebvre Francols Gagnon Marc Duchesne Ouassim Tadiaoui</p> <p>Email: GLefebvre@blg.com fgagnon@blg.com mduchesne@blg.com otadiaoui@blg.com</p>
<p>Iron Ore Company of Canada</p> <p><i>Langlois, avocats sncrl</i> 1250, boul. René-Lévesque Ouest Montréal Qc H3B 4W8</p> <p>Attention: Gerry Apostolatos; Dimitri Maniatis; Daniel Baum</p> <p>Email: gerry.apostolatos@langlois.ca; dimitri.maniatis@langlois.ca; daniel.baum@langlois.ca</p>	<p>Jacques Blanchard, Arpenteur-geomètre Inc</p> <p><i>Besnier Dion Rondeau S.E.N.C. Avocats</i> 865, Boul. Laura, Sept-Îles (Québec) G4R 1Y6</p> <p>Attention : Luc Dion Email : besnier.avocats@cqocable.ca</p>
<p>KeyBank National Association</p> <p>127 Public Square Second Floor, Cleveland, Ohio 44114-1306</p> <p>Attention: Michael A. Axel, Esq. Senior Vice President & Senior Counsel</p> <p>Email: michael_axel@keybank.com</p>	<p>Kilotech Contrôle Inc. Kilotech-Contrôle (1995) Inc.</p> <p><i>Simard Boivin Lemieux</i> 1700 Talbot Blvd., Suite 420 Chicoutimi, QC G7H 7Y1</p> <p>Attention: Alain Provencher Email: a.provencher@sblavocats.com</p>
<p>Maxam Explosives, Inc.</p> <p><i>Fasken Martineau</i> PO Box 242, The Stock Exchange Tower 800 Victoria Place, Suite 3700 Montréal, QC H4Z 1E9</p> <p>Attention : Brandon Farber Email : bfarber@fasken.com</p>	<p>Metso Shared Services Ltd.</p> <p><i>Langlois, avocats sncrl</i> 1250, boul. René-Lévesque Ouest Montréal Qc H3B 4W8</p> <p>Attention: Gerry Apostolatos Daniel Baum</p> <p>Email: gerry.apostolatos@langlois.ca daniel.baum@langlois.ca</p>

<p>MFC Industrial Ltd. BCF S.E.N.C.R.L. / LLP 1100 René-Lévesque West, Suite 2500 Montréal, QC H3B 5C9</p> <p>Attention : Claude Paquet, Gary Rivard Email : claudapaquet@bcf.ca gary.rivard@bcf.ca</p> <p>AND</p> <p>Sangra, Moller LLP 925 W Georgia St Vancouver, BC V6C 3L2</p> <p>Attention: Rod Talaifar, Harjit Sangra</p> <p>Email: rtalaifar@sanqramoller.com hsangra@sanqramoller.com</p>	<p>Minister of Natural Resources; Minister of Environment and Conservation; Minister of Municipal and Intergovernmental Affairs; and Minister of Finance</p> <p>C/O - Attorney General of Newfoundland and Labrador</p> <p>Department of Justice and Public Safety 4th Floor, East Block, Confederation Building PO Box 8700, St. John's, NL A1B 4J6 Email: legcounsel@gov.nl.ca</p>
<p>Ministère de la Justice du Québec Direction des Affaires Juridiques Énergie et Ressources naturelles Forêts, Faune et Parcs 5700, 4^e avenue Ouest, B-301 Québec, Québec G1H 6R1</p> <p>Attention : Isabelle Giguère Email: isabelle.giguere@mem.gouv.qc.ca</p>	<p>Ministère du Développement durable, de l'Environnement et de la Lutte contre les changements climatiques</p> <p>Direction des affaires juridiques - MDDELCC 675, boul. René Lévesque Est, 5e étage Québec (Québec) G1R 5V7</p> <p>Attention : Anne Parent, Avocate Email : anne.parent@mddelcc.gouv.qc.ca</p> <p>Direction régionale de l'analyse et de l'expertise de la Côte-Nord 818, boulevard Laure Sept-Îles (Québec) G4R 1Y8</p> <p>Attention : Alain Gaudreault, Directeur Régional Email : alain.gaudreault@mddelcc.gouv.qc.ca</p>


<p>Morneau Shepell <i>(Wabush Mines Replacement Plan's Administrator)</i></p> <p>7071 Bayers Rd, suite 3007 Halifax, NS B3L 2C2</p> <p>Attention : Paul Chang Email: pchang@morneaushepell.com</p> <p>Attention : Paula Boyd Email: pboyd@morneaushepell.com</p> <p>Attention : Bettina Quistgaard Email: bquistgaard@pinklarkin.com</p> <p>Attention : Ronald Pink Email: rpink@pinklarkin.com</p>	<p>Non-Union Employees and Retirees <i>(Michael Keeper and Terence Watt, rep.)</i></p> <p>Scheib Legal / Étude Légale 600, de Maisonneuve West, Suite 1700 Montréal, Québec H3A 3J2</p> <p>Attention : Nicholas Scheib Email: nick@scheib.ca</p> <p>Kaskie Minsky LLP 20 Queen Street West, Suite 900 Toronto, Ontario M5H 3R3</p> <p>Attention : Andrew J. Halnay Barbara Walancik</p> <p>Email: ahalnay@kmlaw.ca bwalancik@kmlaw.ca</p>
<p>Office of the Superintendent of Financial Institutions (OSFI)</p> <p>Department of Justice – Canada Surintendant des Institutions Financières Guy-Favreau Complex 200 René-Lévesque Blvd. West, 9th Floor Montréal, Québec H2Z 1X4</p> <p>Attention: Pierre Lecavalier Email: pierre.lecavalier@justice.gc.ca</p>	<p>Quebec North Shore and Labrador Railway Company Inc.</p> <p>Lanlois, avocats sncrl 1250, boul. René-Lévesque Ouest Montréal Qc H3B 4W8</p> <p>Attention: Gerry Apostolatos Dimitri Maniatis Daniel Baum</p> <p>Email: gerry.apostolatos@lanlois.ca dimitri.maniatis@lanlois.ca daniel.baum@lanlois.ca</p>
<p>Quebec Iron Ore Inc. Champion Iron Limited</p> <p>McCarthy Tétrault LLP 1000 De La Gauchetière Street West Montréal, Québec</p> <p>Attention: Philippe Bélanger Jocelyn Perreault Marc Dorion Louis-Nicolas Boulanger</p> <p>Email: pbelanger@mccarthy.ca jperreault@mccarthy.ca mdorion@mccarthy.ca lnboulanger@mccarthy.ca</p>	<p>Regions Commercial Equipment Finance LLC</p> <p>BCF s.e.n.c.r.l. / LLP 1100, boulevard René-Lévesque Ouest, 25e étage, Montréal (Québec) H3B 5C9 CANADA</p> <p>Attention : Gary Rivard Email : gary.rivard@bcf.ca</p>

<p>Retraite Québec 2600, boul. Laurier, Suite 501 Québec, Québec G1V 4T3</p> <p>Attention: Marie-Josée Comeau Louis Robillard</p> <p>Email: marie-josee.comeau@retraitequebec.gouv.qc.ca louis.robillard@retraitequebec.gouv.qc.ca</p>	<p>Ritchie Bros Auctioneers (Canada) Ltd. <i>Stikeman Elliott</i> 1155, René-Lévesque Blvd. West, 40th Floor Montréal, Québec H3B 3V2</p> <p>Attention: Danny Duy Vu Email: ddvu@stikeman.com</p>
<p>Royal Bank of Canada <i>Stewart McKelvey</i> Suite 1100, Cabot Place, 100 New Gower Street St. John's, NL</p> <p>Attention: Neil Jacobs Email: njacobs@stewartmckelvey.com</p>	<p>Shetush-Ondel Inc. <i>Besnier Dion Rondeau S.E.N.C. Avocats</i> 865, Boul. Laure, Sept-Îles (Québec) G4R 1Y6</p> <p>Attention : Luc Dion Email : besnier.avocats@cqocable.ca</p>
<p>SMS Equipment Inc. <i>Fasken Martineau</i> PO Box 242, The Stock Exchange Tower 800 Victoria Place, Suite 3700 Montréal, QC H4Z 1E9</p> <p>Attention: Guillaume-Pierre Michaud Email: gpmichaud@fasken.com</p>	<p>Société Ferroviaire et Portuaire de Pointe-Noire s.a.c. <i>McCarthy Tétrault LLP</i> 2500 – 1000 De La Gauchetière Street West Montréal, QC H3B 0A2</p> <p>Attention: Alain N. Tardif Email: notification@mccarthy.ca atardif@mccarthy.ca</p>
<p>Superintendent of Pensions (Newfoundland and Labrador) Service NL Government of Newfoundland and Labrador 2nd Floor, West Block, Confederation Bldg 100 Prince Phillip Drive, St. John's, NL A1B 4J6</p> <p>Attention: Michael Delaney, Director, Pension Benefit Standards Division Email : MichaelPDelaney@gov.nl.ca</p> <p><i>Irving Mitchell Kalichman</i> 3500, De Maisonneuve Blvd. West, Suite 1400 Montréal, Québec H3Z 3C1</p> <p>Attention : Doug Mitchell Email : dmitchell@imk.ca</p>	<p>Syndicat des Métallos, Section Locale 9996, Section Locale 6254, Section Locale 6285 <i>Philion Leblanc Beaudry Avocats s.a.</i> 5000, boul. des Gradins, bureau 280 Québec (Québec) G2J 1N3</p> <p>Attention : Daniel Boudreault; Jean-François Beaudry Email : dboudreault@plba.ca jfbaudry@plba.ca</p> <p>***</p> <p>United Steelworkers – National Office 234, Eglinton Avenue East, 8th Floor Toronto, Ontario M4P 1K7</p> <p>Attention: Katrina Peddle Email: kpeddle@usw.ca</p>

<p>The Bank of Nova Scotia <i>Kugler Kandeslin, LLP (Québec Counsel)</i> 1 Place Villa Marie, Suite 2101 Montréal, QC H3B 2C6 Attention : Jeremy Cuttler David Stolow Email : jcuttler@kklex.com; dstolow@kklex.com</p> <p><i>Cassels Brock LLP (Ontario Counsel)</i> Suite 2100, Scotia Plaza 40 King Street West Toronto, ON M5H 3C2 Attention: Joseph J. Bellissimo Keri Wallace Email: jbello@caselsbrock.com kewallace@caselsbrock.com</p>	<p>Town of Wabush 15, Whiteway Dr. P.O. Box 190 Wabush, NL A0R 1B0 Att. : Charlie Perry, Town Manager Email : townmanager@wabush.ca</p>
<p>Tyco International du Canada Ltée (AKA SimplexGrinnell) <i>Dunton Rainville S.E.N.C.R.L.</i> Tour de la Bourse, 43e étage 800, Square Victoria, C.P. 303 Montréal (Québec) H4Z 1H1 Att. : Gilles Metcalfe Email : gmetcalfe@duntonrainville.com</p>	<p>Ville de Sept-îles <i>Stein Monast LLP</i> 70, Dalhousie, Suite 300 Québec, Québec G1K 4B2 Att. : Richard Laflamme Marc Germain Antoine Beaudoin Camille Roy Martin Roy Email : richard.laflamme@steinmonast.ca marc.germain@steinmonast.ca antoine.beaudoin@steinmonast.ca camille.roy@steinmonast.ca Martin.Roy@SteinMonast.ca</p>

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<p>WSP Canada Inc. <i>Langlois, avocats sncrl</i> 1250, boul. René-Lévesque Ouest Montréal Qc H3B 4W8 Attention : Marc-André Sansregret Reynald Auger Email : marc-andre.sansregret@langlois.ca reynald.auger@langlois.ca</p>	

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Schedule E 

TIMETABLE FOR PERFECTION OF REFERENCE

EVENT	DEADLINE
Filing of Notices of Intention to Intervene (Order, para. 3)	May 31, 2017
Filing of Applications for Intervenor Status (Order, para. 4)	May 31, 2017
Status Hearing (Order, para. 8)	June 9, 2017
Filing of Evidentiary Materials	(TBD at status hearing)
Attorney General of Newfoundland to file Factum	July 26, 2017
Attorney General of Canada, other Attorney Generals and Intervenors to file Factums	August 23, 2017
Attorney General of Newfoundland to file reply Factum, if any	September 8, 2017
Hearing of Reference	September 21-22, 2017

Appendix B

The May 9 Letter



Barristers & Solicitors / Patent & Trade-mark Agents

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Your reference

Our reference
01028478-0001

May 9, 2017

Without Prejudice
Sent By E-mail

Rolf Pritchard, Q.C.
Director - Civil Division
Office of the Attorney General
Department of Justice & Public Safety
Government of Newfoundland and Labrador

Dear Confrère,

**In the matter of the plan of compromise or arrangement of: Wabush Iron Co. Limited et al.
S.C.M. 500-11-048114-157**

We are writing to you to express our concerns and position in connection with the *ex parte* order issued on May 5th, 2017 (the **May 5th Order**) by the Newfoundland & Labrador Court of Appeal in relation to the reference initiated under the authority of Section 13 of the *Judicature Act*, R.S.N.L. 1990, c. J-4 and in furtherance of Orders in Council 2017-103 and 2017-137 (the **Reference**).

As you know, we act on behalf of FTI Consulting Canada Inc., in its capacity as court-appointed monitor (the **Monitor**) to various parties subject to orders issued on January 27th and May 20th, 2015 pursuant to the terms of the *Companies' Creditors Arrangement Act*, R.S.C., c. C-36, as amended (the **CCAA**) by the Superior Court of Québec, commercial division, for the District of Montreal (the **CCAA Court**).

For ease of reference, capitalized terms not otherwise defined in this letter shall have the meaning ascribed to them in the Monitor's Motion for Directions dated September 20, 2016, as amended on April 13, 2017 (the **Motion for Directions**), a copy of which is attached as Schedule A.

The May 5th Order and the three (3) questions to be submitted to the Newfoundland & Labrador Court of Appeal by way of the Reference (the **Reference Questions**), as currently drafted, appear to be inextricably related to the pending proceedings before the CCAA Court in the above-captioned matter, presided and supervised by the Honourable Justice Stephen W. Hamilton, J.S.C. more specifically as they concern the Wabush CCAA Parties (the **Wabush CCAA Proceedings**). As such, there exists in our view a significant risk that the Reference will be in part duplicative in light of the ongoing Wabush CCAA Proceedings, thereby potentially leading certain interested parties to mistakenly believe that issues relating to the Wabush CCAA Parties are open for adjudication before both the CCAA Court and the Newfoundland & Labrador Court of Appeal. We are concerned that the Reference could amount to a collateral attack of orders previously made by the CCAA Court.

We list in Schedule B hereto various orders issued by the CCAA Court (as supplemented by the relevant Motion records, including the Monitor's reports and exhibits) which in our view could have an impact on or be relevant to the Reference Questions to be put before the Newfoundland & Labrador Court of Appeal.

We have reached out on numerous occasions to you and your colleagues (Philip Osborne and Raylene Stokes) to share our views as to the importance of limiting the scope of the proposed Reference Questions to matters of

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Rolf Pritchard, Q.C.
May 9, 2017

NORTON ROSE FULBRIGHT

statutory interpretation *in abstracto* as they relate to Section 32 of the *Pension Benefits Act*, 1997, S.N.L. 1996, c. P-4.01 (**PBA**), without overreaching and veering into the adjudication of the rights of parties already engaged in the Wabush CCAA Proceedings. We have specifically asked to be consulted with respect to the wording of the notices to be sent in connection with the Reference so as to avoid confusion amongst stakeholders and ensure that the Reference process does not run afoul of the current stay of proceedings against the Wabush CCAA Parties or disrupt the conduct of the Wabush CCAA Proceedings.

In this respect, we directed you to paragraph 7 of the Wabush Initial Order, which reads as follows:

ORDERS that, until and including June 19, 2015*, or such later date as the Court may order the (the "**Stay Period**"), no proceeding or enforcement process in any Court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the CCAA Parties, or affecting the Business operations and activities of the CCAA Parties (the "**Business**") or the Property, including as provided hereinbelow except with the leave of this Court. Any and all proceedings currently under way against any or in respect of the CCAA Parties or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court, the whole subject to subsection 11.1 CCAA.

*The current Stay Period has been extended and is set to expire on June 30, 2017, subject to further order of the CCAA Court.

The ability of the Monitor to seek directions and the CCAA Court's jurisdiction to hear the Motion for Directions are based on paragraph 68 of the Claims Procedure Order, paragraph 65 of the Wabush Initial Order as well as Sections 9(1) and 11 CCAA, which read as follows:

9.(1) Any application under this Act may be made to the court that has jurisdiction in the province within which the head office or chief place of business of the company in Canada is situated, or, if the company has no place of business in Canada, in any province within which any assets of the company are situated.

(...)

11. Despite anything in the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*, if an application is made under this Act in respect of a debtor company, the court, on the application of any person interested in the matter, may, subject to the restrictions set out in this Act, on notice to any other person or without notice as it may see fit, make any order that it considers appropriate in the circumstances.

The CCAA Court issued on January 30th, 2017, its decision (the **January 30th Order**) with respect to various jurisdictional issues and other preliminary objections raised with respect to the Motion for Directions by several parties, including Her Majesty in Right of Newfoundland, as represented by the Superintendent of Pensions. We attach for your convenience copy of the January 30 Order as Schedule C. The position of the parties in relation to said jurisdictional issues is summarized at paragraphs 23 to 28 of the January 30th Order. In declining to refer any of the issues to the courts with jurisdiction in Newfoundland & Labrador, including specifically the questions as formulated by the representatives of the salaried employees and retirees (at paragraph 25) – which have since been adopted *verbatim* as the Reference Questions – the CCAA Court relied on well-established precedents that favour a single forum to hear all disputes relating to an insolvent debtor (at paragraphs 29 to 33) and properly exercised its discretion not to seek the assistance of another court on the basis of legal, factual and practical considerations (at paragraphs 39 to 89), including the position of the United Steel Workers representing the unionized pensioners of the Wabush CCAA Parties, which supported the jurisdiction of the CCAA Court and objected to the referral of certain issues before the courts with jurisdiction in Newfoundland & Labrador (at paragraph 80), as well as the fact that a plurality of non-unionized pensioners are residents in the Province of Quebec (at paragraph 77).

Rolf Pritchard, Q.C.
May 9, 2017

NORTON ROSE FULBRIGHT

The January 30th Order was not appealed from, and all interested parties, including Her Majesty in Right of Newfoundland, as represented by the Superintendent of Pensions, have since agreed to debate the merits of the Motion for Directions before the CCAA Court on June 26th and 27th, 2017.

As for the Reference Questions, we have already expressed concerns about the formulation of questions 1 and 3 and the extent to which the Newfoundland & Labrador Court of Appeal will be asked to determine the scope and dollar value of the deemed trusts, liens and charges, that may arise pursuant to Section 32 PBA, as this provision applies to the Pension Plans at stake in the Wabush CCAA Proceedings and more specifically the Motion for Directions. Further, the preamble to question 1 appears unduly argumentative and, in our view, obfuscates the interplay between Section 32 PBA and the applicable provisions of the CCAA and the terms of the orders issued to date in the Wabush CCAA Proceedings.

The foregoing was noted by Mr. Justice Hamilton in the January 30th Order (at paragraph 66), wherein he also pointed out that such a question, inasmuch as the Wabush CCAA Parties are concerned, may well be moot:

Finally, as is typical in these cases, there is a close interplay between the NLPBA and the CCAA. The first question proposed by the representatives of the salaried employees and retirees is: "Assuming there is no issue of paramourty, what is the scope of section 32 in the NLPBA deemed trusts". The scope of the NLPBA is not relevant if the NLPBA does not apply because of a conflict with the CCAA and federal paramourty. In that sense, there may not even be a need to deal with the interpretation of the NLPBA.

As previously reported, we also seriously question the appropriateness of seeking the opinion of the courts of another forum than Québec with respect to question 2(b).

Before the issuance of the May 5th Order, we had specifically asked that you consider the possibility of coordinating the Reference with the ongoing Wabush CCAA Proceedings, and had asked to discuss the formulation of the Reference Questions and the wording of the notices, the whole in order to avoid any actual or perceived duplication, inconsistency or contradiction in the parallel processes, to no avail to date. We note that a status hearing is set to take place on June 9, 2017 before the Newfoundland & Labrador Court of Appeal, but are of the view that it will be too late at that point to properly address some of the concerns outlined above.

It is our view that the Monitor and its undersigned attorneys should have been consulted in connection with the May 5th Order and that same should not have been granted on an *ex parte* basis. We formally reiterate the invitation to discuss the foregoing with you at your earliest convenience, while we continue to contemplate the possibility to raise these issues directly before the CCAA Court and/or the Newfoundland & Labrador Court of Appeal.

We are of the view that the Reference Questions should be limited to the matters relating exclusively to the interpretation of Section 32 PBA and that all other matters relating to the Wabush CCAA Parties or the Wabush CCAA Proceedings should be dealt with exclusively by the CCAA Court.

We would greatly appreciate a reply with respect to the foregoing by the end of the week.

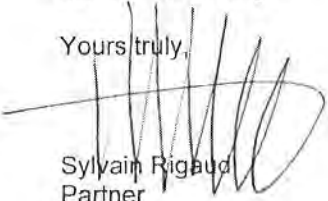
36e rapport du Contrôleur (Monitor's Thirty Sixth Report submitted by FTI Consulting Canada inc.),
le 26 mai 2017

Rolf Pritchard, Q.C.
May 9, 2017

NORTON ROSE FULBRIGHT

Copy of this letter and of the May 5th Order will be circulated to the parties on the Service List in the Wabush CCAA Proceedings.

Yours truly,



Sylvain Rigaud
Partner

SAR/ch/jrl

Enclosures:

Schedule A – Motion for Directions with Respect to Pension Claims;
Schedule B – List of Relevant Orders with respect to the Wabuth CCAA Parties; and
Schedule C – January 30th Order.

Appendix C

The Monitor's Reference Application

File No.2017 01H 0029

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

IN THE MATTER OF Section 13
of Part I of the *Judicature Act*,
R.S.N.L. 1990, c.J-4, as amended

AND

IN THE MATTER OF Section 32
of the *Pension Benefits Act*,
S.N.L. 1997, c.P-4.01

AND

IN THE MATTER OF a Reference
of the Lieutenant Governor in Council
to the Court of Appeal, for its hearing,
consideration and opinion on the
interpretation of the scope of section 32
of the *Pension Benefits Act*

APPLICATION TO THE COURT WITH SUPPORTING AFFIDAVIT

This is notice that the Applicant, FTI Consulting Canada Inc., in its capacity as court-appointed monitor of the Wabush CCAA Parties (as defined below), applies for an order granting the following relief:

1. That, pursuant to Rule 31(2) of the *Civil Appeal Rules*, the application and order dated 5 May 2017 (the "May 5th Order") in the within matter be reheard by a panel of this Honourable Court;
2. That Paragraph 5 of the May 5th Order be stayed until full argument can be heard with respect to the Applicant's position with respect to the timing and scope of the Reference.

Subject matter of the application:

1. The Applicant, FTI Consulting Canada Inc., is a body corporate incorporated under the laws of Canada and acts as court-appointed monitor ("**Monitor**") to Wabush Iron Co. Limited, Wabush Resources Inc., Wabush Mines, Arnaud Railway Company and Wabush Lake Railway Company Limited (collectively, the "**Wabush CCAA Parties**"). It is referred to in paragraph 2 of the May 5th Order as the "Monitor of the Quebec Proceeding". A copy of the May 5th Order is attached as **Schedule "A"** to this application.
2. The "Quebec Proceeding" refers to proceedings instituted pursuant to the terms of the *Companies' Creditors Arrangement Act*, R.S.C., c. C-36, as amended (the "**CCAA**") before the Quebec Superior Court for the district of Montreal ("**CCAA Court**") in the court record bearing number 500-11-048114-157 (the "**CCAA Proceedings**").
3. On September 20, 2016, the Monitor filed a *Motion for Directions with respect to pension claims*, as amended on April 13, 2017 (the "**Motion for Directions**") with respect (a) to the priority of pensions claims filed by the plan administrator of two pension plans, the whole pursuant to the order issued by the CCAA Court on November 5, 2015, as amended on November 16, 2015, which approved and established a procedure for the filing of creditors' claims against, among others, the Wabush CCAA Parties and their directors and officers, as well as (b) the applicability and scope of deemed trusts, if any, under the *Pensions Benefits Standards Act*, R.S.C. 1985, c. 32 (2nd Supp.) (the "**PBSA**") and the Newfoundland & Labrador *Pensions Benefits Act*, S.N.L. 1996, c. P-4.01 (the "**PBA**") as well as the Québec *Supplemental Pension Plans Act*, R.L.R.Q., c. R-15.1 (the "**SPPA**"). A copy of the Motion for Directions is attached as **Schedule "B"** to this application.
4. On January 30, 2017, Justice Hamilton of the CCAA Court rendered a written decision (the "**January 30 Decision**") with respect to the request of some parties within the CCAA Proceedings to have certain questions respecting the scope of the PBA and its effect on the CCAA Proceedings referred instead to the Court in Newfoundland and Labrador prior to the hearing on the Motion for Directions. A copy of this decision is attached as **Schedule "C"** to this application.
5. The questions sought to be addressed in the Reference can be found at paragraph 25 of the January 30 Decision, and are as follows:
 - I. The Supreme Court of Canada has confirmed in *Indalex* that provincial laws apply in CCAA proceedings, subject only to the doctrine of paramountcy. Assuming there is no issue of paramountcy, what is the scope of section 32 in the NPBA [NLPBA] deemed trusts in respect of:
 - a) unpaid current service costs;
 - b) unpaid special payments; and,

- c) unpaid wind-up liability.
2. The Salaried Plan is registered in Newfoundland and regulated by the NPBA.
- a) (i) Does the PBSA deemed trust also apply to those members of the Salaried Plan who worked on the railway (i.e., a federal undertaking)?

(ii) If yes, is there a conflict with the NPBA and PBSA if so, how is the conflict resolved?
 - b) (i) Does the SPPA also apply to those members of the Salaried Plan who reported for work in Québec?

(ii) If yes, is there a conflict with the NPBA and SPPA and if so, how is the conflict resolved?

(iii) Do the Quebec SPPA deemed trusts also apply to Québec Salaried Plan members?
3. Is the NPBA lien and charge in favour of the pension plan administrator in section 32(4) of the NPBA a valid secured claim in favour of the plan administrator? If yes, what amounts does this secured claim encompass?
6. The CCAA Court rejected the argument that these questions ought to be decided by Courts in Newfoundland and Labrador. These questions are identical to the ones forming the subject matter of the within Reference.
7. One of the parties requesting that certain questions be referred to the Courts in Newfoundland and Labrador in the CCAA Proceedings was Her Majesty in Right of Newfoundland and Labrador.
8. No appeal was taken of the January 30 Decision.
9. Subsequent to the January 30 Decision in the CCAA Proceedings, but prior to the *ex parte* application leading to the May 5th Order, counsel for the Applicant made multiple attempts to enter into discussions with counsel for Her Majesty in Right of Newfoundland and Labrador to express concerns with the potential overlap between the intended Reference and the CCAA Proceedings, particularly in respect of those questions posed within the Reference that are not limited to abstract interpretation of section 32 PBA.
10. The Applicant has concerns respecting the content of the Reference questions, which it desires to raise before this Honourable Court prior to the status hearing scheduled for June 9, 2017 and prior to the publication of notices (provided for at paragraph 5 of the May 5th Order, in the form of Appendix B thereto, hereinafter the "**Reference Notice**") in relation to the Reference.

11. Of paramount importance at this time is paragraph 5 of the May 5th Order, which provides for publication of the Reference Notice twice before May 26, 2017. The Applicant is particularly concerned that the Reference Notice as it currently exists is likely to cause confusion amongst parties and stakeholders, and further cause the Reference process to run afoul of the current stay of proceedings against the Wabush CCAA Parties or disrupt the conduct of the hearing on the Motion for Directions before the CCAA Court.
12. The stay of proceedings in place in favour of the Wabush CCAA Parties in the CCAA Proceedings stands until June 30, 2017 and can be the subject of further extensions. The scope of the stay is broad enough to encompass the Reference proceeding, as appears from paragraph 7 of the initial order issued in the CCAA Proceedings in respect of the Wabush CCAA Parties, dated May 20, 2015 (as subsequently, amended, rectified or restated from time to time):

ORDERS that, until and including June 19, 2015, or such later date as the Court may order the (the "**Stay Period**"), no proceeding or enforcement process in any Court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the CCAA Parties, or affecting the Business operations and activities of the CCAA Parties (the "Business") or the Property, including as provided hereinbelow except with the leave of this Court. Any and all proceedings currently under way against any or in respect of the CCAA Parties or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court, the whole subject to subsection 11.1 CCAA.
13. As to the whole of the Reference, the Applicant is concerned, even if the Reference is only consultative in nature and not binding or adjudicative of the issues between the parties (including more importantly the issues raised by the Motion for Directions pending in the CCAA Proceedings), that a duplicative and parallel process on inextricably related issues may give rise to an actual or perceived jurisdictional conflict, which may unduly undermine the legitimacy of the decisions of the CCAA Court.
14. Based on well-established precedents concerning the nature and scope of reference proceedings, the Applicant is of the view that the Reference should be limited to the matters relating exclusively to the interpretation of Section 32 of the PBA and that all other matters relating to the Wabush CCAA Parties or the CCAA Proceedings should be dealt with exclusively by the CCAA Court.
15. The Applicant is acutely aware that issues with respect to the scope of the Reference are the sorts of issues which this Honourable Court likely envisaged as being discussed at the upcoming status hearing, but submits that the timing of the public Reference Notices requires that some of these issues be addressed prior to that date.

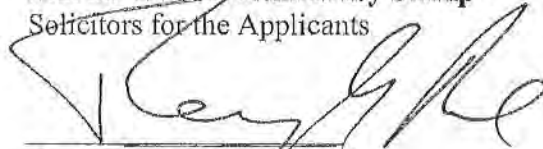
16. The balance of convenience favours delaying the sending of the Reference Notices until the scope of the Reference has been clarified. Clarification will enable the Reference hearing to be more streamlined, as the number of parties interested in an abstract question of Newfoundland law may likely be fewer than the number of parties who will wish to be heard on questions triggering jurisdictional questions across provinces, proceedings, and legislative levels.
17. If parties who might not be interested in a narrower Reference are forced to engage counsel and appear now to deal with a broader range of issues, then those parties will have expended time and resources, and engaged the resources of this Honourable Court, unnecessarily.
18. The Applicant therefore requests that the *ex parte* application giving rise to the May 5th Order be reheard as an *inter partes* matter before a panel of this Honourable Court. The Applicant also requests costs of this application as against Her Majesty in Right of Newfoundland and Labrador.

The affidavit that is necessary to support or provide the foundation for the application is attached.

The application is set to be heard on the 23rd day of May, 2017, at 10:00 a.m. or at such earlier date as may be set by this Court.

DATED AT St. John's, Newfoundland and Labrador, this 15th day of May, 2017.

Martin Whalen Hennebury Stamp
Solicitors for the Applicants



Per: Terry G. Rowe, Q.C.
Whose address for service is
P.O. Box 5910
15 Church Hill
St. John's, NL A1C 5X4

Norton Rose Fulbright Canada
Solicitors for the Intervenor

Per: Sylvain Rigaud

Whose address for service is
1 Place Ville Marie, Suite 2500
Montreal, Quebec, H3B 1R1

TO: Supreme Court of Newfoundland and Labrador
Court of Appeal
Duckworth Street
St. John's, NL

TO: Department of Justice and Public Safety
PO Box 8700
4th Floor, East Block
Confederation Building
St. John's, NL A1B 4J6
Canada
Attention: Rolf Pritchard, Q.C.

Original

File No. 2017 01H 0029

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL

IN THE MATTER OF Section 13 of Part
I of the *Judicature Act*, RSNL 1990, c. J-4

AND

IN THE MATTER OF Section 32 of the
Pension Benefits Act, 1997, SNL 1996, c.
P-4.01

AND

IN THE MATTER OF a Reference of
The Lieutenant-Governor in Council to the
Court of Appeal for its hearing,
consideration and opinion on the
interpretation of the scope of s. 32 of the
Pension Benefits Act, 1997

ORDER

BEFORE: Green C.J.N.L.

WHEREAS the Attorney General of Newfoundland and Labrador has applied for an order that
the Reference be inscribed for hearing and for an order for directions;

AND UPON HEARING Rolf Pritchard Q.C. and Philip Osborne on behalf of the Attorney
General;

IT IS ORDERED AND DIRECTED THAT:

1. The Reference be inscribed for hearing;
2. The Attorney General shall give notice of the inscription of the Reference and of this
Order, in the attached form marked "A", to:

Filed	May 5/17	JB
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- (a) The Attorney General of Canada;
- (b) The attorneys-general of each other province and territory of Canada;
- (c) FTI Consulting Canada Inc. (the "Monitor" in the Québec Proceeding);
- (d) Those persons named as petitioners in a proceeding in the Québec Superior Court (Commercial Division) identified as File No. 500-11-048114-157 (the "Québec Proceeding"), namely:
 - (i) Bloom Lake General Partner Limited;
 - (ii) Quinto Mining Corporation;
 - (iii) 8568391 Canada Limited;
 - (iv) Cliffs Quebec Iron Mining ULC;
 - (v) Wabush Iron Co. Limited; and
 - (vi) Wabush Resources Inc.;(collectively, the "Petitioners");
- (e) Those persons representing non-unionized pensioners in the Québec Proceeding, namely, Michael Keeper, Terence Watt, Damien LeBel and Neil Johnson (the "Non-unionized Pensioners");
- (f) The bodies representing unionized pensioners in the Québec Proceeding, namely, Syndicat des Métallos, Sections Locales 6254 et 6285 (the "Unionized Pensioners");
- (g) Morneau Shepell Ltd., in its capacity as Replacement Plan Administrator, as named in the Québec Proceeding (the "Replacement Plan Administrator");
- (h) Her Majesty in Right of Newfoundland, as represented by the Superintendent of Pensions (the "NL Superintendent");



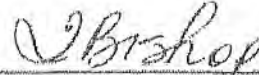
- (i) The Attorney General of Canada, acting on behalf of the Office of the Superintendent of Financial Institutions, as named in the Québec Proceeding (the "Canadian Superintendent");
 - (j) Régime de rentes du Québec, as named in the Québec Proceeding (the "Québec Regulator"); and
 - (k) Ville de Sept-Îles (the "Town").
3. The persons notified in paragraph 2 of this Order shall on or before May 31, 2017 file a Notice of Intention to Intervene with the Registry of the Court if they wish to intervene and be heard, either orally or in writing, in the Reference. Thereafter, such persons who file a Notice shall, unless otherwise ordered by the Court, have the right to be heard in the Reference.
 4. Any other persons claiming to be interested parties to the Reference and wishing to intervene and be heard, either orally or in writing, shall on or before May 31, 2017 apply to the Court for leave to intervene, with the application returnable on June 9, 2017.
 5. The Attorney General shall cause a notice, in the attached form marked "B", to be published on at least two occasions before May 26, 2017 in each of the newspapers listed in the attached schedule marked "C" and provide proof of publication by filing an affidavit in the Court.
 6. Every other party on the service list in the Québec Proceeding, attached as schedule "D", who was not previously listed in paragraph 2 of this Order (collectively, the "Other Parties"), shall be given the notice published in the newspapers under paragraph 5 and they may apply for leave to intervene in the Reference under paragraph 4.



7. The Attorney General of Newfoundland and Labrador, the Attorney General of Canada the other Attorneys General and any person who has given Notice of Intention to Intervene under paragraph 3 or has applied to intervene and been granted intervenor status under paragraph 4 may be at liberty to adduce evidence on the Reference by the filing of materials, subject to further direction and order of the Court.
8. The timetable for the perfection of the Reference and the disposition of other preliminary matters shall, subject to further direction, amplification or modification by the Court, be as set forth in the attached schedule marked "E".
9. A status hearing shall be held on June 9, 2017 at 10:00 A.M. to address, amongst other things:
 - (a) Applications to intervene under paragraph 4 of this order;
 - (b) Whether any group of intervenors may be able to be treated as a class for the purpose of appointing a representative under section 19 of the *Judicature Act*;
 - (c) The nature of any evidence to be filed on the Reference and the manner and timing of its presentation;
 - (d) Any adjustments to the timetable for perfection of the Reference;
 - (e) The setting of dates and times for dealing with any other preliminary applications;
and
 - (f) The giving of any further directions or making of such further orders as may be necessary or desirable to advance the hearing of the Reference.
10. The Attorney General of Newfoundland and Labrador, the Attorney General of Canada and any other person who has given Notice of Intention to Intervene under paragraph 3 or who has applied to intervene and been granted intervenor status under paragraph 4 have

leave to apply for further directions and orders as may be appropriate and as their
interests may appear.

DATED at St. John's, NL this 5th day of May 2017.



COURT
OFFICER



SCHEDULE "B"

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N^o: 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-

HER MAJESTY IN RIGHT OF NEWFOUNDLAND
& LABRADOR, AS REPRESENTED BY THE
SUPERINTENDENT OF PENSIONS

THE ATTORNEY GENERAL OF CANADA, ACTING ON
BEHALF OF THE OFFICE OF THE SUPERINTENDENT
OF FINANCIAL INSTITUTIONS

MICHAEL KEEPER, TERENCE WATT, DAMIEN LABEL
AND NEIL JOHNSON

UNITED STEEL WORKERS, LOCALS 6254 AND 6285

RETRAITE QUÉBEC

MORNEAU SHEPELL LTD., IN ITS CAPACITY AS
REPLACEMENT PENSION PLAN ADMINISTRATOR

Mis-en-cause

- 2 -

-and-

FTI CONSULTING CANADA INC.

Monitor

**AMENDED MOTION BY THE MONITOR FOR DIRECTIONS
WITH RESPECT TO PENSION 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 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, Quinto Mining Corporation, 8568391 Canada Limited, and Cliffs Québec Iron Mining ULC (**CQIM**), as well as Mises-en-cause The Bloom Lake Iron Ore Mine Limited Partnership and Bloom Lake Railway Company Limited (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 (subsequently extended from time to time, and most recently until September 30, 2016 by Order dated April 20, 2016);
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. For ease of reference a copy of the Wabush Initial Order dated May 20, 2015, as rectified on May 28, 2015, is communicated herewith as **Exhibit R-1**;
4. Pursuant to the Wabush Initial Order (R-1), *inter alia*, the Monitor was appointed as the monitor of the Wabush CCAA Parties, and a stay of proceedings was granted in respect of the Wabush CCAA Parties until June 19, 2015 (subsequently extended from time to time, and most recently until September 30, 2016 by Order dated April 20, 2016);
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 the Claims Procedure Order, a copy of which is communicated in support herewith for ease of reference as **Exhibit R-2**;

6. Capitalized terms not otherwise defined herein have the meaning ascribed thereto in the Claims Procedure Order (R-2);
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, *inter alia*, paragraphs 39 and 65 the Wabush Initial Order (R-1);
8. Moreover, paragraphs 61 and 68 of the Claims Procedure Order (R-2) 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 priority of Pension Claims filed by the Plan Administrator pursuant to the Claims Procedure Order (R-2), and the applicability and scope of deemed trusts, if any, under the *Pension Benefits Standards Act*, R.S.C. 1985, c. 32 (2nd Supp.) (PBSA) and the Newfoundland & Labrador *Pension Benefits Act*, S.N.L. 1996, c. P-4.01 (PBA) as well as the Québec Supplemental Pension Plans Act, R.L.R.Q., c. R-15.1 (SPPA), the whole as more fully set out below;
10. Specifically, the Monitor is asking the Court to issue an Order in the form of the draft Order communicated herewith as **Exhibit R-3** with respect to the priority of the various components of the Salaried DB Plan Claim and the Union DB Plan Claim (each as defined herein below);

II. OVERVIEW OF WABUSH CCAA PROCEEDINGS

11. As stated in paragraphs 16 to 19 and 21 of the *Motion for the Issuance of an Initial Order* of the Wabush CCAA Parties dated May 19, 2015 (the **Wabush Initial Motion**), a copy of which is communicated herewith as **Exhibit R-4**, there were no operations as of the date of the Wabush Initial Order at either the Wabush Pointe-Noire pellet plant (the **Pointe-Noire Plant**) or the Wabush Mine (as defined in the Wabush Initial Motion);
12. The Pointe-Noire Plant had been shut down in June 2013, while the Wabush Mine was shut down in the first quarter of 2014, and substantially all of the employees at both sites had been terminated or laid off prior to the issuance of the Wabush Initial Order, as stated in paragraphs 37 and 38 and 87 to 96 of the Wabush Initial Motion (R-4);
13. The Wabush Initial Order (R-1) provided for *inter alia*:
 - a) The creation of non-priming charges, including an Administration Charge for an aggregate amount of \$1,750,000, a Directors' Charge for an aggregate amount of \$2,000,000, and an Interim Lender Charge for an aggregate amount of \$15,000,000 (each as defined in the Wabush Initial Order, and collectively referred to as the **CCAA Charges**);
 - b) The permission, but no requirement, for the Wabush CCAA Parties to pay normal cost pension contributions payable on or after the date thereof as follows:

[12] **ORDERS** that the Wabush CCAA Parties shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- 4 -

(a) all outstanding and future wages, salaries, bonuses, employee and current service pension contributions, expenses, benefits, vacation pay and termination and severance obligations payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; [...] [Emphasis added]

14. On June 9, 2015, the Court issued an order with respect to the Wabush CCAA Parties (the **Wabush Comeback Order**), a copy of which is communicated herewith for ease of reference as **Exhibit R-5**, which provided for *inter alia*:

- a) The approval on a *nunc pro tunc* basis of the **SISP** (as defined therein) with respect to the Wabush CCAA Parties;
- b) The creation of the **Sale Advisor Charge** (as defined in paragraph 16 thereof);
- c) The priority status of the CCAA Charges and the Sale Advisor Charge, to rank ahead of all Encumbrances (as defined therein), subject to the rights of the various parties having objected to the priming of the Interim Lender Charge;
- d) The adjournment to June 22, 2015 of the debate as to both the proposed priority of the Interim Lender Charge and the suspension by the Wabush CCAA Parties of its special payments to the DB Plans (as defined below), as follows:

[5] **ORDERS** that paragraph 47 of the Wabush Initial Order shall be amended as follows:

[47] **DECLARES** that each of the CCAA Charges shall rank ahead of all hypothecs, mortgages, liens, security interests, priorities, trusts, deemed trusts (statutory or otherwise), charges, encumbrances or security of whatever nature or kind (collectively, the "**Encumbrances**") [...] affecting the Property of the Wabush CCAA Parties whether or not charged by such Encumbrances [...], with the exception of the Crown deemed trusts for sources deductions described in Section 37(2) CCAA and the sums that could be subject to a claim under Section 38(3) CCAA. For greater certainty, the CCAA Charges only extend to assets or rights against assets over which the Wabush CCAA Parties hold or acquire title and the Interim Lender's Charge is subject to the Permitted Priority Liens (as defined in the Interim Financing Term Sheet). [underlining in the original]

[6] **RESERVES** the rights of Her Majesty in right of Newfoundland and Labrador, as represented by the Superintendent of Pensions, the Syndicat des Métallos, Section Locale 6254, the Syndicat des Métallos, Section 6285 and the Attorney General of Canada to contest the priority of the Interim Lender Charge over the deemed trust(s) as set out in the Notices of Objection filed by each of those parties in response to the Motion, which shall be heard and determined at the hearing scheduled on June 22, 2015. [Emphasis added.]

[...]

[21] **ORDERS** the request by the Wabush CCAA Parties for an order for the suspension of payment by the Wabush CCAA Parties of the monthly amortization payments coming due pursuant to the Contributory Pension Plan for Salaried Employees of Wabush Mines, CMC, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company and the Pension Plan for Bargaining Unit Employees of Wabush Mines, CMC, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company, *nunc pro tunc* to the Wabush Filing Date is adjourned to June 22, 2015; [Emphasis added.]

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[22] ORDERS the request by the Wabush CCAA Parties for an order for the suspension of payment by the Wabush CCAA Parties of the annual lump sum "catch-up" payments coming due pursuant to the Contributory Pension Plan for Salaried Employees of Wabush Mines, CMC, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company and the Pension Plan for Bargaining Unit Employees of Wabush Mines, CMC, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company, *nunc pro tunc* to the Wabush Filing Date is adjourned to June 22, 2015; [Emphasis added.]

the whole as it appears from the Wabush Comeback Order (R-5);

15. A copy of the *Motion for the Issuance of an order in respect of the Wabush CCAA parties (1) granting priority to certain CCAA charges, (2) approving a Sale and Investor Solicitation Process *nunc pro tunc*, (3) authorizing the engagement of a Sale Advisor *nunc pro tunc*, (4) granting a Sale Advisor Charge, (5) amending the Sale and Investor Solicitation Process, (6) suspending the payment of certain pension amortization payments and post-retirement employee benefits, (7) extending the stay of proceedings, (8) amending the Wabush Initial Order accordingly of the Wabush CCAA Parties dated May 29, 2015 (the **Wabush Comeback Motion**), which led to the Wabush Comeback Order (R-5), is also communicated herewith for ease of reference as **Exhibit R-6**;*

16. By way of judgment dated June 26, 2015, the Court rendered Orders with respect to the priority of the Interim Lender Charge and the suspension of payment of monthly and annual lump sum "catch-up" payments (the **Pension Priority and Suspension Order**), as follows:

[143] [...] **CONFIRMS** the priority of the Interim Lender Charge over deemed trusts, as set out in paragraph 47 of the Wabush Initial Order, as amended on June 9, 2015;

[144] ORDERS the suspension of payment by the Wabush CCAA Parties of the monthly amortization payments coming due pursuant to the Contributory Pension Plan for Salaried Employees of Wabush Mines, CMC, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company and the Pension Plan for Bargaining Unit Employees of Wabush Mines, CMC, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company, *nunc pro tunc* to the Wabush Filing Date;

[145] ORDERS the suspension of payment by the Wabush CCAA parties of the annual lump sum "catch-up" payments coming due pursuant to the Contributory Pension Plan for Salaried Employees of Wabush Mines, CMC, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company and the Pension Plan for Bargaining Unit Employees of Wabush Mines, CMC, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company, *nunc pro tunc* to the Wabush Filing Date; [Emphasis added.]

the whole as it appears from the Pension Priority and Suspension Order, a copy of which is communicated herewith as **Exhibit R-7**;

17. Motion for leave to appeal the Pension Priority and Suspension Order (R-7) was dismissed by the Court of Appeal on August 18, 2015, as appears from the judgment of the Honourable Nicholas Kasirer, J.C.A., a copy of which is communicated herewith as **Exhibit R-8**;

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18. On February 1, 2016, the Court issued Approval and Vesting Orders with respect to:
- a) An Asset Purchase Agreement dated as of December 23, 2015, a copy of which is communicated herewith as **Exhibit R-9**, whereby CQIM, Wabush Resources, Wabush Iron and Arnaud Railway (collectively, the **Port Vendors**) agreed to sell to Investissement Québec (together with Société ferroviaire et portuaire de Pointe-Noire s.e.c., its subsequent assignee pursuant to an agreement dated January 29, 2016, the **Port Purchaser**), substantially all of the assets, with the exception of certain excluded assets, of the Port Vendors relating to the Pointe-Noire Plant, the port facility located in the Bay of Sept-Îles (the **Pointe-Noire Port Facility**), and the Arnaud railway (collectively, the **Port Assets**), the whole as appears from the Approval and Vesting Order dated February 1, 2016 issued with respect to the Port Assets (the **Port Approval and Vesting Order**), communicated herewith as **Exhibit R-10**;
 - b) An Asset Purchase Agreement dated as of January 26, 2016, a copy of which is communicated herewith as **Exhibit R-11**, whereby Wabush Resources and Wabush Iron (the **Block Z Vendors**) agreed to sell to Administration Portuaire de Sept-Îles / Sept-Îles Port Authority (the **Block Z Purchaser**), the immovable property known as "Block Z" located near the Pointe-Noire Port Facility, the whole as appears from the Approval and Vesting Order dated February 1, 2016 issued with respect to Block Z (the **Block Z Approval and Vesting Order**), communicated herewith as **Exhibit R-12**;
19. The Port Approval and Vesting Order (R-10) and the Block Z Approval and Vesting Order (R-12) provided for the vesting of the assets on a free and clear basis, with the net proceeds from both transactions to stand in "the place and stead" of the Port Assets and the Block Z, respectively:
- ORDERS that for the purposes of determining the nature and priority of the Encumbrances, the balance of the Proceeds remaining following deduction for applicable Cure Costs (if any) and Transfer Taxes (if any is payable) that are remitted by the Monitor pursuant to Paragraph 10 of this Order (the "Net Proceeds") shall stand in the place and stead of the Purchased Assets, and that upon the issuance of the Certificate, all Encumbrances except for the Permitted Encumbrances shall attach to the Net Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the Closing, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the Closing.
- [Para. 21 of the Port Approval and Vesting Order and para. 19 of the Block Z Approval and Vesting Order. Emphasis added.]
20. The total outstanding amount owing to the Interim Lender under the Interim Financing Documents (as defined in the Port Approval and Vesting Order) was repaid by the Monitor using the proceeds of the sale of the Port Assets, as contemplated in the Port Approval and Vesting Order (R-10);

III. DEFINED BENEFIT PENSION PLANS AND CONTRIBUTIONS

A. Defined Benefit Pension Plans

21. Two of the Pension Plans in place for the CCAA Parties' Employees contained defined benefit schemes:
- a) A hybrid pension plan for salaried employees at the Wabush Mine and the Pointe-Noire Port hired before January 1, 2013, known as the Contributory Pension Plan for Salaried Employees of Wabush Mines, Cliffs Mining Company, Managing Agent, Arnaud Railway Company and Wabush Lake Railway Company, Limited, registered with the Newfoundland & Labrador Superintendent of Pensions (the N&L Superintendent) under member 021314 and the Canada Revenue Agency under number 0343558, as amended and restated effective as of January 1, 1997, together with subsequent amendments thereto¹, communicated herewith as Exhibit R-23 (the Salaried DB Plan), which included both defined benefit and defined contribution components [...]; and
 - b) A pension plan for unionized hourly employees at the Wabush Mine and the Pointe-Noire Port, known as the Pension Plan for Bargaining Unit Employees of Wabush Mines, Cliffs Mining Company, Managing Agent, Arnaud Railway Company, [...] Wabush Lake Railway Company, Limited, registered with the Newfoundland & Labrador Superintendent of Pensions under number 024699, the Office of the Superintendent of Financial Institutions of Canada (OSFI) under number 57777, and the Canada Revenue Agency under number 0555201, as amended and restated effective as of March 1, 1996, together with subsequent amendments thereto², communicated herewith as Exhibit R-24 (the Union DB Plan), and together with the Salaried Pension Plan, the DB Plans);
- both of which were administered by Wabush Mines (the **Plan Administrator**), until the DB Plans were terminated in December 2015. The Plan Administrator was subsequently replaced by Morneau Shepell Ltd. (the **Replacement Plan Administrator**), the whole as further detailed herein below;
22. [...]
23. [...]
24. On December 15, 2015, the Wabush CCAA Parties received two notices from the [...] N&L Superintendent announcing the termination, effective as of that date, of both DB Plans (the **N&L Termination Notices**), as appears from the copy of said notices, communicated herewith *en l'asse* as **Exhibit R-13**;

¹ It would appear that the amendments were only received by the N&L Superintendent on July 30, 2015.

² It would appear that the amendments were only received by the N&L Superintendent on July 30, 2015.

25. In the N&L Termination Notice (R-13), the N&L Superintendent noted the following:
- a) The Wabush CCAA Parties had discontinued or were in the process of discontinuing all of their business operations within the meaning of Section 59(1)(b) PBA; and
 - b) The N&L Superintendent was of the opinion that the DB Plans had failed to meet the solvency requirements prescribed by the applicable regulations within the meaning of Section 59(1)(d) PBA;
26. Also on December 15, 2015, the Wabush CCAA Parties received a notice from [...] OSFI, declaring the termination, effective as of that date, of the Union DB Plan (the **OSFI Termination Notice**, and collectively with the N&L Termination Notices, the **Termination Notices**), as appears from a copy of the OSFI Termination Notice, communicated herewith as **Exhibit R-14**;
27. In the OSFI Termination Notice (R-14), OSFI noted the following:
- a) Special payments had been suspended in the CCAA Proceedings;
 - b) The Wabush Mine had been shut down and substantially all the Wabush CCAA Parties' employees had been terminated;
 - c) OSFI was of the opinion that the DB Plans had failed to meet the prescribed tests and standards for solvency under the PBA;
 - d) There had been a cessation of crediting of benefits to plan members;
28. In the Termination Notices (R-13 and R-14), both OSFI and the N&L Superintendent indicated that the Wabush CCAA Parties were required to pay into the pension funds all amounts that would have been required to be paid to meet the prescribed solvency requirements, as well as the amounts necessary to fund the benefits provided for in the DB Plans. Both OSFI and the N&L Superintendent of Pensions also took the position that a deemed trust had arisen in respect of such amounts;
29. On March 30, 2016, upon written requests by the Wabush CCAA Parties, OSFI and the N&L Superintendent appointed the Replacement Pension Plan Administrator in respect to both DB Plans, as appears from the three notices received from OSFI and the N&L Superintendent, communicated herewith *en l'asse* as **Exhibit R-15**;

B. Employer Contributions

(i) Normal Costs

30. The normal cost payments were made to the [...] DB Plans by the Wabush CCAA Parties based on the actuarial reports prepared by Towers Watson Canada Inc. (as it then was, now Willis Towers Watson, hereinafter **Towers Watson**) in its capacity as consultant to the Plan Administrator [...] prior to the appointment of the Replacement Pension Plan Administrator;

31. The normal cost payments with respect to the Salaried DB Plan were fully paid as of the Wabush Initial Order, and were in fact overpaid in the amount of \$169,961 as of December 15, 2015, the date of the termination of the Salaried DB Plan, as appears from the summary table with respect to the Salaried DB Plan prepared by the Replacement Pension Plan Administrator (the **Salaried DB Plan Summary**), a copy of which is communicated herewith as **Exhibit R-16**;
32. The normal cost payments with respect to the Union DB Plan were fully paid as of the Wabush Initial Order and continued to be paid up until December 15, 2015, the date of the termination of the Union DB Plan, (including a payment of \$ 22,893 for December 2015 being the amount for the month prorated to the Union DB Plan termination date), as appears from the summary table with respect to the Union DB Plan prepared by the Replacement Pension Plan Administrator (the **Union DB Plan Summary**), communicated herewith as **Exhibit R-17**. It is noted that the Salaried DB Plan Summary and the Union DB Plan Summary appear to have rounding errors in the some of the totals shown thereon;

(ii) **Special Payments**

33. As appears from Section 2 of the Salaried DB Plan Summary (R-16):
 - a) The special payments with respect to the Salaried DB Plan required to be paid prior to the date of the Wabush Initial Order were paid in full except for \$3;
 - b) One special payment in the amount of \$273,218 was paid after the date of the Wabush Initial Order and before the granting of the Pension Priority and Suspension Order (R-7), which payment constituted an underpayment of \$1;
 - c) The special payments required to be paid after the date of the Pension Priority and Suspension Order (R-7) , and which, in conformity with the Pension Priority and Suspension Order (R-7), were not paid, amount to \$ 2,185,752;

the whole based on a Towers Watson actuarial report dated September 12, 2014 for actuarial valuation as at January 1, 2014;

34. As appears from Section 2 of the Union DB Plan Summary (R-17):
 - a) The special payments with respect to the Union DB Plan required to be paid prior to the date of the Wabush Initial Order were underpaid in the amount of \$146,776;
 - b) One special payment in the amount of \$393,337 was paid after the date of the Wabush Initial Order and before the granting of the Pension Priority and Suspension Order (R-7), which payment constituted an overpayment of \$16,308;
 - c) The special payments required to be paid after the date of the Pension Priority and Suspension Order (R-7), and which, in conformity with the Pension Priority and Suspension Order (R-7), were not paid, amount to \$3,016,232;

the whole based on a Towers Watson actuarial report dated September 12, 2014 for actuarial valuation as at January 1, 2014;

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(iii) Catch-Up Special Payments

35. In the Wabush Comeback Motion (R-6), the Wabush CCAA Parties indicated that lump sum "catch up" special payments (each, a **Catch-Up Payment**) were estimated to be approximately \$5.5 million for both DB Plans and would become payable as of July 2015 (at paragraph 88);
36. Subsequently, the Wabush CCAA Parties determined that no such Catch-Up Payment was due in respect of the Salaried DB Plan;
37. The Catch-Up Payment in respect of the Union DB Plan for its part was revised and estimated to be approximately \$1.9 million;
38. In fact, pursuant to a Towers Watson actuarial report dated July 1, 2015 for an actuarial valuation as of January 1, 2015, which only became available after the issuance of the Wabush Initial Order, additional special payments in the aggregate amount of \$3,525,120 were required with respect to the Union DB Plan, as appears from the Union DB Plan Summary (R-17);
39. As also appears from Section 3 thereof (R-17), these additional special payments with respect to the Union DB Plan were payable by way of a Catch-Up Payment of \$1,762,560 due August 26, 2015, and thereafter in additional special payments payable in six monthly instalments of \$293,760 starting August 30, 2015;
40. None of these monthly additional special payments were paid or kept separate and apart from their own moneys by the Wabush CCAA Parties, nor was any Catch-Up Payment made (or kept separate and apart by the Wabush CCAA Parties from their own moneys) with respect to the Union DB Plan, the whole as contemplated and authorized by the Pension Priority and Suspension Order (R-7);

(iv) Wind-Up Deficiencies

41. In the Wabush Comeback Motion (at paragraph 83), based on estimates received from Towers Watson, the Wabush CCAA Parties estimated the wind-up deficits to be approximately \$18.2 million for the Salaried DB Plan and \$23.3 million for the Union DB Plan;
42. [...] The Replacement Pension Plan Administrator [...] later informed the Monitor that it [...] expected the wind-up deficits as at December 16, 2015, to be approximately \$26.7 million for the Salaried DB Plan and \$27.7 million for the Union DB Plan;
- 42.1 In December 2016, Morneau Shepell filed a report titled "Wind-Up Actual Valuation as at December 16, 2015" in respect of the Salaried DB Plan (the Salaried DB Plan Wind-Up Report), a copy of which is communicated herewith as Exhibit R-25;
- 42.2 Based on the Salaried DB Plan Wind-Up Report (R-25), the financial position of the Salaried DB Plan as of December 16, 2015 presented a wind-up deficit of \$27.45 million, as appears from page 3 thereof;

- 42.3 On December 14, 2016, Towers Watson filed a report titled "Plan Termination as at December 16, 2015" in respect of the Union DB Plan (the Union DB Plan Wind-Up Report and together with the Salaried DB Plan Wind-Up Report, the Wind-Up Reports³), a copy of which is communicated herewith as Exhibit R-26;
- 42.4 Based on the Union DB Plan Wind-Up Report (R-26), the financial position of the Union DB Plan as of December 16, 2015 presented a wind-up deficit of \$27,486,548, as appears from pages 8 and 9 thereof. This calculation does not account for the benefits covered by Section 17 PBSA, which is qualified as "Priority no. 2" ranking after the wind-up deficit and would represent an additional wind-up liability of \$2,349,912, as appears from pages 4 and 10 of the Union DB Plan Wind-Up Report;

(v) Summary of Amounts Owing

43. In summary and based on the foregoing, the amounts owing to the [...] DB Plans based on payment due date are as follows:

	Salaried DB Plan	Union DB Plan
Normal Cost Payments		
Pre-filing	\$0	\$0
Post-Filing	\$0	\$0
Total	\$0	\$0
Special Payments		
Pre-filing	\$3	\$146,776
Post-Filing	\$2,185,753	\$2,999,924
Total	\$2,185,756	\$3,146,700
Catch-up Special Payments		
Pre-filing	\$0	\$0
Post-Filing	\$0	\$3,525,120
Total	\$0	\$3,525,120
[...] Wind-Up Deficits	\$27,450,000	\$27,486,548⁴

³ Both Wind-up Reports remain subject to review and approval by the pension regulators.

⁴ Excluding the additional wind-up deficit in the amount of \$ 2,349,912 (see para. 42.4 above).

IV. PENSION CLAIMS

44. The Claims Procedure Order (R-2) provides for specific procedures with respect to Pension Claims, as follows:

[32] **ORDERS** that the Plan Administrator will have the sole authority to file Proofs of Claim with respect to any and all Pension Claims.

[32.1] **ORDERS** that the Monitor shall provide to the Pension Regulator and the Representatives' Counsel a copy of each Proof of Claim filed in respect of the Salaried Pension Plan and details of any determination by the Monitor of a Pension Claim in respect of the Salaried Pension Plan.

[32.2] **ORDERS** that the Monitor shall provide to the Pension Regulator and the USW a copy of each Proof of Claim filed in respect of the Union Pension Plan and details of any determination by the Monitor of a Pension Claim in respect of the Union Pension Plan.

[...]

[38.1] **ORDERS** that the Pension Regulator and the Representatives' Counsel may file a Notice of Dispute with respect to any determination by the Monitor of a Pension Claim in respect of the Salaried Pension Plan, including for the purpose of asserting any trust claims in respect of the Salaried Pension Plan, and if no Notice of Dispute is filed within fourteen (14) days of the date of receipt of the Monitor's notice of its determination of a Pension Claim in respect of the Salaried Pension Plan such determination shall be deemed to be the Allowed Claim. If a Notice of Dispute is filed by the Pension Regulator or the Representatives' Counsel within the time specified herein, paragraphs 37 and 46 to 51 hereof shall apply *mutatis mutandi*.

[38.2] **ORDERS** that the Pension Regulator and the USW may file a Notice of Dispute with respect to any determination by the Monitor of a Pension Claim in respect of the Union Pension Plan, including for the purpose of asserting any trust claims in respect of the Union Pension Plan, and if no Notice of Dispute is filed within fourteen (14) days of the date of receipt of the Monitor's notice of its determination of a Pension Claim in respect of the Union Pension Plan such determination shall be deemed to be the Allowed Claim. If a Notice of Dispute is filed by the Pension Regulator or the USW within the time specified herein, paragraphs 37 and 46 to 51 hereof shall apply *mutatis mutandi*.

[38.3] **ORDERS** that the Pension Regulator and the Representatives' Counsel shall be given written notice by the Monitor of, and are entitled to participate in (i) any hearing before a Claims Officer concerning a Pension Claim in respect of the Salaried Pension Plan and (ii) any hearing before the Court concerning a Pension Claim in respect of the Salaried Pension Plan.

[38.4] **ORDERS** that the Pension Regulator and the USW shall be given written notice by the Monitor of, and are entitled to participate in (i) any hearing before a Claims Officer concerning a Pension Claim in respect of the Union Pension Plan and (ii) any hearing before the Court concerning a Pension Claim in respect of the Union Pension Plan. [Emphasis added]

45. On December 18, 2015, the Plan Administrator filed, in accordance with the Claims Procedure Order (R-2), Proofs of Claim with respect to each of the DB Plans, as follows:
- a) With respect to the Salaried DB Plan, (i) a secured Claim in the amount of \$24,000,000 against Wabush Mines, Arnaud Railway and Wabush Railway (for

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the wind-up deficit), and (ii) a Restructuring Claim in the amount of \$1,932,940 against Wabush Mines, Arnaud Railway and Wabush Railway (for unpaid special payments), the whole as appears from said Proof of Claim (in the amount finally determined in accordance with the Claims Procedure Order, the **Salaried DB Plan Claim**), a copy of which is communicated herewith as **Exhibit R-18**; and

- b) With respect to the Union DB Plan, (i) a secured Claim in the amount of \$29,000,000 against Wabush Mines, Arnaud Railway and Wabush Railway (for the wind-up deficit), and (ii) a Restructuring Claim in the amount of \$6,059,238 against Wabush Mines, Arnaud Railway and Wabush Railway (for unpaid special payments), the whole as appears from said Proof of Claim (in the amount finally determined in accordance with the Claims Procedure Order, the **Union DB Plan Claim**), a copy of which is communicated herewith as **Exhibit R-19**;

V. APPLICABLE STATUTORY REGIME

46. [...]

46.1 As noted above, the DB Plans are registered with OSFI and/or the N&L Superintendent;

46.2 The PBSA applies to pension plans providing benefits to employees and retirees employed in "included employment", which in turn is defined as work, undertaking of business that falls within the legislative authority of the Parliament of Canada, including navigation and shipping and extra-provincial railways, the whole as provided for in Section 4 PBSA:

4 (1) This Act applies in respect of pension plans.

(2) In this Act, pension plan means a superannuation or other plan organized and administered to provide pension benefits to employees employed in included employment (and former employees) and to which the employer is required under or in accordance with the plan to contribute [...]

(4) In this Act, included employment means employment, other than excepted employment, on or in connection with the operation of any work, undertaking or business that is within the legislative authority of the Parliament of Canada, including, without restricting the generality of the foregoing,

(a) any work, undertaking or business operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of a ship and transportation by ship anywhere in Canada;

(b) any railway, canal, telegraph or other work or undertaking connecting a province with another province or extending beyond the limits of a province [...]

(6) The Governor in Council may make regulations excepting from included employment [...]

(b) any other employment if the Governor in Council, on a report of the Minister, is satisfied that

(i) provision has been made for the coverage of employees employed in that employment under the terms of a pension plan that is organized and administered for the benefit primarily of employees employed in other than included employment and that is required to be registered under the law of a designated province [...] [Emphasis added.]

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- 46.3 No regulation exempting the DB Plans from the application of the PBSA were adopted pursuant to Subsection 4(6)(b) above;
- 46.4 The PBA applies to pension plans for persons employed in Newfoundland & Labrador, except those to which an Act of the Parliament of Canada applies, as provided for in Section 5 PBA:
5. This Act applies to all pension plans for persons employed in the province [of Newfoundland & Labrador], except those pension plans to which an Act of the Parliament of Canada applies.
- 46.5 Subsection 2(ee) PBA defines "province of employment" as "the province where an employee reports for work, but if the employee is not required to report for work, the province where an employer's establishment is located from which an employee's remuneration is paid";
- 46.6 The SPPA applies to pension plans provided for employees who report for work at an establishment of their employer located in Québec, as provided for in Section 1 thereof:
1. This Act applies to pension plans provided
- (1) for employees who report for work at an establishment of their employer located in Québec or, if not, who receive their remuneration from such an establishment, provided, in the latter case, they do not report for work at any other establishment of their employer;
- (2) for employees not referred to in paragraph 1 who, while residing in Québec and being employed by an employer whose main establishment is located in Québec, work outside Québec, provided the plans are not governed by an Act of a legislative body other than the Parliament of Québec which provides for a deferred pension.
- 46.7 The Salaried DB Plan is comprised of 656 members, approximately half of which were employed in the province of Québec, with the other half in Newfoundland & Labrador⁵;
- 46.8 The Union DB Plan is comprised of 1732 members, the majority of which are in the province of Newfoundland & Labrador;
- 46.9 Following the termination of the Salaried DB Plan, 14 of its members were found to be subject to federal legislation as a result of the nature of their functions, as explained at page 4 of the Salaried DB Plan Wind-Up Report (R-25)⁶;
- 46.10 As for the Union DB Plan, it would appear that 55 of its 1732 members are governed by federal jurisdiction as a result of the nature of their functions;
- 46.11 Based on the foregoing and the information found in the Wind-Up Reports (R-25 and R-26), the members of both DB Plans appear to be subject to the following jurisdictions:

⁵ As noted in Appendix C of the Salaried DB Plan Wind-Up Report (R-25, at page 19), the membership data is currently under review and remains subject to change.

⁶ See note 3 above with respect to membership data.

	Salaried DB Plan ⁷	Union DB Plan	TOTAL
Newfoundland & Labrador PBA	313	1005	1318
Québec SPPA	329	661	990
Federal PBSA	14	66	80
TOTAL	656	1732	2388

46.12 Sections 6.1 PBSA, 8(2) PBA and 249 SPPA each provide for the entering into of multilateral agreements as between the federal government and that of provinces with a view to determine, *inter alia*, the legislative regime applicable to multi-jurisdictional pension plans;

V.1 DEEMED TRUSTS

46.13 The PBSA, the PBA and the SPPA all include provisions with respect to deemed trusts applicable under certain circumstances with respect to unpaid pension contributions;

A. PBSA

47. Section 8(1) of the PBSA requires an employer to segregate funds from its own moneys, including for certain types of payments owing to the pension fund, and further provides that a trust is deemed to have arisen with respect to said funds for the benefit of the pension members:

8 (1) An employer shall ensure, with respect to its pension plan, that the following amounts are kept separate and apart from the employer's own moneys, and the employer is deemed to hold the amounts referred to in paragraphs (a) to (c) in trust for members of the pension plan, former members, and any other persons entitled to pension benefits under the plan:

(a) the moneys in the pension fund,

(b) an amount equal to the aggregate of the following payments that have accrued to date:

(i) the prescribed payments, and

(ii) the payments that are required to be made under a workout agreement; and

(c) all of the following amounts that have not been remitted to the pension fund:

(i) amounts deducted by the employer from members' remuneration, and

(ii) other amounts due to the pension fund from the employer, including any amounts that are required to be paid under subsection 9.14(2) or 29(6).

[Emphasis added.]

⁷ See note 3 above with respect to membership data.

48. Section 8(2) PBSA provides that the amounts deemed to be held in trust pursuant to Section 8(1) shall not form part of the estate of the employer upon in the event of its liquidation, assignment or bankruptcy:

(2) In the event of any liquidation, assignment or bankruptcy of an employer, an amount equal to the amount that by subsection (1) is deemed to be held in trust shall be deemed to be separate from and form no part of the estate in liquidation, assignment or bankruptcy, whether or not that amount has in fact been kept separate and apart from the employer's own moneys or from the assets of the estate.

[Emphasis added.]

49. Section 29 PBSA permits OSFI to declare the whole or part of a pension plan terminated in certain circumstances, and further provides for payments by the employer into the pension fund upon termination:

29 [...] (2) The Superintendent may declare the whole or part of a pension plan terminated where

(a) there is any suspension or cessation of employer contributions in respect of all or part of the plan members;

(b) the employer has discontinued or is in the process of discontinuing all of its business operations or a part thereof in which a substantial portion of its employees who are members of the pension plan are employed; or

(c) the Superintendent is of the opinion that the pension plan has failed to meet the prescribed tests and standards for solvency in respect of funding referred to in subsection 9(1).

(2.1) The Superintendent may also declare the whole of a pension plan terminated if there is a cessation of crediting of benefits to the plan members.

(3) In a declaration made under subsection (2) or (2.1), the Superintendent shall declare a pension plan or part of a pension plan, as the case may be, to be terminated as of the date that the Superintendent considers appropriate in the circumstances.

[...]

(6) If the whole of a pension plan is terminated, the employer shall, without delay, pay into the pension fund all amounts that would otherwise have been required to be paid to meet the prescribed tests and standards for solvency referred to in subsection 9(1) and, without limiting the generality of the foregoing, the employer shall pay into the pension fund

(a) an amount equal to the normal cost that has accrued to the date of the termination;

(b) the amounts of any prescribed special payments that are due on termination or would otherwise have become due between the date of the termination and the end of the plan year in which the pension plan is terminated;

(c) the amounts of payments that are required to be made under a workout agreement that are due on termination or would otherwise have become due between the date of the termination and the end of the plan year in which the pension plan is terminated;

(d) all of the following amounts that have not been remitted to the pension fund

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at the date of the termination;

- (i) the amounts deducted by the employer from members' remuneration, and
- (ii) other amounts due to the pension fund from the employer; and

(e) the amounts of all of the payments that are required to be made under subsection 9.14(2).

[...]

(6.4) On the winding-up of the pension plan or the liquidation, assignment or bankruptcy of the employer, the amount required to permit the plan to satisfy any obligations with respect to pension benefits as they are determined on the date of termination is payable immediately.

(6.5) Subsection 8(1) does not apply in respect of the amount that the employer is required to pay into the pension fund under subsection (6.4). However, it applies in respect of any payments that have accrued before the date of the winding-up, liquidation, assignment or bankruptcy and that have not been remitted to the fund in accordance with the regulations made for the purposes of subsection (6.1). [...]

B. PBA

50. The PBA contains similar provisions to those described above in respect of the PBSA. Section 32 PBA deems a trust to come into existence under certain circumstances:

32 (1) An employer or a participating employer in a multi-employer plan shall ensure, with respect to a pension plan, that

- (a) the money in the pension fund;
- (b) an amount equal to the aggregate of
 - (i) the normal actuarial cost, and
 - (ii) any special payments prescribed by the regulations, that have accrued to date; and
- (c) all

- (i) amounts deducted by the employer from the member's remuneration, and
 - (ii) other amounts due under the plan from the employer that have not been remitted to the pension fund are kept separate and apart from the employer's own money, and shall be considered to hold the amounts referred to in paragraphs (a) to (c) in trust for members, former members, and other persons with an entitlement under the plan.

(2) In the event of a liquidation, assignment or bankruptcy of an employer, an amount equal to the amount that under subsection (1) is considered to be held in trust shall be considered to be separate from and form no part of the estate in liquidation, assignment or bankruptcy, whether or not that amount has in fact been kept separate and apart from the employer's own money or from the assets of the estate.

(3) Where a pension plan is terminated in whole or in part, an employer who is required to pay contributions to the pension fund shall hold in trust for the member or former member or other person with an entitlement under the plan an amount of money equal to employer contributions due under the plan to the date of termination.

(4) An administrator of a pension plan has a lien and charge on the assets of the employer in an amount equal to the amount required to be held in trust

under subsections (1) and (3).

51. Sections 59 PBA sets out the circumstances in which the N&L Superintendent may declare a plan to be terminated;

59 (1) The superintendent may declare the whole or part of a pension plan terminated where

(a) there is a suspension or cessation of employer contributions in respect of all or part of the plan membership, except where surplus is used to meet funding requirements;

(b) the employer has discontinued or is in the process of discontinuing all of its business operation or a part in which a substantial portion of its employees who are members of the plan are employed;

(c) the employer is bankrupt within the meaning of the *Bankruptcy Act* (Canada);

(d) the superintendent is of the opinion that the plan has failed to meet the requirements prescribed by the regulations for solvency in respect of funding; or

(e) all or part of the business or assets of a predecessor employer's business are sold, assigned or otherwise disposed of and the successor employer who acquired the business or assets does not provide a pension plan for the members of the predecessor employer's plan who become employees of the successor employer.

(2) A declaration made under subsection (1) shall declare the whole or part of a pension plan to be terminated as of a date determined by the superintendent.

52. The wind-up of a pension plan commences immediately after the termination of the plan unless the N&L Superintendent postpones the wind-up by giving written approval, pursuant to Section 60(3) PBA;

53. Section 61 PBA provides for certain termination payments as follows:

61 (1) On termination of a pension plan, the employer shall pay into the pension fund all amounts that would otherwise have been required to be paid to meet the requirements prescribed by the regulations for solvency, including

(a) an amount equal to the aggregate of

(i) the normal actuarial cost, and

(ii) special payments prescribed by the regulations, that have accrued to the date of termination; and

(b) all

(i) amounts deducted by the employer from members' remuneration, and

(ii) other amounts due to the pension fund from the employer

that have not been remitted to the pension fund at the date of termination.

(2) Where, on the termination, after April 1, 2008, of a pension plan, other than a multi-employer pension plan, the assets in the pension fund are less than the value of the benefits provided under the plan, the employer shall, as prescribed by the regulations, make the payments into the pension fund, in addition to the payments required under subsection (1), that are necessary to fund the benefits provided under the plan.

C. SPPA

53.1 The only deemed trust provided for under the SPPA is that found in Section 49 thereof with respect to unpaid contributions and accrued interest:

49. Until contributions and accrued interest are paid into the pension fund or to the insurer, they are deemed to be held in trust by the employer, whether or not the latter has kept them separate from his property.

53.2 In addition, Section 264 SPPA provides that contributions payable into the pension fund are unassignable and unseizable:

264. Unless otherwise provided by law, the following amounts or contributions are unassignable and unseizable:

(1) all contributions paid or payable into the pension fund or to the insurer, with accrued interest; [...]

53.3 With respect to the employer's obligations upon termination of a pension plan, Sections 228-230 SPPA provides:

§4 – Debts of the employer

228. The amount to be funded to ensure full payment of the benefits of the members or beneficiaries affected by the withdrawal of an employer from a multi-employer pension plan or the termination of a pension plan shall constitute a debt of the employer. The amount to be funded shall be established at the date of termination.

If, at the date of termination, the employer has failed to pay contributions into the pension fund or to the insurer, as the case may be, the debt shall be the amount by which the amount to be funded exceeds such contributions. [...]

229. Any amount owed by an employer under section 228 must, upon its determination, be paid into the pension fund or to the insurer, as the case may be. However, Retraite Québec may, on the conditions it determines, allow any employer to spread the payment of such amount over a period of not more than five years.

Any amount not paid into the pension fund or to the insurer shall bear interest from the date of default, at the rate determined pursuant to section 61 that was applicable at the date of termination.

230. Any amount paid by an employer under this subdivision, including any amount recovered after the date of termination, particularly in respect of contributions outstanding and unpaid at the date of termination, shall be applied to the payment of benefits of members or beneficiaries in the order of priority established under this Act.

such that the termination deficit, if any, is a debt of the employer and not a "contribution" subject to a deemed trust;

D. SUMMARY OF AVAILABLE DEEMED TRUSTS

54. The [...] PBSA and PBA provisions set out above provide for two types of deemed trust:
- (1) a trust that is deemed to exist while the employer continues in business and that covers amounts that the employer is required to keep separate and apart from its own moneys (Sections 8(1) PBSA and 32(1) PBA, hereinafter referred to as **limited deemed trusts**); and
 - (2) a trust that arises in the event of any liquidation, assignment or bankruptcy of an employer and that covers amounts that the employer is required to keep separate and apart from its own moneys, whether or not the amounts have in fact been kept separate and apart from the employer's own moneys or assets (Sections 8(2) PBSA and 32(2) PBA, hereinafter referred to as **liquidation deemed trusts**);
55. In the case at hand, OSFI and the N&L Superintendent issued the Termination Notices (R-13 and R-14) with respect to the DB Plans after the CCAA Proceedings had commenced;

V.2 MULTI-JURISDICTIONAL AGREEMENTS AND CONFLICT OF LAWS

56. While the assets of the Wabush CCAA Parties have not been fully realized to date, the Court may need to consider whether any eventual shortfall between the sale proceeds of the Wabush CCAA Parties' assets in Newfoundland and the amounts potentially duly secured by a pension deemed trust created under the PBA could possibly extend to the sale proceeds of the Wabush CCAA Parties' assets formerly located in Quebec;
57. Should it determine that the amounts potentially duly secured by a pension deemed trust created under the PBA exceed the value of sale proceeds generated from assets located in Newfoundland, this Court will need to consider applicable conflict rules so as to determine whether the applicable pension deemed trust under the PBA could extend to the sale proceeds of assets formally located in Quebec;
58. Under the general conflict rules in Quebec, real rights and by extension priority disputes over property are governed by the laws where the property is located, subject to an exception for property in transit (3097 C.c.Q.);
59. The Province of Quebec is also party to certain multi-jurisdictional agreements in relation to pension matters that may provide in certain circumstances for the application of laws of another jurisdiction by way of incorporation where the Quebec government has agreed to do so and its supervisory authority has delegated its authority to the supervisory authority of another jurisdiction;
60. In 2011, the Canadian Association of Pension Supervisory Authorities (CAPSA) developed an Agreement Respecting Multi-Jurisdictional Pension Plans (the **2011 Agreement**), which was adopted by the Provinces of Ontario and Quebec, a copy of which is communicated herewith as **Exhibit R-20**;

61. CAPSA also developed in 2016 a revised version thereof (the **2016 Agreement**), which was adopted by the Provinces of British Columbia, Nova Scotia, Ontario, Quebec and Saskatchewan, a copy of which is communicated herewith as **Exhibit R-21**;
62. These 2011 and 2016 Agreements (R-20 and R-21) provide *inter alia* that:
- 6 (1)** While a pension supervisory authority is the major authority for a pension plan in accordance with this Agreement:
- (a) the provisions of the pension legislation of the major authority's jurisdiction in respect of matters referred to in Schedule B¹ apply to the plan instead of those of the corresponding provisions of the pension legislation of any minor authority's jurisdiction that would apply to the plan if this Agreement did not exist; and
- (b) subject to the provisions of this Agreement, the provisions of the pension legislation of each jurisdiction that are applicable to the plan under the terms of such legislation apply to the plan in respect of matters not referred to in Schedule B.¹
- ¹ Schedule B states: "8. Legislative provisions respecting: [...] (c) requirements that the pension fund be held separate and apart from the employer's assets and deeming the pension fund to be held in trust for the active members or other persons; (d) an administrator's lien and charge on the employer's assets equal to the amounts deemed held in trust [...]".
63. However, Newfoundland & Labrador is not a party to the 2011 and 2016 Agreements (R-20 and R-21);
64. The only applicable multi-jurisdictional agreement between the governments of Quebec and Newfoundland & Labrador is a Memorandum of Agreement⁸, to which the government of Newfoundland & Labrador became a party in 1986, communicated herewith as **Exhibit R-22**;
65. The Memorandum of Agreement (R-22) does not provide for the incorporation and application of legislative provisions and administrative powers by the participating pension supervisory authorities, but merely provides for a certain delegation of powers as follows:
2. The major authority¹ for each plan shall exercise both its own statutory functions and powers and the statutory functions and powers of each minor authority for such plan.
- [...]
9. Where a major authority is unable to exercise a particular power of enforcement available to one of the minor authorities, it shall so advise that minor authority.
- ¹ According to the Memorandum of Agreement (R-22), "major authority" means, with respect to a plan, the participating authority of the province where the plurality of the plan members are employed, excluding members employed in a province not having a participating authority.

⁸ The Memorandum of Agreement (R-22) remains effective, as provided by Section 284 SPPA.

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66. As such, the Memorandum of Agreement (R-22) could not serve as the basis for the application of the PBA in relation to property located in Quebec;
67. In view of the foregoing and absent a multi-jurisdictional agreement providing for the application in Quebec of the laws of Newfoundland & Labrador, it is submitted that this Court is bound to apply the laws applicable in the Province of Quebec to adjudicate a dispute with respect to tangible assets located in Québec (or the proceeds standing in their stead);
68. The Monitor notes Article 3079 of the *Civil Code of Québec*:

3079. Where legitimate and manifestly preponderant interests so require, effect may be given to a mandatory provision of the law of another State with which the situation is closely connected.

In deciding whether to do so, consideration is given to the purpose of the provision and the consequences of its application.

but is of the view that this exception is not applicable in the circumstances as the possible application of the PBA could have been properly achieved by way of a multi-jurisdictional agreement and absent the execution of the 2011 and 2016 Agreements (R-20 and R-21) by Newfoundland & Labrador it could not justify why its legislation should override Quebec law in the present circumstances, including Articles 2644 and 2647 C.c.Q.;

VI. DIRECTIONS WITH RESPECT TO PENSION CLAIMS

69. Based on its review of the relevant statutes and applicable case-law, the Monitor is of the view that:
 - a) Unpaid and accrued normal costs or special costs owing at the date of the Wabush Initial Order would be subject to a limited deemed trust pursuant to subsections 8(1) of the PBSA and 32(1) of the PBA;
 - b) A liquidation deemed trust did not arise prior to or since the Wabush Initial Order pursuant to subsections 8(2) PBSA or 32(2) PBA, as none of the applicable triggering events, including a "liquidation", have occurred, either before or since the date of the Wabush Initial Order;
 - c) In any event, any liquidation deemed trust triggered after the Wabush Initial Order with respect to unpaid amortization payments as a result of a "liquidation" would be ineffective given the terms of the Wabush Initial Order and applicable stay thereunder, the terms of the Pension Priority and Suspension Order, the fact that the special costs were assessed on the basis of a deficit which existed as of the Wabush Initial Order and were calculated for past services rendered as of a pre-filing reference date, the treatment of special costs under the CCAA generally, and legislative choices made with respect to same;
 - d) As a matter of statutory interpretation of the applicable pension legislation alone, the full amount of the wind-up deficit of the DB Plans would not be subject to a pension deemed trust pursuant to the PBSA or the PBA;

- e) Even if the wind-up deficits of the DB Plans were to be subject to a pension deemed trust pursuant to the terms of PBSA or the PBA, such deemed trust would be ineffective considering the Wabush Initial Order and applicable stay thereunder, the pre-filing nature of deficits of the DB Plans even if crystallized post-filing upon termination of the DB Plans, the treatment of pension deficits under the CCAA and legislative choices made with respect to same;
 - f) Even if the deemed trusts under the PBA were to cover assets located outside of Newfoundland & Labrador, this Court should not recognize and enforce it to the extent applicable the PBA deemed trust against assets located in this Province or the sale proceeds thereof;
70. The Monitor accordingly seeks an Order determining the priority of the various components of the Salaried DB Plan Claim (R-18) and the Union DB Plan Claim (R-19) to be as follows:
- a) normal costs and special payments outstanding as at the date of the Wabush Initial Order to be subject to a limited deemed trust;
 - b) normal costs and special payments payable after the date of the Wabush Initial Order, including additional special payments and Catch Up Payments established on the basis of actuarial reports issued after the Wabush Initial Order to constitute an unsecured Claim;
 - c) wind-up deficiency to constitute an unsecured Claim;
 - d) any trust created pursuant to the PBA may only charge property located in Newfoundland & Labrador;
71. Pursuant to paragraphs 38.1 and following of the Claims Procedure Order (R-2), reproduced above, the Pension Regulators, Representatives' Counsel and well as USW are all entitled to challenge the adjudication of Pension Claims by the Monitor;
72. The Monitor fully expects that various other stakeholders will have an interest in the determination of these priority issues;
73. The Monitor submits that it is proper to seek and obtain directions at this stage in respect of questions outlined above. [...] The amounts and the membership data included herein, including the wind-up deficits, are based on the information appearing in the Wind-Up Reports and are provided solely as information, as it is not necessary to know the actual quantum of the Pension Claims in order to determine their relative priority in these CCAA Proceedings;
74. In any event, should a dispute over the quantum of the wind-up deficits or any other factual information affecting the quantum of the Pension Claims arise, that issue could easily (and efficiently) be bifurcated and resolved independently from the directions sought herein;
75. The Monitor further submits that any proposed distribution of proceeds to creditors, including the choice of the mechanism to effect same, will be impacted by the issues set out herein above;

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76. Based on the foregoing, the Monitor hereby submits that the Court will need to deal with the following questions:

Liquidation giving rise to a liquidation deemed trust

- a) What is the proper meaning of "liquidation" pursuant to subsections 8(2) PBSA and 32(2) PBA?
- b) Did a "liquidation" within the meaning of subsections 8(2) PBSA and 32(2) PBA occur prior or since the Wabush Initial Order?
- c) Would such a liquidation deemed trust (...) be effective if triggered by a "liquidation" occurring after the Wabush Initial Order?

Deficit upon termination

- d) Absent CCAA or BIA proceedings with respect to an employer, could the full amount of the deficit upon termination of a defined benefit pension plan be subject to a deemed trust pursuant to either of the PBSA or the PBA?
- e) Would such a wind-up deficit deemed trust be effective if triggered by a termination occurring after the Wabush Initial Order?

Enforcement or recognition of a PBA deemed trust charging assets located in Québec

- f) Is the deemed trust arising under the PBA specifically or implicitly limited to assets of the employer located in Newfoundland & Labrador?
- g) Could this Court nonetheless recognize and enforce a PBA deemed trust against assets located in this Province (or the sale proceeds standing in their stead)?

VII. CONCLUSIONS AND PROCEDURAL MATTERS

77. The Monitor submits that the notices given of the presentation of the present Amended Motion, the initial iteration of which was originally notified to all Persons on the Service List on September 20, 2016, are proper and sufficient;
78. Pursuant to paragraph 56 of the Wabush Initial Order (R-1), 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;
- 78.1 Following discussions amongst the Monitor and various Interested parties, the Motion was first made returnable on a pro forma basis on October 28, 2016;
- 78.2 Prior to the October 28, 2016 hearing, the following Notices of Objection were filed:
- a) Notice of Objection dated October 7, 2016 filed by the USW;
 - b) Notice of Objection dated October 7, 2016 filed by the Representatives; and
 - c) Notice of Objection dated October 7, 2016 filed by the Replacement Plan Administrator;
- the whole as appears from the Court record;

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79. [...] Both before and after the October 28, 2016, the Monitor has made efforts in order [...] to agree to a timetable for the filing of materials and the presentation of the Motion with the CCAA Parties, Representative Counsel, the USW, the Replacement Plan Administrator and the relevant regulators that would allow relevant parties sufficient opportunity to respond and ensure the efficient hearing of the present Motion [...];
- 79.1 The N&L Superintendent went on to file a Notice of Objection on December 15, 2016, as appears from the Court record. While they have not filed a formal Notice of Objection, the Monitor also understands that OSFI and ReTraite Québec intend to take position with respect to the issues raised in the Motion;
- 79.2 A hearing was held on December 20, 2016 to debate the preliminary issues raised in the Notices of Objection, mainly the jurisdictional argument raised by the Representatives as to whether the Court should refer parts or all of the questions arising in the Motion to the Supreme Court of Newfoundland & Labrador;
- 79.3 On January 30, 2017, the Court issued a ruling whereby it determined that it had jurisdiction to deal with all issues stemming from this Motion, including the interpretation of the PBA in the context of the CCAA Proceedings and therefore refused to refer the matter to the Supreme Court of Newfoundland & Labrador;
- 79.4 During a case management hearing held on April 5, 2017, hearing dates on the merits were set (June 28 and 29, 2017), with the Court reserving the right of all parties to submit their position concerning the legal issues this Court needed or ought to rule on to resolve the issues raised by the present Motion;
- 79.5 The service of the present Amended Motion serves as notice pursuant to [...] paragraph 56 of the Wabush Initial Order (R-1);
80. [...];
81. The CCAA Parties have been consulted by the Monitor and support the conclusions sought herein;
82. The present Motion is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present Amended Motion;

ISSUE an Order [...] determining the various priority disputes and issues raised by the present Amended Motion;

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WITHOUT COST, save and except in case of contestation.

Montréal, April 13, 2017



NORTON ROSE FULBRIGHT CANADA, LLP
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Attorneys of the Monitor FTI Consulting Canada Inc.

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notifications-mtl@nortonrosefulbright.com
Our reference : 01028478-0001

NOTICE OF PRESENTATION

TO: SERVICE LIST

TAKE NOTICE that the present *Amended Motion by the Monitor for Directions with Respect to Pension 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 a date, at a time and in a room to be determined by the Court.

DO GOVERN YOURSELF ACCORDINGLY.

Montréal, April 13, 2017



NORTON ROSE FULBRIGHT CANADA, LLP
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Our reference : 01028478-0001

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

Nº: 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 *et al*

Petitioners

-and-

**THE BLOOM LAKE IRON ORE MINE LIMITED
PARTNERSHIP *et al***

Mises-en-cause

-and-

**HER MAJESTY IN RIGHT OF NEWFOUNDLAND
& LABRADOR, AS REPRESENTED BY THE
SUPERINTENDENT OF PENSIONS**

**THE ATTORNEY GENERAL OF CANADA, ACTING ON
BEHALF OF THE OFFICE OF THE SUPERINTENDENT
OF FINANCIAL INSTITUTIONS**

**MICHAEL KEEPER, TERENCE WATT, DAMIEN LABEL
AND NEIL JOHNSON**

UNITED STEEL WORKERS, LOCALS 6254 AND 6285

RÉGIE DES RENTES DU QUÉBEC

**MORNEAU SHEPELL LTD., IN ITS CAPACITY AS
REPLACEMENT PENSION PLAN ADMINISTRATOR**

Mis-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

**AMENDED LIST OF EXHIBITS IN SUPPORT OF THE
AMENDED MOTION BY THE MONITOR FOR DIRECTIONS
WITH RESPECT TO PENSION CLAIMS**

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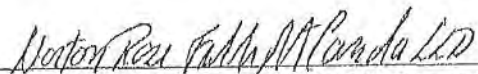
- Exhibit R-1 Wabush Initial Order dated May 20, 2015, as rectified on May 28, 2015;
- Exhibit R-2 Claims Procedure Order dated November 5, 2015, as amended on November 16, 2015;
- Exhibit R-3 Draft Order;
- Exhibit R-4 Wabush Initial Motion dated May 19, 2015;
- Exhibit R-5 Wabush Comeback Order dated June 9, 2015;
- Exhibit R-6 Wabush Comeback Motion dated May 29, 2015;
- Exhibit R-7 Pension Priority and Suspension Order dated June 26, 2015;
- Exhibit R-8 Decision of Justice Kasirer, J.C.A. dated August 18, 2015;
- Exhibit R-9 Asset Purchase Agreement (Port Assets) dated December 23, 2015;
- Exhibit R-10 Port Approval and Vesting Order dated February 1, 2016;
- Exhibit R-11 Asset Purchase Agreement (Block Z) dated January 26, 2016;
- Exhibit R-12 Block Z Approval and Vesting Order dated February 1, 2016;
- Exhibit R-13 N&L Termination Notices dated December 15, 2015;
- Exhibit R-14 OSFI Termination Notice dated December 15, 2015;
- Exhibit R-15 Notices with respect to the Replacement of the Pension Plan Administrator dated March 30, 2016;
- Exhibit R-16 Salaried DB Plan Summary Table;
- Exhibit R-17 Union DB Plan Summary Table;
- Exhibit R-18 Salaried DB Plan Proof of Claim dated December 18, 2015;
- Exhibit R-19 Union DB Plan Proof of Claim dated December 18, 2015;
- Exhibit R-20 2011 CAPSA Agreement Respecting Multi-Jurisdictional Pension Plans;
- Exhibit R-21 2016 CAPSA Agreement Respecting Multi-Jurisdictional Pension Plans;
- Exhibit R-22 Memorandum of Agreement entered into by Newfoundland & Labrador in 1986;
- Exhibit R-23 Salaried DB Plan, together with Amendments;
- Exhibit R-24 Union DB Plan, together with Amendments;

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Exhibit R-25 Salaried DB Plan Wind-Up Report;

Exhibit R-26 Union DB Plan Wind-Up Report.

Montréal, April 13, 2017



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Our reference : 01028478-0001

NO: 500-11-048114-157
SUPERIOR COURT DISTRICT OF MONTREAL
IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF: BLOOM LAKE GENERAL PARTNER LIMITED ET AL Petitioners
-and- THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP ET AL, Mises-en-cause
-and- HER MAJESTY IN RIGHT OF NEWFOUNDLAND & LABRADOR, AS REPRESENTED BY THE SUPERINTENDENT OF PENSIONS ET AL, Mis-en-cause
-and- FTI CONSULTING CANADA INC. Monitor
AMENDED MOTION BY THE MONITOR FOR DIRECTIONS WITH RESPECT TO PENSION CLAIMS (Sections 11 and 23(K) of the Companies' Creditors Arrangement Act)
ORIGINAL
BO-0042 # 01028478-0001 Mre. Sylvain Rigaud and Mre. Chrystal Ashby NORTON ROSE FULBRIGHT CANADA LLP BARRISTERS & SOLICITORS 1 Place Ville Marie, Suite 2500 Montréal, Quebec H3B 1R1 CANADA Telephone: 514-847-4702 Telephone: 514-847-6076 Fax: +1 514.286.5474 Notifications: mtl@nortonrosefulbright.com

SUPERIOR COURT

(Commercial Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

No: 500-11-048114-157

DATE: January 30, 2017

PRESIDED BY THE HONOURABLE STEPHEN W. HAMILTON, J.S.C.

**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 LIMITED
WABUSH LAKE RAILWAY COMPANY LIMITED**

Mises en cause

And

**MICHAEL KEEPER, TERENCE WATT, DAMIEN LABEL
AND NEIL JOHNSON
SYNDICAT DES MÉTALLOS, SECTIONS LOCALES 6254 ET 6285
MORNEAU SHEPELL LTD, IN ITS CAPACITY AS
REPLACEMENT PENSION PLAN ADMINISTRATOR
HER MAJESTY IN RIGHT OF NEWFOUNLAND
AND LABRADOR, AS REPRESENTED BY THE
SUPERINTENDENT OF PENSIONS**

500-11-048114-157

PAGE: 2

**THE ATTORNEY GENERAL OF CANADA, ACTING
ON BEHALF OF THE OFFICE OF THE SUPERINTENDENT
OF FINANCIAL INSTITUTIONS
RÉGIE DES RENTES DU QUÉBEC
VILLE DE SEPT-ÎLES**

Mises en cause

And

FTI CONSULTING CANADA INC.

Monitor

JUDGMENT

INTRODUCTION

[1] The debtors have filed proceedings under the *Companies' Creditors Arrangement Act* ("CCAA").¹ They owe substantial liabilities under two pension plans, including special payments, catch-up special payments and wind-up deficiencies. The Monitor has filed a motion for directions with respect to the priority of the various components of the pension claims.

[2] A preliminary issue has arisen as to whether the Court should request the aid of the Supreme Court of Newfoundland and Labrador (the "NL Court") with respect to the scope and priority of the deemed trust and other security created by the Newfoundland and Labrador *Pension Benefit Act* ("NLPBA"),² which regulates in part the pension plans.

CONTEXT

[3] On May 19, 2015, the Petitioners Wabush Iron Co. Limited and Wabush Resources Inc. and the Mises-en-cause Wabush Mines (a joint venture of Wabush Iron and Wabush Resources), Arnaud Railway Company and Wabush Lake Railway Company Limited (together the "Wabush CCAA Parties") filed a motion for the issuance of an initial order under the CCAA, which was granted the following day by the Court.

[4] Prior to the filing of the motion, Wabush Mines operated (1) the iron ore mine and processing facility located near the Town of Wabush and Labrador City, Newfoundland and Labrador, and (2) the port facilities and a pellet production facility at Pointe-Noire, Québec. Arnaud Railway and Wabush Lake Railway are both federally regulated

¹ R.S.C. 1985, c. C-36.

² S.N.L. 1996, c. P-40.1.

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railways that transported iron ore concentrate from the Wabush mine to the Pointe-Noire port. The operations had been discontinued and the employees terminated or laid off prior to the filing of the CCAA motion.

[5] The Wabush CCAA Parties have two pension plans for their employees which include defined benefits:

- A hybrid pension plan for salaried employees at the Wabush mine and the Pointe-Noire port hired before January 1, 2013, known as the Contributory Pension Plan for Salaried Employees of Wabush Mines, Cliffs Mining Company, Managing Agent, Amaud Railway Company and Wabush Lake Railway Company (the "Salaried Plan"); and
- A pension plan for unionized hourly employees at the Wabush mine and Pointe-Noire port, known as the Pension Plan for Bargaining Unit Employees of Wabush Mines, Cliffs Mining Company, Managing Agent, Amaud Railway Company and Wabush Lake Railway Company (the "Union Plan").

[6] Wabush Mines was the administrator of both plans.

[7] The majority of the employees covered by the plans reported for work in Newfoundland and Labrador while some reported for work in Québec. Moreover, some of the employees covered by the Union Plan worked for Amaud Railway, which is a federally regulated railway. The result is that the Salaried Plan is governed by the NLPBA, while the Union Plan is governed by both the NLPBA and the federal *Pension Benefits Standards Act* ("PBSA").³ Further, the Union suggests that the Québec *Supplemental Pension Plans Act* ("SPPA")⁴ might be applicable to employees or retirees who reported for work in Québec. Both plans are subject to regulatory oversight by the provincial regulator in Newfoundland and Labrador, the Superintendent of Pensions (the "NL Superintendent"), while the Union Plan is also subject to regulatory oversight by the federal pension regulator, the Office of the Superintendent of Financial Institutions ("OSFI"). The Québec regulator, Retraite Québec, might also have a role to play.

[8] On June 26, 2015, in the context of approving the interim financing of the debtors, the Court ordered the suspension of payment by the Wabush CCAA Parties of the monthly amortization payments and the annual lump sum "catch-up" payments coming due under the plans, and confirmed the priority of the Interim Lender Charge over the deemed trusts with respect to the pension liabilities. The Court also ordered the

³ R.S.C. 1985 (2nd Supp.), c. 32.

⁴ CQLR, c R-15.1, s. 49.

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suspension of payment of other post-retirement benefits, including life insurance, health care and a supplemental retirement arrangement plan.⁵

[9] On December 16, 2015, the NL Superintendent terminated both plans effective immediately on the basis that the plans failed to meet the solvency requirements under the regulations, the employer has discontinued all of its business operations and it was highly unlikely that any potential buyer of the assets would agree to assume the assets and liabilities of the plans.⁶ On the same date, OSFI terminated the Union Plan effective immediately for the same reasons.⁷

[10] Both the NL Superintendent and OSFI reminded the Wabush CCAA Parties of the employer's obligation upon termination of the plan to pay into the pension fund all amounts that would be required to meet the solvency requirements and the amount necessary to fund the benefits under the plan. They also referred to the rules with respect to deemed trusts.⁸

[11] On January 26, 2016, the salaried retirees received a letter from Wabush Mines notifying them that the NL Superintendent had directed Wabush Mines to reduce the amount of monthly pension benefits of the members by 25%.⁹ Retirees under the Union Plan had their benefits reduced by 21% on March 1, 2016.¹⁰

[12] On March 30, 2016, the NL Superintendent and OSFI appointed Moreau Shepell Ltd as administrator for the plans.¹¹

[13] The Wabush CCAA Parties paid the monthly normal cost payments for both plans up to the termination of the plans on December 16, 2015. As a result, the monthly normal cost payments for the Union Plan were fully paid as of December 16, 2015.¹² The monthly normal cost payments for the Salaried Plan had been overpaid in the amount of \$169,961 as of December 16, 2015.¹³

⁵ 2015 QCCS 3064; motion for leave to appeal dismissed, 2015 QCCA 1351.

⁶ Exhibit R-13.

⁷ Exhibit R-14.

⁸ Exhibits R-13 and R-14.

⁹ Exhibit RESP-7.

¹⁰ Affidavit of Terence Watt, sworn December 14, 2016, par. 19.

¹¹ Exhibit R-15.

¹² There is a debate as to whether the Wabush CCAA Parties were required to pay the full monthly payment for December or only a pro-rated portion. The amount at issue for the period from December 17 to 31, 2015 is \$21,462.

¹³ Exhibit R-16.

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[14] However, the Wabush CCAA Parties ceased making the special payments in June 2015 pursuant to the order issued by the Court, with the result that unpaid special payments as of December 16, 2015 total \$2,185,752 for the Salaried Plan¹⁴ and \$3,146,696 for the Union Plan.¹⁵

[15] Further, the Wabush CCAA Parties did not make the lump sum "catch-up" special payments that came due after June 2015. The amount payable is now calculated to be \$3,525,125.¹⁶ These amounts became known with certainty only when the actuarial report was completed and filed in July 2015, but some of these amounts may relate to the pre-filing period.

[16] Finally, the plans are underfunded. The Plan Administrator estimates the wind-up deficits as at December 16, 2015 to be approximately \$26.7 million for the Salaried Plan and approximately \$27.7 million for the Union Plan.

[17] As a result, according to the Monitor, the total amounts owing are approximately \$28.7 million to the Salaried Plan and \$34.4 million to the Union Plan.

[18] The Plan Administrator filed a proof of claim in respect of the Salaried Plan that includes a secured claim in the amount of \$24 million and a restructuring claim in the amount of \$1,932,940,¹⁷ and a proof of claim with respect to the Union Plan that includes a secured claim in the amount of \$29 million and a restructuring claim in the amount of \$6,059,238.¹⁸

[19] The differences in the numbers are not important at this stage. It is sufficient to note that there are very large claims and that the Plan Administrator claims the status of a secured creditor with respect to a substantial part of its claims.

[20] It is also important to note that the Wabush CCAA Parties held assets both in Newfoundland and Labrador and in Québec. Many of the Québec assets have been sold and have generated substantial proceeds currently held by the Monitor.

[21] The Monitor is now working through the claims procedure. In that context, the Monitor applies to the Court for an order declaring that:

- a) normal costs and special payments outstanding as at the date of the Wabush Initial Order are subject to a limited deemed trust;

¹⁴ Exhibit R-16.

¹⁵ Exhibit R-17.

¹⁶ Exhibit R-17.

¹⁷ Exhibit R-18.

¹⁸ Exhibit R-19.

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- b) normal costs and special payments payable after the date of the Wabush Initial Order, including additional special payments and catch up payments established on the basis of actuarial reports issued after the Wabush Initial Order, constitute unsecured claims;
- c) the wind-up deficiencies constitute unsecured claims; and
- d) any deemed trust created pursuant to the NLPBA may only charge property in Newfoundland and Labrador.

[22] Those issues are not yet before the Court. A preliminary issue has arisen as to whether the Court should request the aid of the NL Court with respect to the scope and priority of the deemed trust and the lien created by the NLPBA and whether the deemed trust and the lien extend to assets located outside of Newfoundland and Labrador.

POSITION OF THE PARTIES

[23] All parties agree that (1) the Court has jurisdiction to deal with all of the issues, and (2) the Court has the discretion to request the aid of the NL Court.

[24] Three parties suggest that the Court should exercise that discretion and request the aid of the NL Court:

- The Plan Administrator;
- The representatives of the salaried employees and retirees; and
- The NL Superintendent.

[25] The representatives of the salaried employees and retirees have proposed that the following questions should be resolved by the NL Court:

1. The Supreme Court of Canada has confirmed in *Indalex* that provincial laws apply in CCAA proceedings, subject only to the doctrine of paramountcy. Assuming there is no issue of paramountcy, what is the scope of section 32 in the NPBA [NLPBA] deemed trusts in respect of:
 - a) unpaid current service costs;
 - b) unpaid special payments; and,
 - c) unpaid wind-up liability.
2. The Salaried Plan is registered in Newfoundland and regulated by the NPBA.

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- a) (i) Does the PBSA deemed trust also apply to those members of the Salaried Plan who worked on the railway (i.e., a federal undertaking)?

(ii) If yes, is there a conflict with the NPBA and PBSA if so, how is the conflict resolved?
 - b) (i) Does the SPPA also apply to those members of the Salaried Plan who reported for work in Québec?

(ii) If yes, is there a conflict with the NPBA and SPPA and if so, how is the conflict resolved?

(iii) Do the Quebec SPPA deemed trusts also apply to Québec Salaried Plan members?
3. Is the NPBA lien and charge in favour of the pension plan administrator in section 32(4) of the NPBA a valid secured claim in favour of the plan administrator? If yes, what amounts does this secured claim encompass?

[26] Three other parties suggest that the Court should not transfer any issues to the NL Court and should decide all of the issues:

- The Monitor;
- The Syndicat des métallos, sections locales 6254 et 6285; and
- The Ville de Sept-Îles.

[27] The Ville de Sept-Îles argues that the request to transfer should be dismissed because it is too late.

[28] Finally, two parties do not take a position on the request to transfer:

- The Attorney-General of Canada, acting on behalf of OSFI; and
- Retraite Québec.

ANALYSIS

1. The jurisdiction of the CCAA Court

[29] In principle, all issues relating to a debtor's insolvency are decided before a single court.¹⁹ This rule is based on the "public interest in the expeditious, efficient and

¹⁹ *Sam Lévy & Associés Inc. v. Azco Mining Inc.*, 2001 SCC 92, par. 25-28.

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economical clean-up of the aftermath of a financial collapse.²⁰ This public interest favours a "single control" of insolvency proceedings by one court as opposed to their fragmentation among several courts.²¹

[30] The Supreme Court in *Sam Lévy* concluded as follows with respect to the relevant test:

76 In the present case, we are confronted with a federal statute that *prima facie* establishes one command centre or "single control" (*Stewart, supra*, at p. 349) for all proceedings related to the bankruptcy (s. 183(1)). Single control is not necessarily inconsistent with transferring particular disputes elsewhere, but a creditor (or debtor) who wishes to fragment the proceedings, and who cannot claim to be a "stranger to the bankruptcy", has the burden of demonstrating "sufficient cause" to send the trustee scurrying to multiple jurisdictions. Parliament was of the view that a substantial connection sufficient to ground bankruptcy proceedings in a particular district or division is provided by proof of facts within the statutory definition of "locality of a debtor" in s. 2(1). The trustee in that locality is mandated to "recuperate" the assets, and related proceedings are to be controlled by the bankruptcy court of that jurisdiction. The Act is concerned with the economy of winding up the bankrupt estate, even at the price of inflicting additional cost on its creditors and debtors.²²

(Emphasis added)

[31] Although the *Sam Lévy* case was decided in the context of the *Bankruptcy and Insolvency Act* ("BIA"),²³ the same principles apply in the context of the other insolvency legislation, including the CCAA.²⁴ The CCAA court has jurisdiction to deal with all of the issues that arise in the context of the CCAA proceedings.²⁵ The stay of proceedings under the CCAA gives effect to this principle by preventing creditors from bringing proceedings outside the CCAA proceedings without the authorization of the CCAA court.

[32] There are clear efficiencies to having a single court deal with all of the issues in a single judgment.

²⁰ *Ibid*, par. 27.

²¹ *Ibid*, par. 64.

²² *Ibid*, par. 76.

²³ R.S.C. 1985, c. B-3.

²⁴ *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60, par. 22; *Newfoundland and Labrador v. AbitibiBowater Inc.*, 2012 SCC 67, par. 21; *Montreal, Maine & Atlantic Canada Co./Montréal, Maine & Atlantique Canada Cie (Arrangement relatif à)*, 2013 QCCS 5194, par. 24-25; *Re Nortel Networks Corporation et al*, 2015 ONSC 1354, par. 24; *Re Essar Steel Algoma Inc.*, 2016 ONSC 595, par. 29-30, judgment of Court of Appeal ordering (i) Cliffs to seek leave to appeal the Order, (ii) the hearing of the leave to appeal motion be expedited, and (iii) the issuance of a stay pending the disposition of the leave to appeal motion, 2016 ONCA 138.

²⁵ Section 16 CCAA provides that the orders of the CCAA court are enforced across Canada.

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[33] The general rule is therefore that the Court should rule on all issues that arise in the context of these insolvency proceedings.

2. The discretion to ask for the assistance of another court

[34] There are however situations where another court can deal more efficiently with specific issues. The CCAA Court has jurisdiction to ask for the assistance of another court under Section 17 CCAA:

17 All courts that have jurisdiction under this Act and the officers of those courts shall act in aid of and be auxiliary to each other in all matters provided for in this Act, and an order of a court seeking aid with a request to another court shall be deemed sufficient to enable the latter court to exercise in regard to the matters directed by the order such jurisdiction as either the court that made the request or the court to which the request is made could exercise in regard to similar matters within their respective jurisdictions.

[35] The representative of the salaried employees and retirees also pleaded the notion of *forum non conveniens* under the Civil Code:

3135. Even though a Québec authority has jurisdiction to hear a dispute, it may, exceptionally and on an application by a party, decline jurisdiction if it considers that the authorities of another State are in a better position to decide the dispute.

[36] The Supreme Court held in *Sam Lévy*²⁶ that Article 3135 C.C.Q. does not apply in bankruptcy matters because of Section 187(7) BIA, which provides:

187 (7) The court, on satisfactory proof that the affairs of the bankrupt can be more economically administered within another bankruptcy district or division, or for other sufficient cause, may by order transfer any proceedings under this Act that are pending before it to another bankruptcy district or division.

[37] While Section 17 CCAA is not as explicit, the Court is satisfied that it is not necessary or appropriate to refer to Article 3135 C.C.Q. in the present context. The CCAA court is not being asked to decline jurisdiction, but rather it is being asked to seek the assistance of another court.

[38] The Court is therefore satisfied that, notwithstanding the general rule that it should rule on all issues that arise in the context of these insolvency proceedings, it can seek the assistance of another court. It is a discretionary decision of this Court, based on factors such as cost, expense, risk of contradictory judgments, expertise, etc.

²⁶ *Supra* note 19, par. 62.

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3. Specific grounds

[39] The arguments put forward in support of the referral of the issues to the NL Court can be summarized as follows:

a) Legal considerations:

- These are complex and important issues of provincial law;
- The courts in Newfoundland and Labrador possess far greater expertise in interpreting the NLPBA than does the courts in Québec, although these specific questions have not yet been considered by any court in Newfoundland and Labrador;
- The interpretation of the NLPBA is a question of the intention of the legislator in Newfoundland and Labrador, and the NL Court is better situated to determine this intention;

b) Factual considerations:

- It is a question of purely local concern and it may significantly impact a large number of residents of Newfoundland and Labrador;
- The province of Newfoundland and Labrador is closely connected to the dispute: a majority of the employees reported for work in the province and the Wabush CCAA Parties maintained significant business operations in the province;
- If justice is to be done and be seen to be done it is important that consequential decisions on provincial legislation be made by the courts of that province;
- The representatives of the salaried employees and retirees want the NL Court to interpret the NLPBA;

c) Practical considerations:

- The law of another province is treated as a question of fact in Québec, with the result that the conclusion on a matter of foreign law is not binding on subsequent courts and can only be overturned in the presence of a palpable and overriding error;
- It might be difficult to prove the law of Newfoundland and Labrador in a Québec court given the lack of jurisprudence on the specific issues;

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- There will be increased costs if the Québec Court interprets the NLPBA because of the need to retain experts to provide legal opinions;
- There is no reason to believe that fragmenting the proceedings will result in additional delay;
- The judgment to be rendered will be a precedent and only a decision of the courts of Newfoundland and Labrador would be an authoritative precedent;
- Other persons or parties may wish to intervene on the issue of the scope of the Section 32 NLPBA deemed trusts, which would be more practical in the NL Court.

[40] These arguments do not convince the Court that this is an appropriate case to refer the issues to the NL Court.

a) Legal considerations

[41] This is the key argument put forward by the parties suggesting that the NLPBA issues be referred to the NL Court: the issues relate to the NLPBA, and the NL Court is best qualified to interpret the NLPBA.

[42] The Court accepts as a starting point that the NLPBA applies in the present matter: the pension plans are regulated by the NL Superintendent in accordance with the NLPBA (although OSFI also regulates the Union Plan in accordance with the PBSA) and the plans expressly provide that they are interpreted in accordance with the NLPBA.

[43] The Court also accepts the obvious proposition that the NL Court is more qualified to deal with an issue of Newfoundland and Labrador law than the courts of Québec, particularly since Newfoundland and Labrador is a common law jurisdiction and Québec is a civil law jurisdiction.

[44] However, that does not mean that the Court will automatically refer every issue governed by the law of another jurisdiction to the courts of that other jurisdiction.

[45] First, there are rules in the Civil Code with respect to how Québec courts deal with issues governed by foreign law. Articles 3083 to 3133 C.C.Q. set out the rules to determine which law is applicable to a dispute before the Québec courts, and Article 2809 C.C.Q. sets out how the foreign law is proven before the Québec courts.

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[46] Further, pursuant to these rules, Québec courts regularly hear matters governed by foreign law. The Court of Appeal recently held that the fact that a dispute is governed by foreign law does not have much weight in a *forum non conveniens* analysis:

[98] Si on revoit les considérations du Juge, portant sur dix points, pour conclure que le for géorgien est préférable, deux aspects principaux en ressortent, soit les coûts et la loi applicable.

[99] Quant à cette dernière considération, elle n'est pas d'un grand poids, à mon avis. Parce que le débat porte sur les faits plutôt que sur le droit. Parce que la *common law* est tout de même familière aux tribunaux québécois. Parce que faire la preuve de la loi d'un État américain n'est pas un grand défi, c'est même chose courante.

[100] Et surtout, parce que le critère de la loi applicable ne constitue pas en soi un facteur important. Dans tout litige international, les conflits de lois sont l'ordinaire et non l'exception.²⁷

[47] In other words, the mere fact that a dispute is governed by foreign law is not a good reason to send the case to the foreign jurisdiction. This principle was applied in a CCAA context in the *MMA* case.²⁸

[48] There are examples in the insolvency context of the court with jurisdiction over the insolvency declining to send an issue governed by foreign law to the foreign court. In *Sam Lévy*, the Supreme Court declined to send an insolvency matter to British Columbia simply because there was a choice of B.C. law, stating, "The Quebec courts are perfectly able to apply the law of British Columbia."²⁹

[49] In *Lawrence Home Fashions Inc./Linge de maison Lawrence inc. (Syndic de)*, Justice Schragger, then of this Court, stated :

[18] In any event, should equitable set-off under Ontario law become relevant to the case, Québec judges sitting in such matters, on the presentation of the appropriate evidence, are readily capable of dealing with foreign law issues. Indeed, this is a frequent occurrence particularly in insolvency matters.³⁰

[50] The Ontario courts rejected similar arguments in *Essar Algoma*:

[80] Ontario courts can and do often apply foreign law. In this case I do not consider the fact that the law to be applied is Ohio law much of a factor, if any.³¹

²⁷ *Stormbreaker Marketing and Productions Inc. c. Weinstock*, 2013 QCCA 269, par. 98-100.

²⁸ *MMA*, *supra* note 24, par. 20.

²⁹ *Sam Lévy*, *supra* note 19, par. 61.

³⁰ 2013 QCCS 3015, par. 18.

³¹ *Supra* note 24, par. 80. See also *Nortel Networks*, *supra* note 24, par. 29.

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[51] The Monitor submitted cases in which Québec courts have interpreted different provisions of the pension laws of other provinces.³² The Court also notes that it dealt to a more limited extent with the deemed trust under the NLPBA in its decision dated June 26, 2015.

[52] There are nevertheless circumstances where the CCAA court has referred legal issues to the courts of another province. The *Curragh*³³ and *Yukon Zinc*³⁴ judgments were cited as examples of such cases. However, in both cases, the legal issues related to the *Yukon Miners Lien Act*.³⁵ Justice Farley in *Curragh* wrote :

This legislation and its concept of the lien affecting the output of the mine or mining claim is apparently unique to the Yukon Territory.³⁶

[53] Moreover, both cases involved real rights on property in Yukon.

[54] The parties also pointed to *Timminco* as precedent authority directly on point supporting the transfer of a pension issue by the CCAA court to the jurisdiction where the pension plan is registered and has been administered.³⁷ However, *Timminco* is not a precedent in that the parties in that case consented to the referral of the issue and Justice Morawetz simply gave effect to their consent.

[55] Without concluding that the Court would only refer a legal issue if the foreign law at issue is unique, the Court concludes that the arguments favouring the referral of a legal issue are stronger when the foreign law is unique.

[56] It is therefore important to examine the issues that might be referred to the NL Court and the uniqueness of the NLPBA provisions that are at issue in the present matter.

[57] The representatives of the salaried employees and retirees identify the relevant questions as being the scope of the deemed trust and of the lien and charge under Section 32 NLPBA, as well as the interaction between the NLPBA and the federal and Québec statutes.

[58] Section 32 NLPBA provides:

³² *Emerson Électrique du Canada ltée c. Chatigny*, 2013 QCCA 163; *Bourdon c. Stelco Inc.*, 2004 CanLII 13895 (QC CA).

³³ *Canada (Minister of Indian Affairs and Northern Development) v. Curragh Inc.*, [1994] O.J. No. 953 (Gen. Div.)

³⁴ *Yukon Zinc Corp. (Re)*, 2015 BCSC 1961.

³⁵ R.S.Y. 2002, c. 151.

³⁶ *Supra* note 33, par. 11. See also *Yukon Zinc*, *supra* note 34, par. 47 and 57.

³⁷ *Timminco Limited (Re)*, 2012 ONSC 5959.

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32. (1) An employer or a participating employer in a multi-employer plan shall ensure, with respect to a pension plan, that

- (a) the money in the pension fund;
- (b) an amount equal to the aggregate of
 - (i) the normal actuarial cost, and
 - (ii) any special payments prescribed by the regulations, that have accrued to date; and
- (c) all
 - (i) amounts deducted by the employer from the member's remuneration, and
 - (ii) other amounts due under the plan from the employer that have not been remitted to the pension fund

are kept separate and apart from the employer's own money, and shall be considered to hold the amounts referred to in paragraphs (a) to (c) in trust for members, former members, and other persons with an entitlement under the plan.

(2) In the event of a liquidation, assignment or bankruptcy of an employer, an amount equal to the amount that under subsection (1) is considered to be held in trust shall be considered to be separate from and form no part of the estate in liquidation, assignment or bankruptcy, whether or not that amount has in fact been kept separate and apart from the employer's own money or from the assets of the estate.

(3) Where a pension plan is terminated in whole or in part, an employer who is required to pay contributions to the pension fund shall hold in trust for the member or former member or other person with an entitlement under the plan an amount of money equal to employer contributions due under the plan to the date of termination.

(4) An administrator of a pension plan has a lien and charge on the assets of the employer in an amount equal to the amount required to be held in trust under subsections (1) and (3).

[59] The first point is that there is nothing particularly unique about Section 32 NLPBA.

[60] There is a very similar deemed trust provision in Section 8(1) and (2) PBSA:

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8 (1) An employer shall ensure, with respect to its pension plan, that the following amounts are kept separate and apart from the employer's own moneys, and the employer is deemed to hold the amounts referred to in paragraphs (a) to (c) in trust for members of the pension plan, former members, and any other persons entitled to pension benefits under the plan:

(a) the moneys in the pension fund,

(b) an amount equal to the aggregate of the following payments that have accrued to date:

(i) the prescribed payments, and

(ii) the payments that are required to be made under a workout agreement; and

(c) all of the following amounts that have not been remitted to the pension fund:

(i) amounts deducted by the employer from members' remuneration, and

(ii) other amounts due to the pension fund from the employer, including any amounts that are required to be paid under subsection 9.14(2) or 29(6).

(2) In the event of any liquidation, assignment or bankruptcy of an employer, an amount equal to the amount that by subsection (1) is deemed to be held in trust shall be deemed to be separate from and form no part of the estate in liquidation, assignment or bankruptcy, whether or not that amount has in fact been kept separate and apart from the employer's own moneys or from the assets of the estate.

[61] In Québec, the SPPA provides :

49. Until contributions and accrued interest are paid into the pension fund or to the insurer, they are deemed to be held in trust by the employer, whether or not the latter has kept them separate from his property.

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[62] There are similar deemed trusts and/or liens in every Canadian province outside Québec except Prince Edward Island; Ontario,³⁸ British Columbia,³⁹ Alberta,⁴⁰ Saskatchewan,⁴¹ Manitoba,⁴² Nova Scotia⁴³ and New Brunswick.⁴⁴

[63] The second point is that there is no Newfoundland and Labrador jurisprudence interpreting the relevant provisions of the NLPBA. The NL Superintendent pleaded that "the courts of Newfoundland & Labrador possess far greater expertise in interpreting the PBA [NLPBA] than does the Superior Court of Québec." While this is undoubtedly true with respect to the NLPBA as a whole, it is not true with respect to Section 32 NLPBA. In an earlier ruling also issued in the *Yukon Zinc* matter, Justice Fitzpatrick of the B.C. Supreme Court refused to decline jurisdiction and refer a matter involving the *Yukon Miners Lien Act* to the courts of Yukon and one of the factors that went against referring the matter to the Yukon court was the lack of jurisprudence in the Yukon court.⁴⁵

[64] Moreover, in this case, because of the similarities between the NLPBA and the federal and other provincial pension laws, the judge interpreting the NLPBA will likely refer to decisions of the courts of other provinces interpreting their legislation or the federal PBSA.

[65] The Québec Court should be in as good a position as the NL Court in that exercise.

[66] Finally, as is typical in these cases, there is a close interplay between the NLPBA and the CCAA. The first question proposed by the representatives of the salaried employees and retirees is: "Assuming there is no issue of paramountcy, what is the scope of section 32 in the NPBA [NLPBA] deemed trusts". The scope of the NLPBA is not relevant if the NLPBA does not apply because of a conflict with the CCAA and federal paramountcy. In that sense, there may not even be a need to deal with the interpretation of the NLPBA.

[67] Moreover, there are issues in this case with the federal PBSA and the Québec SPPA. The representatives of the salaried employees and retirees suggest that the following questions are relevant:

2. The Salaried Plan is registered in Newfoundland and regulated by the NPBA.

³⁸ Ontario *Pension Benefits Act*, R.S.O. 1990, c. P.8, s. 57.

³⁹ British Columbia *Pension Benefits Standards Act*, S.B.C. 2012, c. 30, s. 58.

⁴⁰ Alberta *Employment Pension Plans Act*, S.A. 2012, c. E-8.1, s. 58 and 60.

⁴¹ Saskatchewan *Pension Benefits Act, 1992*, S.S. 1992, c P-6.001, s. 43.

⁴² Manitoba *Pension Benefits Act*, C.C.S.M., c. P32, s. 28.

⁴³ Nova Scotia *Pension Benefits Act*, S.N.S. 2011, c. 41, s. 80.

⁴⁴ New Brunswick *Pension Benefits Act*, S.N.B. 1987, c P-5.1, s. 51.

⁴⁵ *Yukon Zinc Corporation (Re)*, 2015 BCSC 836, par. 90.

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- a) (i) Does the PBSA deemed trust also apply to those members of the Salaried Plan who worked on the railway (i.e., a federal undertaking)?

(ii) If yes, is there a conflict with the NPBA and PBSA if so, how is the conflict resolved?
- b) (i) Does the SPPA also apply to those members of the Salaried Plan who reported for work in Québec?

(ii) If yes, is there a conflict with the NPBA and SPPA and if so, how is the conflict resolved?

(iii) Do the Quebec SPPA deemed trusts also apply to Québec Salaried Plan members?

[68] The representatives of the salaried employees and retirees and the NL Superintendent suggest that, in the interests of simplicity and expediency, all of these questions should be referred to the NL Court.

[69] The Court has great difficulty with this suggestion. On what basis should the Court conclude that the NL Court is in a better position to decide whether the Québec SPPA and deemed trust apply to employees who reported for work in Québec (question 2(b)(i) and (iii)) and how the conflict between the NLPBA and the SPPA should be resolved (question 2(b)(ii))? The first are pure questions of Québec law, and the last is a question where the laws of Québec and of Newfoundland and Labrador have equal application. There are similar questions with respect to the federal PBSA (question 2(c)), which the Court is in as good a position to decide as the NL Court.

[70] The Court will not refer issues of Québec law or federal law to the NL Court, and if those issues are too closely interrelated to the NLPBA issues, or if in the interests of simplicity and expediency they should all be decided by the same court, then the solution is not to refer any issues to the NL Court.

[71] In the earlier *Yukon Zinc* ruling where Justice Fitzpatrick refused to refer the matter to the courts of Yukon, she found that the issues related to the interrelationship between the *Yukon Miners Lien Act* and the rights asserted by others under B.C. law, in relation to assets the majority of which were located in British Columbia:

[89] As for the law to be applied to the various issues, it is clear that whatever forum is used to resolve these issues, there will be a blend of both British Columbian contract law and Yukon miner's lien law. The majority of the concentrate is located in British Columbia and was in this Province well before the 2015 Procon Lien was registered. Further, the contract rights are to be decided in accordance with British Columbian law, particularly as to if, and if so, when, title to the concentrate passed from Yukon Zinc to Transamine.

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[90] This is not akin to the situation discussed in *Ecco Heating Products Ltd. v. J.K. Campbell & Associates Ltd.*, 1990 CanLII 1631 (BC CA), [1990] 48 B.C.L.R. (2d) 36 (C.A.), where the major issue arose under builder's lien legislation in British Columbia and where the court referred to the "extensive existing relevant jurisprudence" in British Columbia; at 43-44. It is common ground here that there is no case law on the issues of scope and priority under the *MLA* that arise here, let alone relevant Yukon jurisprudence.

[91] It is quite apparent that some issues arise under the *MLA* and, in particular, issues relating to Procon's rights in relation to the concentrate remaining in Yukon which is claimed by Transamine under British Columbian law. Transamine argues that this Court can take judicial notice of the *MLA*; see *Evidence Act*, R.S.B.C. 1996, c. 124, s. 24(2)(e). In any event, Procon has fully researched the issues as they arise under the *MLA* and made submissions on them. To turn the tables on Procon, if I were to decline jurisdiction in favour of the Yukon courts, there equally would be issues as to the Yukon court interpreting and applying British Columbian law on the contract issues.

[92] It would be impossible in the circumstances to bifurcate the issues based on the applicable law. Even if bifurcation was available, it would be neither a practical nor an efficient strategy in resolving the issues between Yukon Zinc, Procon and Transamine.

(Emphasis added)

[72] In the present matter, the bulk of the assets on which the deemed trust or the lien created by the NLPBA may apply are the proceeds of the sale of assets in Québec.

[73] On balance, the legal considerations do not favour referring the issues to the NL Court.

b) Factual considerations

[74] The parties suggesting that the NLPBA issues be referred to the NL Court also argue that these are essentially local issues that should be decided by the local court.

[75] It is clear that there are significant factual links between these issues and the province of Newfoundland and Labrador.

[76] In particular, the Wabush mine is located in Newfoundland and Labrador and most of the employees reported to that mine. As a result, many of the retirees are currently resident in Newfoundland and Labrador. The representatives of the salaried employees and retirees want the NL Court to interpret the NLPBA.

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[77] However, there are equally strong factual links to the province of Québec: the Pointe-Noire facility is in Québec and most of the railway joining the Wabush mine and the Pointe-Noire facility is in Québec. There are almost as many employees and retirees in Québec:

	Salaried Plan	Union Plan
Newfoundland and Labrador	313	1,005
Québec	329	661
Other	14	66 ⁴⁶

[78] As a result, this is not a matter of purely local concern in Newfoundland and Labrador.

[79] Although the representatives of the salaried employees and retirees want the NL Court to interpret the NLPBA, more than half of the persons that they represent live in Québec.

[80] It is also worth noting that the Union, which represents more employees and retirees, asks that the case remain in Québec, even though most of their members reside in Newfoundland and Labrador.

c) Practical considerations

[81] The parties suggesting that the NLPBA issues be referred to the NL Court argue that the law of Newfoundland and Labrador is in principle a question of fact in a Québec court which is proven with expert witnesses. They argue that this has a series of somewhat inconsistent consequences:

- The parties will have to hire experts, which is costly and time consuming;
- It will be difficult to find experts because these questions have never been litigated before;
- If there is an appeal, the interpretation of the NLPBA will be treated as a question of fact and therefore only subject to be overturned if there is a palpable and overriding error.

⁴⁶ Watt Affidavit, par. 16.

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[82] This seems to exaggerate the difficulty. The Court can take judicial notice of the law of another province.⁴⁷ This is particularly true when it is an issue of interpreting a statute.⁴⁸ In this case, where the parties plead that it will be difficult to find an expert, it seems unlikely that the Court would require expert evidence. This is particularly so when the provisions of the NLPBA which are at issue are similar to the provisions of the federal PBSA with respect to which expert evidence is not admissible. If there is no expert evidence to be offered, then there is no expense. A finding of fact with respect to expert evidence may attract the higher standard for appellate review of a palpable and overriding error.⁴⁹ This does not mean that every ruling on an issue of foreign law attracts the same standard. If the judge decides the interpretation of the NLPBA without considering the credibility of expert witnesses, then there is no reason for the Court of Appeal to apply the higher standard for appellate review.

[83] In terms of cost, it is difficult to see how the cost of continuing the proceedings in Québec will be higher than the cost of hiring attorneys in Newfoundland and Labrador and debating part of the issues there. The Union and Sept-Îles argued that it would be more expensive for them to argue the issues in Newfoundland and Labrador, and they added that they pay their own costs, unlike the representatives of the salaried employees and retirees and the Plan Administrator.

[84] Another issue is the delays that the referral might create.

[85] Sept-Îles bases its argument that it is too late now to raise the issue of a transfer on the fact that the Court already dealt with some of these issues 18 months ago. The representatives of the salaried employees and retirees plead that they raised the issue of a possible transfer of issues to the NL Court at the hearing of the motion for approval of the Claims Procedure Order on November 16, 2015.

[86] The Court will not dismiss the issue for lateness. However, it is relevant that the issue is being debated now as opposed to 18 months ago. If the issue had been debated at that time, the Court might have been less concerned about the possible delays that would result from referring the issues to the NL Court.

[87] The parties suggesting that the NLPBA issues be referred to the NL Court plead that there is no reason to believe that fragmenting the proceedings will result in additional delay. They do not however offer the Court any concrete indication of how quickly the case could proceed through the NL Court and any appeal.

[88] The Court is concerned by the possible delay. The parties pointed to *Timminco*, where the CCAA Court transferred a pension issue to the Québec Superior Court, as an example of how these referrals should work. In that case, the parties consented to refer

⁴⁷ Article 2809 C.C.Q.

⁴⁸ *Constructions Beauce-Atlas Inc. c. Pomerleau inc.*, 2013 QCCS 4077, par. 14.

⁴⁹ *Canada (Minister of Citizenship and Immigration) v. Asini*, 2001 FCA 311, par. 26.

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the Québec pension aspects of the CCAA file that was being litigated in Ontario to a Québec court. Even in those circumstances, the delay between the referral (October 18, 2012)⁵⁰ and the final judgment of the Québec court (January 24, 2014)⁵¹ was over 15 months.

[89] Finally, the Court does not consider the question of whether its decision will or will not be treated as a precedent to be a relevant consideration. Similarly, the Court does not consider the possibility of intervenants to be relevant. The Court's focus is on resolving the difficulties of the parties appearing before it. If the government of Newfoundland and Labrador wishes to obtain a judgment from the courts of the province on the interpretation of the NLPBA, it can refer a matter to the Court of Appeal of Newfoundland and Labrador.⁵²

CONCLUSION

[90] For all of the foregoing reasons, the Court concludes that it is not appropriate in the present circumstances to refer the proposed questions to the NL Court.

FOR THESE REASONS, THE COURT:

[91] **DECIDES** that it has jurisdiction to deal with the issues related to the interpretation of the Newfoundland and Labrador *Pension Benefits Act* in the context of the present proceedings under the *Companies' Creditors Arrangement Act* and that it will not refer those issues to the Supreme Court of Newfoundland and Labrador;

[92] **THE WHOLE WITHOUT JUDICIAL COSTS.**



Stephen W. Hamilton, J.S.C.

Mtre Bernard Boucher
BLAKE, CASSELS & GRAYDON
For the Petitioners

Mtre Sylvain Rigaud
Mtre Chrystal Ashby
NORTON ROSE FULBRIGHT CANADA
For the Monitor

⁵⁰ *Supra* note 37.

⁵¹ 2014 QCCS 174.

⁵² *Judicature Act*, R.S.N.L. 1990, c. J-4, Section 13.

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Mtre Nicholas Scheib
SCHEIB LEGAL
Mtre Andrew Hatnay
KOSKIE MINSKY LLP
For the mises en cause Michael Keeper, Terence Watt,
Damien Lebel, and Neil Johnson

Mtre Daniel Boudreault
PHILION, LEBLANC, BEAUDRY
For the mise en cause Syndicat des métallos, sections locales 6254 et 6285

Mtre Ronald A. Pink
PINK LARKIN
For the mise en cause Morneau Shepell Ltd, in its capacity
as replacement pension plan administrator

Mtre Doug Mitchell
Mtre Edward Béchard-Torres
IRVING MITCHELL KALICHMAN
For the mise en cause Her Majesty in Right of Newfoundland and
Labrador, as represented by the Superintendent of Pensions

Mtre Pierre Lecavalier
MINISTÈRE DE LA JUSTICE CANADA
For the mise en cause the Attorney General of Canada, acting on behalf
of the office of the Superintendent of financial institutions

Mtre Sophie Vaillancourt
Mtre Roberto Clocchiatti
RETRAITE QUÉBEC
For the mise en cause Régie des rentes du Québec

Mtre Martin Roy
STEIN MONAST
For the mise en cause Ville de Sept-Îles

Date of hearing: December 20, 2016

Confidential Appendix D

Status of Negotiations of Asset Purchase Agreement

CANADA

PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

N° : 500-11-048114-157

COUR SUPÉRIEURE
(Chambre commerciale)

DANS L'AFFAIRE DE LA *LOI SUR LES
ARRANGEMENTS AVEC LES
CRÉANCIERS DES COMPAGNIES*, l.r.c.
1985, CH.C-36, TELLE QU'AMENDÉE :

BLOOM LAKE GENERAL PARTNER
LIMITED, QUINTO MINING
CORPORATION, 8568391 CANADA
LIMITED, CLIFFS QUEBEC IRON
MINING ULC., WABUSH IRON CO.
LIMITED ET WABUSH RESOURCES INC.
Débitrices

-et-

THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP, BLOOM LAKE
RAILWAY COMPANY LIMITED,
WABUSH MINES, ARNAUD RAILWAY
COMPANY ET WABUSH LAKE
RAILWAY COMPANY LIMITED
Mises-en-cause

FTI CONSULTING CANADA INC.

Contrôleur

-et-

VILLE DE FERMONT

Créancière / Opposante

AVIS D'OBJECTION QUANT À LA MOTION FOR THE ISSUANCE OF AN ORDER
APPROVING THE ALLOCATION METHODOLOGY AND OTHER RELIEF

(Articles 11 et suivants de la *Loi sur les arrangements avec les créanciers des compagnies* et
paragraphe 57 de l'Ordonnance initiale)

À L'HONORABLE STEPHEN W. HAMILTON., J.C.S. OU À L'UN DES HONORABLES JUGES DE LA COUR SUPÉRIEURE, SIÉGEANT EN CHAMBRE COMMERCIALE POUR LE DISTRICT DE MONTRÉAL, L'OPPOSANTE, LA VILLE DE FERMONT, EXPOSE CE QUI SUIT :

1. L'Opposante souhaite formuler son objection quant à la requête intitulée *Motion for the issuance of an order approving the allocation methodology and other relief* (ci-après la « Requête »), qui lui a été signifiée le samedi 20 mai 2017 et dont la date de présentation prévue est le 31 mai 2017;
2. L'Opposante souhaite ainsi formuler une objection quant aux aspects suivants de la Requête :
 - a) La Requête ne comporte pas suffisamment d'informations pour permettre à l'Opposante de prendre position quant à la méthode proposée;
 - b) L'Opposante n'a pas eu suffisamment de temps depuis la signification pour entreprendre les vérifications rendues nécessaires (4 jours ouvrables seulement), notamment auprès de ses expert-comptables;
3. L'Opposante souhaite s'assurer qu'il n'y a rien dans cette méthode ou dans les paiements envisagés qui pourrait être préjudiciable à sa réclamation;
4. L'Opposante a déjà fait parvenir à la liste de distribution une lettre demandant que l'audition prévue le 31 mai prochain soit reportée à une autre date, ce qui laisserait davantage de temps pour faire les vérifications appropriées;
5. L'Opposante estime qu'une fois ces vérifications appropriées effectuées, elle sera en mesure de prendre position de manière détaillée et il est possible qu'elle se désiste de son objection à ce moment;
6. Ainsi, l'Opposante se réserve le droit de soulever tout autre motif de contestation de la Requête;
7. La présente objection est bien fondée en faits et en droit.

POUR CES MOTIFS, PLAISE À LA COUR :

ACCUEILLIR l'avis d'objection formulé par l'Opposante;

REJETER la Requête;

ORDONNER aux Parties LACC de fournir toute information raisonnablement nécessaire à l'Opposante aux fins de la présente objection;

LE TOUT, sans frais, sauf en cas de contestation

Saguenay, le 26 mai 2017

CAIN LAMARRE

Maître François Bouchard

Courriel : francois.bouchard@clcw.qc.ca

CAIN LAMARRE

190, rue Racine Est, bureau 300

Saguenay (Québec) G7H 1R9

Téléphone : 418-545-4580

Télécopieur : 418 549-9590

Avocats de l'opposante

VILLE DE FERMONT

N/D : 10-15-1215

AVIS DE PRÉSENTATION

À : SERVICE LIST

PRENEZ AVIS que l'*Avis d'objection quant à la motion for the issuance of an order approving the allocation methodology and other relief* sera présentée pour adjudication devant l'honorable Stephen W. Hamilton, j.c.s. ou à l'un des honorables juges de la Cour Supérieure, du district de Montréal, siégeant en chambre commerciale au Palais de justice de Montréal situé au 1, rue Notre-Dame Est à Montréal, le 31 mai 2017, à l'heure et en la salle qui seront déterminées.

VEUILLEZ AGIR EN CONSÉQUENCE.

Saguenay, le 26 mai 2017

CAIN LAMARRE

Maître François Bouchard

Courriel : francois.bouchard@clcw.qc.ca

CAIN LAMARRE

190, rue Racine Est, bureau 300

Saguenay (Québec) G7H 1R9

Tél. : 418-545-4580 Téléc : 418 549-9590

Avocats de l'opposante Ville de Fermont

N/D : 10-15-1215

Avis d'objection à la requête pour l'approbation de la méthodologie d'allocation, le 26 mai 2017

Avis d'objection à la requête pour l'approbation de la méthodologie d'allocation, le 26 mai 2017

Jean-François Delisle

De: Jean-François Delisle
Envoyé: 26 mai 2017 16:56
À: bernard.boucher@blakes.com; sebastien.guy@blakes.com; steven.weisz@blakes.com; milly.chow@blakes.com; aryo.shalviri@blakes.com; nigel.meakin@fticonsulting.com; steven.bissell@fticonsulting.com; ellen.dong@fticonsulting.com; michael.basso@fticonsulting.com; evan.cobb@nortonrosefulbright.com; sylvain.rigaud@nortonrosefulbright.com; chrystal.ashby@nortonrosefulbright.com; AndreAnne.Fortin@nortonrosefulbright.com; awinton@counsel-toronto.com; mgottlieb@counsel-toronto.com; gerry.apostolatos@langlois.ca; mdesrosiers@osler.com; mlaroche@millerthomson.com; brennanp@bennettjones.com; dimitri.maniatis@langlois.ca; daniel.baum@langlois.ca; gary.rivard@bcf.ca; jcuttler@kklex.com; jbellissimo@casselsbrock.com; kewallace@casselsbrock.com; audley.sheppard@cliffordchance.com; simon.greenberg@cliffordchance.com; karolina.rozycka@cliffordchance.com; eric.ouimet@bcf.ca; bertrand.giroux@bcf.ca; frederic.cote@bcf.ca; jsiwiec@perlaw.ca; arubinoff@perlaw.ca; abernard@fasken.com; bfarber@fasken.com; GLefebvre@blg.com; fgagnon@blg.com; a.provencher@sblavocats.com; François Bouchard; julien.collin@hcblegal.com; toddstanley@gov.nl.ca; lmorin@fasken.com; gmichaud@fasken.com; gmetcalfe@duntonrainville.com; TCliche@DuntonRainville.com; michael_axel@keybank.com; rschwill@dwpv.com; julie.lambert@cslships.com; besnier.avocats@cgocable.ca; shebert@millerthomson.com; dstolow@kklex.com; jmorissette@osler.com; wael.rostom@mcmillan.ca; Emile.CatimelMarchand@mcmillan.ca; gmoffat@tgf.ca; roger.simard@dentons.com; louis.dumont@dentons.com; katherineboulianne@bptavocats.com; dboudreault@plba.ca; hbesnier.bdr@cgocable.ca; claude.paquet@bcf.ca; rtalaifar@sangramoller.com; hsangra@sangramoller.com; pierre.lecavalier@justice.gc.ca; dmitchell@imk.ca; ahathay@kmlaw.ca; jfbeaudry@plba.ca; MichaelPDelaney@gov.nl.ca; nick@scheib.ca; Tony.Reyes@nortonrosefulbright.com; anne.parent@mddelcc.gouv.qc.ca; gquerry@mccarthy.ca; mbourbonnais@mccarthy.ca; alain.gaudreault@mddelcc.gouv.qc.ca; kpeddle@usw.ca; legcounsel@gov.nl.ca; Jean-François Delisle; njacobs@stewartmckelvey.com; reynald.auger@langlois.ca; jfgauvin@millerthomson.com; mduchesne@blg.com; otadlaoui@blg.com; isabelle.giguere@mern.gouv.qc.ca; michael.hanlon@mcmillan.ca; townmanager@wabush.ca; pbelanger@mccarthy.ca; jperreault@mccarthy.ca; mdorion@mccarthy.ca; lboulanger@mccarthy.ca; marc-andre.sansregret@langlois.ca; richard.lafamme@steinmonast.ca; jysimard@lavery.ca; dmandilaras@lavery.ca; pchang@morneaushepell.com; jvadorpe@morneaushepell.com; bquistgaard@pinklarkin.com; rpink@pinklarkin.com; bwalancik@kmlaw.ca; elizabethbrown@hicksmorley.com; john-prezioso@hicksmorley.com; Me Guillaume Amiot; notification@mccarthy.ca; atardif@mccarthy.ca; marc.germain@steinmonast.ca; dduvu@stikeman.com; a.guerette@betonprovincial.com; antoine.beaudoin@steinmonast.ca; camille.roy@steinmonast.ca; martin.roy@steinmonast.ca; marie-josée.comeau@retraitequebec.gouv.qc.ca; louis.robillard@retraitequebec.gouv.qc.ca; mbrodeur29@hotmail.com

Objet: 500-11-048114-157 - DANS L'AFFAIRE DE L'ARRANGEMENT DE : BLOOM LAKE GENERAL PARTNER LIMITED & al

Pièces jointes: Avis d'objection - Motion for the Issuance of an Order Approving the Allocation Methodology and Other Relief.pdf

TO/À: SERVICE LIST / LISTE DE DISTRIBUTION

The present email constitutes service of Ville de Fermont **Avis d'objection quant à la Motion for the issuance of an order approving the allocation methodology and other relief** (Articles 11 et suivants de la Loi sur les arrangements avec les créanciers des compagnies et paragraphe 57 de l'Ordonnance initiale)

Avis d'objection à la requête pour l'approbation de la méthodologie d'allocation, le 26 mai 2017

Le présent courriel constitue la signification par la Ville de Fermont d'un **Avis d'objection** quant à la *Motion for the issuance of an order approving the allocation methodology and other relief* (Articles 11 et suivants de la *Loi sur les arrangements avec les créanciers des compagnies* et paragraphe 57 de l'Ordonnance initiale)

Jean-François Delisle

Avocat

CAIN LAMARRE

S.E.N.C.R.L. / AVOCATS

LÀ OÙ VOUS ÊTES.^{MD}

190, rue Racine Est, bureau 300

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Tél. : 418 545-4580 ▪ Téléc. : 418 549-9590 ▪ clcw.ca

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Val-d'Or ▪ Alma ▪ Sept-Îles ▪ Rivière-du-Loup ▪ Amos ▪ Saint-Félicien ▪ Roberval ▪ Plessisville ▪ Amqui

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Procès-verbal de l'instruction au fond, le 26 juin 2017

CANADA		PROCÈS-VERBAL D'AUDIENCE		COUR SUPÉRIEURE
PROVINCE DE QUÉBEC		Chambre commerciale		
DISTRICT DE MONTRÉAL		Cause continuée du mai 2017		
No :		Référée de	Salle prévue	Date 26 juin 2017
500-11-048114-157			15.12	
L'HONORABLE STEPHEN W. HAMILTON, J.C.S.				JH543

Petitioners BLOOM LAKE GENERAL PARTNER LIMITED QUINTO MINING CORPORATION 8568391 CANADA LIMITED CLIFFS QUEBEC IRON MINING ULC	Attorney(s) BLAKE CASSELS & GRAYDON S R L M ^e Bernard BOUCHER (P) M ^e Sébastien GUY M ^e Steven WEISZ (P) M ^e Adam SPIRO M ^e Caroline DION M ^e Ilia KRAVTSOV (P) DENTONS M ^e Roger P. SIMARD (P)
--	--

Mises-en-cause THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP ET AL. INDEPENDENT COUNSEL FOR THE BOARD OF DIRECTORS OF PETITIONERS	Attorney(s) BLAKE CASSELS & GRAYDON S R L M ^e Bernard BOUCHER (P) M ^e Sébastien GUY M ^e Steven WEISZ (P) M ^e Caroline DION M ^e Ilia KRAVTSOV (P) LAX O'SULLIVAN SCOTT LISUS LLP M ^e Andrew WINTON M ^e Matthew GOTTLIEB
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Monitor FTI CONSULTING CANADA INC.	Attorney(s) NORTON ROSE FULLBRIGHT LLP M ^e Sylvain RIGAUD (P) M ^e Aral MOJTAHELIV (P)
--	---

Creditors I BANQUE SCOTIA QUEBEC NORTH SHORE AND LABRADOR RAILWAY COMPANY INC. AIR INUIT LTD. METSO SHARED SERVICES LTD. IRON ORE COMPANY OF CANADA WORLDLINK RESOURCES LIMITED REGIONS COMMERCIAL EQUIPMENT FINANCE LLC MFC INDUSTRIAL LTD BEUMER CORPORATION DEXTER QUEBEC INC. ADMINISTRATION PORTUAIRE DE SEPT-ILES	Attorneys) KUGLER KANDESTIN M ^e KANDESTIN LANGLOIS KRONSTRÖM DESJARDINS M ^e Gerry APOSTOLATOS M ^e Dimitri MANIATIS M ^e Daniel BAUM M ^e Guy TURNER BCF S.E.N.C.R.L. M ^e Bertrand GIROUX M ^e John SIWIEC M ^e Pierre-Marc LEMIRE M ^e Gary RIVARD (P) FASKEN MARTINEAU M ^e Brandon FARBER M ^e Luc MORIN
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Procès-verbal de l'instruction au fond, le 26 juin 2017

GROUPE UNNU-EBC S.E.N.C.
EBC INC

CONSTRUCTION L.F.G. INC.
GERALD LEBLOND INC.

CITY OF FERMONT

PROCUREUR GÉNÉRAL DU QUÉBEC

CITY OF SEPT-ILES

WESCO DISTRIBUTION CANADA LTD
TYCO INTERNATIONAL DU CANADA
SIMPLEXGRINNELL

SHETUSH-ONDEL INC.
AIA AUTOMATION INC.
ÉTUDE JACQUES BLANCHARD
JACQUES BLANCHARD ARPENTEUR-GÉOMÈTRE INC.
3887952 CANADA INC.

DYNAMITAGE CASTONGUAY LTÉE

THE CSL GROUP INC.

EABAMETSONG FIRST NATION
GINOOGAMING FIRST NATION
CONSTANCE LAKE FIRST NATION
LONG LAKE #58 FIRST NATION

NORONT RESOURCES LTD
9201955 CANADA INC.

CANADAIN DEVELOPMENT AND MARKETING
CORPORATION
8901341 CANADA INC

SUPERINTENDENT OF PENSIONS –
NEWFOUNDLAND

ATTORNEY GENERAL OF CANADA

FOR THE RETIREES/REPRESENTATIVES
NON-UNION LOW RED SALARIED

BORDEN LADNER GERVAIS
Me François GAGNON

BSL INC.

CAIN LAMARE
M^e Gabriel SERENA (P)
M^e Denis CLOUTIER (P)
M^e Jean-François DELISLE (P)

Me Marie Claude FALANDEAU

STEIN MONAST

M^e Richard Laflamme (P)
DUNTON RAINVILLE
Me Thomas CLICHE

BESNIER DION RONDEAU
Me

HACKETT CAMPBELL & AL
Me

DAVIES WARD PHILLIPS & VINEBERG
Me

MILLER THOMSON
Me Stéphane HÉBERT

LAVERY, DE BILLY
Me Jean-Yves SIMARD

BENNETT JONES LLP
Me Sean SMYTHE
OSLER, HOSKIN & HARCOURT LLP
Me Sandra ABITAN
Me Éric PRÉFONTAINE
Me Julien MORISSETTE

IRVING MITCHELLE KALICHMAN
M^e Edward BÉCHARD-TURRES (P)

DEPARTMENT OF JUSTICE – CANADA
Me Pierre LECAVALIER

KOSKIE MIWSKY
M Andrew HATNAY (P a.m.) par appel conférence

SYNDICAT DES MÉTALLOS	PHILION, LEBLANC, BEAUDRY, AVOCATS M ^e Daniel BOUDREAU (P)
TACORA RESOURCES et AL	STIKEMAN ELLIOTT M ^e Guy P. MARTEL (P) BORDER LADNER GERVAIS M ^e Marc Duchesne (P) M ^e Vanessa Jodoin (P)
ALDERON IRON ORE CORP THE KAMI MINE LIMITED PARTNERSHIP	

GREFFIER : Lucie Thibodeau g.a.c.s.

STÉNOGRAPHE : N/A

NATURE DE LA CAUSE :

1. **#516** MOTION FOR THE ISSUANCE OF AN ORDER APPROVING THE ALLOCATION METHODOLOGY AND OTHER RELIEF
2. **#** MOTION FOR AN ORDER ENJOINING THE RESPONDENTS TO REQUEST AND OBTAIN COPIES OF REPORTS FROM THE GOVERNMENT OF NEWFOUNLAND AND LABRADOR
3. **#** MOTION FOR THE ISSUANCE OF AN ORDER EXTENDING THE STAY PERIOD
4. **#535** 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
5. **# 531** MOTION FOR AN ORDER FOR LEGAL COSTS OF SALARIED/NON-UNION EMPLOYES AND RETIREEES
6. **#380** MOTION BY MFC BANCORP LTD. TO PARTIALLY LIFT THE STAY OF PROCEEDINGS, TO VARY A COURT ORDER, TO OBTAIN PAYMENT OF SUMS OF MONEY HELD IN TRUST BY THE MONITOR, TO TERMINATE A SUB-LEASE AND FOR ADDITIONAL RELIEF

09 :30 **OUVERTURE de l'audience**
Identification de la cause et des avocats
Gestion

La requête #531 **REP FEE MOTION** (de M^e Hatnay) est **REMISE à mercredi le 28 juin 2017 salle à déterminer.**

Aucune objection n'est soulevée.

La requête #380 MOTION BY MFC BANCORP LTD. TO PARTIALLY LIFT THE STAY OF PROCEEDINGS, TO VARY A COURT ORDER, TO OBTAIN PAYMENT OF SUMS OF MONEY HELD IN TRUST BY THE MONITOR, TO TERMINATE A SUB-LEASE AND FOR ADDITIONAL RELIEF est **REMISE au 19 juillet 2017, salle à déterminer.**

Aucune objection n'est soulevée.

09 :43 No one present objects to Mister Justice Hamilton hearing M^e Martel from Stikeman Elliott.

09 :45 Représentations des avocats de la Ville de Fermont

4. 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

09:52 Témoignage (Anglais): Nigel Meakin – FTI Consulting Canada Inc.
79 Wellington St. West, Toronto ON
(Assermenté)

(Suite) Procès-verbal du 26 juin 2017
500-11-048114-157

Interrogatoire de M^e Bernard Boucher

10:35 Gestion – Argumentations de M^e Duchesne et de M^e Boucher

Notice of objection by ALDERON IRON ORE CORP. and the KAMI MINE limited partnership to petitioner's motion for the issuance of an approval and vesting order for the sale of certain assets and an assignment order with respect to the assignment of certain contracts

10:38 Argumentations de M^e Ilia Kravtsov qui dépose son cahier des autorités

10:50 Argumentations de M^e Rigaud

10:54 Argumentations de M^e Duchesne

11:01 Commentaire du Tribunal

11:04 Questions du Tribunal et commentaires

Échanges entre le Tribunal et M^e Duchesne

11:11 Argumentation de M^e Rivard

11:16 Réponse de M^e Boucher

11:21 SUSPENSION de l'audience

11:46 REPRISE de l'audience

Judgment on the notice of objection

Pour les motifs énoncés verbalement et enregistrés mécaniquement, le TRIBUNAL:

DISMISSES the notice of objection by ALDERON IRON ORE CORP. and the KAMI MINE limited partnership to petitioner's motion for the issuance of an approval and vesting order for the sale of certain assets and an assignment order with respect to the assignment of certain contracts

11: 50 Témoin: monsieur Nigel MeaKin - FTI Consulting Canada Inc., sous le même serment.

Contre-interrogatoire de M^e Rivard

12:07 Fin du contre-interrogatoire

Plus de question de part et d'autre

Argumentation de M^e Boucher

12:16 Référence à la pièce R-3

12:28 **Argumentation de M^e Rigaud** (pour)
Référence à la pièce A
Référence au rapport daté du 26 avril 2017

12:32 **Argumentation de M^e Martel** (pour)

12:33 **Argumentation de M^e Boudreault** (pour)

12:34 **Argumentation de M^e Edward Béchard-Turres** (pour)

12:35 **Argumentation de M^e Hatnay** (appel conférence) (pour)

Page _____ de _____

12:38 **Argumentation de M^e Rivard** (contre)

(Suite) Procès-verbal du 26 juin 2017
500-11-048114-157

M^e Rivard produit: MFC-01: lettre datée du 20 juin 2017

Objection de M^e Rigaud, re: la pièce ne peut être produite lors de l'argumentation

12:39 **Le Tribunal prend l'objection de M^e Rigaud SOUS RÉSERVE**

12:51 Questions du Tribunal – Échanges avec M^e Rivard

12:55 **Réponse de M^e Boucher**

Référence à deux lettres adressées à M^e Rafar datées du 22 et 23 juin 2017

13:01 **Réplique de M^e Rivard**

13:02 **Intervention de M^e Rigaud**

13:45 SUSPENSION de l'audience

14:23 REPRISE de l'audience

Ré identification de la cause et des avocats

Représentations de M^e Duchesne à l'effet de retirer la: MOTION FOR AN ORDER ENJOINING THE RESPONDENTS TO REQUEST AND OBTAIN COPIES OF REPORTS FROM THE GOVERNMENT OF NEWFOUNDLAND AND LABRADORE.

Aucune objection, et permission du Tribunal est accordée.

14:25 Représentations de M^e Boucher.

M^e Boucher produit: MFC-01 en liasse: correspondance électronique entre M^e Boucher et Monsieur Talaifar des 22, 23 et 25 juin 2017.

14:27

Judgment

Pour les motifs énoncés verbalement et enregistrés mécaniquement, le TRIBUNAL:

SIGNE séance tenante: THE APPROVAL AND VESTING ORDER (voir l'ordonnance jointe au présent procès-verbal) et

SIGNE séance tenante: STAY EXTENSION ORDER (voir l'ordonnance jointe au présent procès-verbal)

14:35 Représentations de M^e Rivard

14:37 Représentations de M^e Boucher

14:39 **#516 MOTION FOR THE ISSUANCE OF AN ORDER APPROVING THE ALLOCATION METHODOLOGY AND OTHER RELIEF**

Argumentations de M^e Boucher

14 :42 Questions du Tribunal

Procès-verbal de l'instruction au fond, le 26 juin 2017

14 :43 **Le TRIBUNAL SIGNE séance tenante : ASSIGNMENT ORDER** (voir l'ordonnance jointe au présent procès-verbal)

(Suite) Procès-verbal du 26 juin 2017
500-11-048114-157

Argumentation de M^e Rigaud

Témoïn (Anglais): Nigel Meakin – FTI Consulting Canada Inc.
79 Wellington St. West, Toronto ON
(Assermenté)

Interrogatoire de M^e Rigaud

14:56 Questions du Tribunal

15:06 Commentaire du Tribunal

15:08 Plus de question de part et d'autre pour ce témoin

15:08 **Argumentation de M^e Serena**

15:12 Intervention de M^e Delisle

Intervention de M^e Rigaud

15:15 M^e Cloutier produit: **OF-1:** Proposed allocation pursuant to section 3-3 of the APA (detailing the allocation of schedule R)

15:10 Témoïn (Français): Richard Chabot
490 rue David, Québec QC
(Assermenté)

15:19 M^e Serena produit: **OF-2:** Allocations proposées par la Ville de Fermont.

15:22 M^e Serena produit: **OF-3:** Rôle d'évaluation foncière de la Ville de Fermont pour les années 2016-2018

15:25 M^e Serena produit: **OF-4:** Rôle d'évaluation foncière de la Ville de Fermont pour les années 2016-2018 (strictement maison de chambres et pension)

15:35 M^e Serena produit: **OF-5:** Sommaire du rôle de l'évaluation foncière (2016-2017-2018)

15:44 M^e Serena produit: **OF-6:** Règlement municipal # 425

15:45 Contre-interrogatoire de M^e Rigaud

15:58 Plus de question pour ce témoin

Intervention de M^e Serena

15:59 Contre-Interrogatoire de M^e Boucher

M^e Boucher produit **CCA-1:** Profil financier 2016 de la Ville de Fermont.

16:11 Ré-interrogation de Me Cloutier

M^e Serena produit: **OF-7:** Carte aérienne des installations minières

16:12 Questions du Tribunal au témoin.

Référence aux pièces OF-3 et OF-4

16:13 Intervention de M^e Rigaud

16:14 (Suite) Questions du Tribunal au témoin
(Suite) Procès-verbal du 26 juin 2017
500-11-048114-157

Me Serena produit: OF-B: résumé des contestations des valeurs au rôle

16:19 Contre- Interrogatoire de M^e Boucher

Référence aux pièces OF-2 et OF-4

Plus de question de part et d'autre pour ce témoin.

16:22 SUSPENSION de l'audience

16:36 REPRISE de l'audience

Plaidoiries

Argumentation de M^e Boucher

16:38 Argumentation de M^e Rigaud

16:48 Argumentation de M^e Serena

16:52 Référence à la pièce CCA-1

16:54 Référence aux autorités

17:05 Commentaire du Tribunal

17:07 Intervention de M^e Jean-François Delisle

17:08 Questions du Tribunal

Échanges entre le Tribunal et M^e Delisle

17:09 (Suite) Argumentation de M^e Boucher – Référence à la pièce OF-217:


17:13 Échanges avec le Tribunal

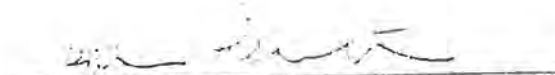
17:15 (Suite) Argumentation de M^e Rigaud

17:16 Question du Tribunal à M^e Serena – Échanges

La cause est mise en délibéré à compter de ce jour.

17:18 FIN de l'audience


Lucie Thibodeau, g.a.c.s.


L'HONORABLE STEPHEN W. HAMILTON, J.C.S.

CANADA	PROCÈS-VERBAL D'AUDIENCE CONFÉRENCE TÉLÉPHONIQUE	COUR SUPÉRIEURE
PROVINCE DE QUÉBEC DISTRICT DE MONTRÉAL		Chambre commerciale
No : 500-11-048114-157	Référée de	Salle prévue
		Date
L'HONORABLE STEPHEN W. HAMILTON, J.C.S.		Le 25 août 2017
		JH5439

**DANS L'AFFAIRE DE LA LOI SUR LES
ARRANGEMENTS AVEC LES CRÉANCIERS
DES COMPAGNIES, L.R.C.
1985, CH. C-36**

**BLOOM LAKE GENERAL PARTNER LIMITED
QUINTO MINING CORPORATION
8568391 CANADA LIMITED
CLIFFS QUÉBEC MINE DE FER ULC
WABUSH IRON CO. LIMITED
WABUSH RESOURCES INC.**

Requérantes

Et
**SOCIÉTÉ EN COMMANDITE MINE DE FER DU LAC BLOOM
BLOOM LAKE RAILWAY COMPANY LIMITED
WABUSH MINES
ARNAUD RAILWAY COMPANY
WABUSH LAKE RAILWAY COMPANY LIMITED**

Mises en cause

Et
FTI CONSULTING CANADA INC.

Contrôleur

Et
VILLE DE FERMONT

Opposante

	Procureur(s)
Pour les requérantes	M ^e Bernard Boucher BLAKE, CASSELS & GRAYDON S.E.N.C.R.L.
Pour les mises en cause	M ^e Bernard Boucher BLAKE, CASSELS & GRAYDON S.E.N.C.R.L.
Pour le contrôleur	M ^e Arad Mojtahedi NORTON ROSE FULBRIGHT CANADA S.E.N.C.R.L.
Pour l'opposante	M ^e François Bouchard (Chicoutimi) M ^e Denis Cloutier (Montréal) M ^e Gabriel Serena-Bélisle (Montréal) CAIN LAMARRE

Nature de la cause

Montant : \$

Cote(s)	Requête (s)
	Demande de l'opposante en prolongation du délai pour demander la permission d'en appeler

Greffier (lère) <i>Lucie Thibodeau</i>	Interprète N/A	Sténographe N/A
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Procès-verbal, re: demande de l'opposante en prolongation du délai pour demander la permission d'en appeler, le 25 août 2017

CANADA	PROCÈS-VERBAL D'AUDIENCE		COUR SUPÉRIEURE	
PROVINCE DE QUÉBEC	CONFÉRENCE TÉLÉPHONIQUE		Chambre commerciale	
DISTRICT DE MONTRÉAL	Référé de	Salle prévue	Date	
No : 500-11-048114-157			Le 25 août 2017	
L'HONORABLE STEPHEN W. HAMILTON, J.C.S.				JH5439

ENREGISTREMENT NUMÉRIQUE

Audition AM :	Début	Fin	Audition PM :	Début	Fin
	09h30	09h45			

Affaires référées au maître des rôles	Résultat de l'audition Demande accueillie
---------------------------------------	---

HEURE

9h30	<u>OUVERTURE DE L'AUDIENCE</u> Identification des procureurs Le Tribunal s'adresse aux avocats Intervention de M ^e Serena
9h35	Intervention de M ^e Boucher
9h37	Intervention de M ^e Bouchard Le Tribunal s'adresse aux avocats (suite)
9h39	Intervention de M ^e Serena <u>Jugement</u>
9h41	CONSIDÉRANT la demande en prolongation du délai pour demander la permission d'en appeler présentée par Ville de Fermont ; CONSIDÉRANT que le jugement duquel Ville de Fermont veut appeler, est rendu le 25 juillet 2017 ; CONSIDÉRANT que le jugement est envoyé aux procureurs par courriel le 26 juillet 2017 ; CONSIDÉRANT que le jugement n'est pas reçu par les procureurs de Ville de Fermont ; CONSIDÉRANT que les procureurs de Ville de Fermont indiquent au Tribunal qu'ils n'ont pas reçu l'avis de jugement et qu'ils sont informés du jugement la première fois le 15 août 2017 ; CONSIDÉRANT que le délai pour demander la permission d'en appeler est de 21 jours à compter de la date du jugement et est donc expiré le 15 août 2017 ; CONSIDÉRANT que les procureurs de Ville de Fermont avisent le procureur des débitrices dès le 16 août 2017 qu'ils se réservent la possibilité de porter le jugement en appel ; CONSIDÉRANT que les procureurs de Ville de Fermont ont agi avec diligence pour présenter la présente demande en prolongation de délai ; CONSIDÉRANT que les procureurs des débitrices, du contrôleur et du créancier garanti ne s'opposent pas à la demande en prolongation de délai ;

CANADA PROVINCE DE QUÉBEC DISTRICT DE MONTRÉAL No : 500-11-048114-157	PROCÈS-VERBAL D'AUDIENCE CONFÉRENCE TÉLÉPHONIQUE		COUR SUPÉRIEURE Chambre commerciale	
	Référé de	Salle prévue	Date	Le 25 août 2017
L'HONORABLE STEPHEN W. HAMILTON, J.C.S.			JH5439	

CONSIDÉRANT que la demande est signifiée au « service list » avec avis de présentation ;

CONSIDÉRANT que personne ne s'est manifesté pour contester la demande ;

CONSIDÉRANT que la prolongation de délai ne cause aucun préjudice et ne fait que replacer les parties dans la situation où elles auraient dû être ;

CONSIDÉRANT qu'il est approprié dans les circonstances d'abrèger le délai de présentation de la présente demande ;

POUR CES MOTIFS, LE TRIBUNAL :

ACCUEILLE la demande pour prolonger le délai d'appel de la décision rendue par le soussigné le 25 juillet 2017.

ABRÈGE le délai de présentation de la présente demande.

PROLONGE le délai d'appel possible pour cette décision au 5 septembre 2017.

LE TOUT SANS FRAIS

9h43 Intervention de M^e Bouchard

9h45 Intervention de Me Bélisle

9h45 **FIN DE LA CONFÉRENCE TÉLÉPHONIQUE**


 L'HONORABLE STEPHEN W. HAMILTON, J.C.S.


 Lucie Thibodeau, g.a.c.s.



CANADA

CONSOLIDATION

CODIFICATION

Companies' Creditors Arrangement Act

Loi sur les arrangements avec les créanciers des compagnies

R.S.C., 1985, c. C-36

L.R.C. (1985), ch. C-36

Current to December 5, 2017

À jour au 5 décembre 2017

Last amended on February 26, 2015

Dernière modification le 26 février 2015

Partie II : Juridiction des tribunaux

[...]

Pouvoir général du tribunal

11 Malgré toute disposition de la Loi sur la faillite et l'insolvabilité ou de la Loi sur les liquidations et les restructurations, le tribunal peut, dans le cas de toute demande sous le régime de la présente loi à l'égard d'une compagnie débitrice, rendre, sur demande d'un intéressé, mais sous réserve des restrictions prévues par la présente loi et avec ou sans avis, toute ordonnance qu'il estime indiquée.

L.R. (1985), ch. C-36, art. 11; 1992, ch. 27, art. 90; 1996, ch. 6, art. 167; 1997, ch. 12, art. 124; 2005, ch. 47, art. 128.

[...]

Permission d'en appeler

13 Sauf au Yukon, toute personne mécontente d'une ordonnance ou décision rendue en application de la présente loi peut en appeler après avoir obtenu la permission du juge dont la décision fait l'objet d'un appel ou après avoir obtenu la permission du tribunal ou d'un juge du tribunal auquel l'appel est porté et aux conditions que prescrit ce juge ou tribunal concernant le cautionnement et à d'autres égards.

L.R. (1985), ch. C-36, art. 13; 2002, ch. 7, art. 134.

Cour d'appel

14 (1) Cet appel doit être porté au tribunal de dernier ressort de la province où la procédure a pris naissance.

Pratique

(2) Tous ces appels sont régis autant que possible par la pratique suivie dans d'autres causes devant le tribunal saisi de l'appel; toutefois, aucun appel n'est recevable à moins que, dans le délai de vingt et un jours après qu'a été rendue l'ordonnance ou la décision faisant l'objet de l'appel, ou dans le délai additionnel que peut accorder le tribunal dont il est interjeté appel ou, au Yukon, un juge de la Cour suprême du Canada, l'appelant n'y ait pris des procédures pour parfaire son appel, et à moins que, dans ce délai, il n'ait fait un dépôt ou fourni un cautionnement suffisant selon la pratique du tribunal saisi de l'appel pour garantir

Loi sur les arrangements avec les créanciers des compagnies, L.R.C. (1985), ch. C-36 (suite)

qu'il poursuivra dûment l'appel et payera les frais qui peuvent être adjugés à l'intimé et se conformera aux conditions relatives au cautionnement ou autres qu'impose le juge donnant la permission d'en appeler.

L.R. (1985), ch. C-36, art. 14; 2002, ch. 7, art. 135.

Loi sur la fiscalité municipale, chapitre F-2.1

CHAPITRE V

CONTENU DU RÔLE D'ÉVALUATION FONCIÈRE

[...]

SECTION II

VALEUR DES IMMEUBLES PORTÉS AU RÔLE

§ 1. — Règle générale

43. La valeur réelle d'une unité d'évaluation est sa valeur d'échange sur un marché libre et ouvert à la concurrence, soit le prix le plus probable qui peut être payé lors d'une vente de gré à gré dans les conditions suivantes:

1° le vendeur et l'acheteur désirent respectivement vendre et acheter l'unité d'évaluation, mais n'y sont pas obligés; et

2° le vendeur et l'acheteur sont raisonnablement informés de l'état de l'unité d'évaluation, de l'utilisation qui peut le plus probablement en être faite et des conditions du marché immobilier.

1979, c. 72, a. 43.

[...]

CHAPITRE X

RÉVISION ADMINISTRATIVE ET RECOURS DEVANT LE TRIBUNAL

SECTION I

RÉVISION ADMINISTRATIVE

124. Une personne qui a un intérêt à contester l'exactitude, la présence ou l'absence d'une inscription au rôle relative à un bien dont elle-même ou une autre personne est propriétaire peut déposer auprès de l'organisme municipal responsable de l'évaluation une demande de révision à ce sujet.

Une telle personne peut notamment:

1° contester l'inscription d'un bien qui n'est pas un immeuble devant être porté au rôle, ou l'omission d'un bien qui est un tel immeuble;

2° contester l'exactitude, la présence ou l'absence d'une inscription visée à l'article 55;

Loi sur la fiscalité municipale, RLRQ c F-2.1 (*suite*)

3° demander la réunion de plusieurs immeubles pour former une unité d'évaluation, ou le fractionnement d'une unité d'évaluation en plusieurs.

Une personne tenue de payer une taxe ou une compensation à la municipalité locale ou à la commission scolaire qui utilise le rôle est réputée avoir l'intérêt exigé par le présent article.

Pendant l'application d'une entente conclue en vertu de l'article 196.1, toute demande de révision relative à un bien situé sur le territoire d'une municipalité locale avec laquelle l'entente a été conclue doit être déposée auprès de cette municipalité.

1979, c. 72, a. 124; 1991, c. 32, a. 54; 1996, c. 67, a. 11; 1999, c. 40, a. 133; 2004, c. 20, a. 146.

[...]

SECTION II

RECOURS DEVANT LE TRIBUNAL

138.5. La personne qui a fait la demande de révision peut, si elle n'a pas conclu une entente en vertu de l'article 138.4, former devant le Tribunal un recours ayant le même objet que la demande.

Si une telle entente est conclue, les personnes suivantes autres que celle qui a fait la demande de révision peuvent, dans les circonstances mentionnées le cas échéant, former un recours devant le Tribunal pour contester la modification découlant de l'entente:

1° la personne au nom de laquelle l'unité d'évaluation ou l'établissement d'entreprise visé par la modification est inscrit au rôle ou l'était immédiatement avant celle-ci;

2° la personne qui, par l'effet de la modification, a été inscrite au rôle à titre de locataire ou d'occupant de l'unité d'évaluation;

3° la municipalité locale, la commission scolaire ou l'organisme municipal responsable de l'évaluation intéressé, si la modification concerne une unité d'évaluation ou un établissement d'entreprise qui n'est pas inscrit au rôle à son nom et si le recours est fondé sur une question de droit;

4° le ministre, si la modification concerne une inscription utilisée dans le calcul d'une somme payable par le gouvernement en vertu de l'un des articles 210, 254 et 257;

5° (paragraphe abrogé).

Le recours visé au premier alinéa doit être formé avant le 31^e jour qui suit l'expiration du délai prévu au deuxième alinéa de l'article 138.4 pour la conclusion d'une entente.

Le recours visé au deuxième alinéa doit être formé, selon la dernière des échéances, soit avant le 1^{er} mai qui suit l'entrée en vigueur du rôle, soit avant le 31^e jour qui suit:

1° l'expédition au requérant de l'avis prévu à l'article 180, dans le cas prévu au paragraphe 1° de cet alinéa;

2° l'expédition au requérant d'une copie de l'avis prévu à l'article 180, dans le cas prévu au paragraphe 2° de cet alinéa;

3° l'expédition au greffier de la municipalité locale du certificat de modification, dans le cas où la municipalité est le requérant en vertu du paragraphe 3° de cet alinéa;

4° l'expédition à la commission scolaire ou à l'organisme municipal responsable de l'évaluation d'une copie du certificat de modification, dans le cas où la commission scolaire ou l'organisme est le requérant en vertu du paragraphe 3° de cet alinéa;

5° la réception par le ministre d'une copie du certificat de modification, dans le cas visé au paragraphe 4° de cet alinéa.

Un recours qui, en raison d'une situation de force majeure, n'a pu être formé dans le délai applicable parmi ceux prévus au présent article peut l'être dans les 60 jours qui suivent la fin de cette situation.

1996, c. 67, a. 25; 1997, c. 43, a. 266; 1999, c. 31, a. 5; 1999, c. 40, a. 133; 1999, c. 43, a. 13; 2000, c. 54, a. 52; 2003, c. 19, a. 250; 2005, c. 28, a. 196; 2006, c. 60, a. 86; 2011, c. 33, a. 16.

Loi sur la justice administrative, RLRQ c J-3

CHAPITRE II
COMPÉTENCE D'ATTRIBUTION DES SECTIONS

[...]

SECTION II
LA SECTION DES AFFAIRES IMMOBILIÈRES

32. La section des affaires immobilières est chargée de statuer sur des recours portant notamment sur l'exactitude, la présence ou l'absence d'une inscription au rôle d'évaluation foncière ou au rôle de la valeur locative, les exemptions ou remboursements de taxes foncières ou d'affaires, la fixation des indemnités découlant de l'imposition de réserves pour fins publiques ou de l'expropriation d'immeubles ou de droits réels immobiliers ou de dommages causés par des travaux publics ou sur la valeur ou le prix d'acquisition de certains biens, lesquels sont énumérés à l'annexe II.

1996, c. 54, a. 32.

ANNEXE III

LES PIÈCES

CCA-1 Profil financier 2016 de la Ville de Fermont



Code géographique :	97035	MRC :	Caniapiscau
Désignation :	Ville	CM :	S.O.
Classe de population 2015 :	2 000 @ 9 999	Région administrative :	Côte-Nord
Classe de population 2016 :	2 000 @ 9 999	Agglomération :	S.O.

Mise en garde

Une version révisée de la norme comptable sur les paiements de transfert est entrée en vigueur à compter de 2013 pour les municipalités. Cette nouvelle norme n'est pas interprétée ni appliquée uniformément par celles-ci depuis 2013. L'objet de cette divergence porte sur les subventions pluriannuelles reçues du gouvernement du Québec et de ses organismes budgétaires, notamment pour le service de dette sur des emprunts contractés pour l'acquisition d'immobilisations. Les comparaisons, entre les municipalités, de certaines données, doivent donc être faites avec prudence. Les ratios touchés sont ceux ayant les revenus de fonctionnement ou les actifs comme dénominateur.

Sommaire des renseignements sur la municipalité

Données de 2015 :	Données de 2016 :	
Population	2 806	Population 2 676
Revenus de fonctionnement	22 744 336 \$	Richesse foncière uniformisée (RFU) 958 235 455 \$

Sommaire des comparaisons avec différents groupes

	Municipalité	Classe de population	MRC	Région administrative	Tout le Québec
Données de 2015 :					
Taxes de fonctionnement / Revenus de fonctionnement	89,68 %	74,47 %	85,74 %	66,47 %	65,17 %
Excédent (déficit) de fonctionnement accumulé / Revenus de fonctionnement	84,53 %	23,98 %	74,10 %	25,74 %	14,92 %
Endettement total net à long terme par 100 \$ de RFU	2,41 \$	1,74 \$	2,57 \$	3,09 \$	2,06 \$
Endettement total net à long terme par unité d'évaluation	11 754 \$	3 246 \$	10 462 \$	5 938 \$	5 800 \$
Données de 2016 :					
T.G.T. uniformisé	0,9724 \$	1,0168 \$	1,0100 \$	1,3686 \$	1,0173 \$
Charge fiscale moyenne des résidences d'un logement (incluant condominiums)	1 541 \$	2 253 \$	1 604 \$	2 265 \$	2 699 \$
Charge fiscale moyenne des logements	1 313 \$	1 855 \$	1 352 \$	1 724 \$	2 001 \$

CCA-1 Profil financier 2016 de la Ville de Fermont

MAMOT 25 octobre 2016 | Fermont

Note

Dans la partie « Détail des renseignements sur la municipalité », les données de 2015 proviennent du rapport financier (RF), du sommaire du rôle d'évaluation foncière (SR) et du décret de population tandis que les données 2016 proviennent des prévisions budgétaires (PB), du sommaire du rôle d'évaluation foncière (SR) et du décret de population.

Les données utilisées provenant du RF sont consolidées lorsqu'applicable.

Aux fins du calcul des ratios et des indices, les charges, qui incluent l'amortissement, sont diminuées d'un montant égal aux revenus provenant des services rendus aux organismes municipaux et constituent ainsi les charges nettes prises en compte aux sections A et C.

Détail des renseignements sur la municipalité

	Municipalité	
Données de 2015 :		
Population	2 806	
Richesse foncière uniformisée (RFU)	750 700 853 \$	
Revenus	22 795 442 \$	
- Taxes	20 398 240 \$	
Revenus de fonctionnement	22 744 336 \$	
- Taxes de fonctionnement sur la valeur foncière	20 241 076 \$	
- Taxes de fonctionnement sur une autre base	157 164 \$	
- Services rendus aux organismes municipaux	0 \$	
- Compensations tenant lieu de taxes	455 773 \$	
- Transferts	928 677 \$	
Charges	25 839 339 \$	
Service de la dette	1 456 949 \$	
Endettement total net à long terme	18 113 391 \$	
Actifs	60 316 304 \$	
Dette à long terme	16 775 135 \$	
Excédent (déficit) de fonctionnement accumulé	19 225 595 \$	
Données de 2016 :		
Population	2 676	
Richesse foncière uniformisée (RFU)	958 235 455 \$	
Évaluation uniformisée des immeubles imposables	934 116 816 \$	
- Évaluation imposable uniformisée résidentielle	300 942 126 \$	
- Évaluation imposable uniformisée industrielle et commerciale	628 744 014 \$	
- Évaluation imposable uniformisée agricole	0 \$	
- Évaluation imposable uniformisée autre	4 430 676 \$	

- Casse de per
- Usain sprint
BMR

Détail des comparaisons avec différents groupes**A. Données des RF et SR 2015**

	Municipalité	Classe de population	MRC	Région administrative	Tout le Québec
Nombre de municipalités		279	2	31	1 076
Résultats					
Charges nettes par 100 \$ de RFU	3,44 \$	1,46 \$	3,49 \$	2,69 \$	1,86 \$
Charges nettes par unité d'évaluation	16 768 \$	2 735 \$	14 232 \$	5 166 \$	5 247 \$
Taxes par unité d'évaluation imposable	14 966 \$	2 174 \$	12 587 \$	3 940 \$	3 722 \$

Détail des comparaisons avec différents groupes

A. Données des RF et SR 2015 (suite)

	Municipalité	Classe de population	MRC	Région administrative	Tout le Québec
Taxes de fonctionnement sur la valeur foncière / Revenus de fonctionnement	88,99 %	57,95 %	84,48 %	58,78 %	56,04 %
Taxes de fonctionnement sur une autre base / Revenus de fonctionnement	0,69 %	16,52 %	1,26 %	7,68 %	9,13 %
Compensations tenant lieu de taxes / Revenus de fonctionnement	2,00 %	3,44 %	2,07 %	5,26 %	4,11 %
Transferts de fonctionnement / Revenus de fonctionnement	4,08 %	6,66 %	5,18 %	7,35 %	6,66 %
Autres revenus de fonctionnement / Revenus de fonctionnement	4,23 %	15,43 %	7,01 %	20,92 %	24,07 %
Excédent (déficit) de fonctionnement accumulé / Revenus de fonctionnement	84,53 %	23,98 %	74,10 %	25,74 %	14,92 %
Investissements en immobilisations					
Valeur comptable nette / Coût des immobilisations	47,63 %	61,59 %	47,81 %	58,44 %	61,30 %
Acquisition d'immobilisations / Coût des immobilisations	4,24 %	4,52 %	3,98 %	2,94 %	5,60 %
Endettement					
Endettement total net à long terme par 100 \$ de RFU	2,41 \$	1,74 \$	2,57 \$	3,09 \$	2,06 \$
Endettement total net à long terme par unité d'évaluation	11 754 \$	3 246 \$	10 462 \$	5 938 \$	5 800 \$
Service de la dette / (Charges nettes sans amortissement + remboursement de la dette à long terme + variation du fonds d'amortissement)	5,76 %	16,70 %	6,39 %	17,86 %	18,51 %
Dette à long terme / Actifs	27,81 %	28,54 %	27,00 %	35,41 %	37,92 %

B. Données des SR 2016

	Municipalité	Classe de population	MRC	Région administrative	Tout le Québec
Nombre de municipalités		285	2	33	1 109
Évaluation imposable uniformisée résidentielle / Évaluation uniformisée des immeubles imposables	32,22 %	75,72 %	33,79 %	67,40 %	78,68 %
Évaluation imposable uniformisée industrielle et commerciale / Évaluation uniformisée des immeubles imposables	67,31 %	11,94 %	65,69 %	31,17 %	15,57 %
Évaluation imposable uniformisée agricole / Évaluation uniformisée des immeubles imposables	0,00 %	8,48 %	0,00 %	0,30 %	3,37 %
Évaluation imposable uniformisée autre / Évaluation uniformisée des immeubles imposables	0,47 %	3,86 %	0,52 %	1,14 %	2,38 %
Évaluation moyenne uniformisée des résidences d'un logement (incluant condominiums)	157 777 \$	219 460 \$	158 171 \$	165 106 \$	262 825 \$
Évaluation moyenne uniformisée par logement	134 416 \$	180 476 \$	133 391 \$	125 680 \$	194 922 \$
RFU par unité d'évaluation imposable et compensable	692 367 \$	201 182 \$	579 608 \$	202 359 \$	298 286 \$
Indice de la RFU par unité d'évaluation imposable et compensable	365				

Détail des comparaisons avec différents groupes

C. Données des PB et SR 2016

	Municipalité	Classe de population	MRC	Région administrative	Tout le Québec
Nombre de municipalités		281	2	33	1 088
T.G.T. uniformisé	0,9724 \$	1,0168 \$	1,0100 \$	1,3686 \$	1,0173 \$
Charge fiscale moyenne des résidences d'un logement (incluant condominiums)	1 541 \$	2 253 \$	1 604 \$	2 265 \$	2 699 \$
Charge fiscale moyenne des logements	1 313 \$	1 855 \$	1 352 \$	1 724 \$	2 001 \$
Indice d'effort fiscal	94				
Indice des charges nettes par 100 \$ de RFU	122				

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OF-1 Proposed allocation pursuant to section 3-3 of the APA

PROPOSED ALLOCATION PURSUANT TO SECTION 3.3 OF THE APA (DETAILING THE ALLOCATION OF SCHEDULE R) (Note 1)

Purchased Assets	Allocated Value (CAD)	Province	Vendor
Bloom Lake Railway and other assets in connection thereto	750,000	Newfoundland	Bloom Lake Railway Company
Bloom Lake mine equipment and other movable assets in connection with the Bloom Lake Mine (excluding the Excluded Equipment)	2,000,000	Quebec	Bloom Lake GP and Bloom Lake LP
Bloom Lake mine fixed assets (buildings and constructions on the site pertaining to the Mining Rights)	1,500,000	Quebec	Bloom Lake GP, as general partner of Bloom Lake LP
Bloom Lake Mining Lease and Real Property Leases	1,400,000	Quebec	Bloom Lake GP, as general partner of Bloom Lake LP
Bloom Lake Mining Claims (114 claims held under the name of Bloom Lake GP)	100,000		Bloom Lake GP, as general partner of Bloom Lake LP
Bloom Lake Real Property Ferment housing	4,000,000	Quebec	See "Real Property" tab
Total Bloom Lake	9,000,000		
Quinto claims (99% in 264 claims)	445,000	Quebec	Quinto
CQIM claims (1% in 264 claims)	5,000	Quebec	CQIM
CQIM claims (100% in 194 claims)	300,000	Quebec	CQIM
Total	10,500,000		

Note 1: This allocation is made pursuant to section 3.3 of the APA. For greater certainty, this allocation does not change the substance of the APA providing that the transaction involves the acquisition of all of the Vendors' right, title and interest in and to the Purchased Assets, in the aggregate, for which the whole Consideration is to be received by the Vendors. Also for greater certainty, this allocation does not imply that any GST/HST and QST will be payable under the APA, given the tax elections that will be filed in accordance with section 3.5(1) of the APA.

OF-1 Proposed allocation pursuant to section 3-3 of the APA

Allocation of total amount for Bloom Lake Real Property Vermont

4,000,000.00 \$

Street Address	Municipal Evaluation	Pro rata percentage per house/motel	Allocated Value (pro rata based on municipal evaluation)	Vendor
115 Bâtisseurs	189,900 \$	0.749%	29,970.17 \$	CQIM
119 Bâtisseurs	189,900 \$	0.749%	29,970.17 \$	CQIM
123 Bâtisseurs	188,800 \$	0.745%	29,796.57 \$	CQIM
127 Bâtisseurs	188,800 \$	0.745%	29,796.57 \$	CQIM
131 Bâtisseurs	188,800 \$	0.745%	29,796.57 \$	CQIM
135 Bâtisseurs	188,800 \$	0.745%	29,796.57 \$	CQIM
139 Bâtisseurs	188,800 \$	0.745%	29,796.57 \$	CQIM
143 Bâtisseurs	188,800 \$	0.745%	29,796.57 \$	CQIM
147 Bâtisseurs	228,800 \$	0.903%	36,109.40 \$	CQIM
151 Bâtisseurs	228,800 \$	0.903%	36,109.40 \$	CQIM
155 Bâtisseurs	238,100 \$	0.939%	37,577.13 \$	CQIM
159 Bâtisseurs	228,800 \$	0.903%	36,109.40 \$	CQIM
163 Bâtisseurs	228,800 \$	0.903%	36,109.40 \$	CQIM
167 Bâtisseurs	228,800 \$	0.903%	36,109.40 \$	CQIM
171 Bâtisseurs	228,800 \$	0.903%	36,109.40 \$	CQIM
175 Bâtisseurs	228,800 \$	0.903%	36,109.40 \$	CQIM
179 Bâtisseurs	228,800 \$	0.903%	36,109.40 \$	CQIM
183 Bâtisseurs	228,800 \$	0.903%	36,109.40 \$	CQIM
124 Bâtisseurs	349,400 \$	1.379%	55,142.59 \$	CQIM
128 Bâtisseurs	349,400 \$	1.379%	55,142.59 \$	CQIM
132 Bâtisseurs	349,400 \$	1.379%	55,142.59 \$	CQIM
136 Bâtisseurs	349,400 \$	1.379%	55,142.59 \$	CQIM
29 Garnier	99,600 \$	0.393%	15,718.95 \$	BLLP
21 Mélézes	355,900 \$	1.404%	56,168.43 \$	BLLP
25 Mélézes	355,900 \$	1.404%	56,168.43 \$	BLLP
29 Mélézes	355,900 \$	1.404%	56,168.43 \$	BLLP
33 Mélézes	355,900 \$	1.404%	56,168.43 \$	BLLP
40 Bougainville	179,100 \$	0.707%	28,265.71 \$	BLLP
388 rue du fer	18,435,400 \$	72.737%	2,909,489.77 \$	BLLP
	25,345,200 \$	100%	4,000,000.00 \$	

OF-2 Allocations proposées par la Ville de Fermont

Purchased Assets	Allocated Value (CAD)	Province	Vendor
Bloom Lake Railway and other assets in connection thereto	750 000 \$	Newfoundland Bloom Lake Railway Company	répartition du prix de vente portion immeuble
Bloom Lake mine equipment and other movable assets in connection with the Bloom Lake Mine (excluding the Excluded Equipment)	2 000 000 \$	Quebec	Bloom Lake GP and Bloom Lake LP
Bloom Lake mine fixed assets (buildings and constructions on the site pertaining to the Mining Rights)	1 500 000 \$	Quebec	6 324 370 \$ Bloom Lake GP, as general partner of Bloom Lake LP
Bloom Lake Mining Lease and Real Property Leases	1 400 000 \$	Quebec	65 296 \$ Bloom Lake GP, as general partner of Bloom Lake LP
Bloom Lake Mining Claims (114 claims held under the name of Bloom Lake GP)	100 000 \$		Bloom Lake GP, as general partner of Bloom Lake LP
Bloom Lake Real Property Fermonit housing	4 000 000 \$	Quebec	509 334 \$ See "Real Property" tab
Total Bloom Lake	9 000 000 \$		
Quinto claims (99% in 264 claims)	445 000 \$	Quebec	Quinto
COJM claims (1% in 264 claims)	5 000 \$	Quebec	COJM
COJM claims (100% in 194 claims)	300 000 \$	Quebec	COJM
Total	10 500 000 \$		
	6 900 000 \$	2,010%	343 354 200 \$
			2,010%
			6 900 000 \$

52 962 530,00 m²

Rôle d'évaluation foncière

Municipalité de **Fermont**
en vigueur pour les exercices financiers **2016 à 2018**

1. Identification de l'unité d'évaluation

Adresse: **755, route 389**
Numéro de lot: **9, 6, 5, 4, 3, 2**
Numéro matricule: **1657-14-8757**
Utilisation prédominante: **Extraction du minerai de fer**
Numéro d'unité de voisinage: **2003**
Dossier n°: **1114294**

2. Propriétaire

Nom: **Quebec Iron Ore Inc.**
Adresse postale: **630, Boulevard Rene-Levesque Ouest # 1850, Montreal H3B1S6**
Date d'inscription au rôle: **2016-04-11**

3. Caractéristiques de l'unité d'évaluation

Caractéristiques du terrain

Mesure frontale: Superficie:
52 962 530,00 m²

Caractéristiques du bâtiment principal

Nombre d'étages:
Année de construction:
Aire d'étages:
Genre de construction:
Lien physique:
Nombre de logements: **0**
Nombre de loc. non résident.: **1**
Nombre de chambres locatives: **0**

4. Valeurs au rôle d'évaluation

Date de référence au marché: **2014-07-01**
Valeur du terrain: **3 299 000 \$**
Valeur du bâtiment: **314 710 000 \$**
Valeur de l'immeuble: **318 009 000 \$**
Valeur de l'immeuble au rôle antérieur: **318 009 000 \$**

5. Répartition fiscale

Catégorie et classe d'immeuble à des fins d'application des taux variés de taxation:
Non résidentielle classe 10, Industrielle classe 4

Valeur imposable de l'immeuble: **318 009 000 \$**
Valeur non imposable de l'immeuble: **0 \$**

Rôle d'évaluation foncière

Municipalité de **Fermont** en vigueur pour les exercices financiers **2016 à 2018**

1. Identification de l'unité d'évaluation

Adresse: **388, rue du Fer**
Numéro de lot: **B-1463**
Numéro matricule: **3252-70-6995**
Utilisation prédominante: **Maison de chambres et pension**
Numéro d'unité de voisinage: **1002**
Dossier n°: **1123580**

2. Propriétaire

Nom: **Quebec Iron Ore Inc.**
Adresse postale: **630, Boulevard Rene-Levesque Ouest # 1850, Montreal H3B1S6**
Date d'inscription au rôle: **2016-04-11**

3. Caractéristiques de l'unité d'évaluation

Caractéristiques du terrain

Mesure frontale: Superficie:
13 633,00 m²

Caractéristiques du bâtiment principal

Nombre d'étages: **3**
Année de construction:
Aire d'étages:
Genre de construction:
Lien physique:
Nombre de logements: **0**
Nombre de loc. non résident.: **5**
Nombre de chambres locatives: **0**

4. Valeurs au rôle d'évaluation

Date de référence au marché: **2014-07-01**
Valeur du terrain: **712 200 \$**
Valeur du bâtiment: **17 723 200 \$**
Valeur de l'immeuble: **18 435 400 \$**

Valeur de l'immeuble au rôle antérieur: **18 435 400 \$**

5. Répartition fiscale

Catégorie et classe d'immeuble à des fins d'application des taux variés de taxation: **Résiduelle**

Valeur imposable de l'immeuble: **18 435 400 \$**
Valeur non imposable de
l'immeuble: **0 \$**

OF-5 Sommaire du rôle de l'évaluation foncière (2016-2017-2018)

CATEGORIE (Utilisation)	VALEURS IMPOSABLES						VALEURS NON IMPOSABLES						SUPERFICIE DES TERRAINS (m²)			
	TERRAINS			BÂTIMENTS			TERRAINS			BÂTIMENTS				IMMEUBLES		
	NOMBRE*	TERRAINS	BÂTIMENTS	IMMEUBLES	BÂTIMENTS	TERRAINS	NOMBRE*	TERRAINS	BÂTIMENTS	IMMEUBLES	BÂTIMENTS	TERRAINS		NOMBRE*	TERRAINS	BÂTIMENTS
1- RÉSIDENTIELLE	371	30 633 308	264 457 900	285 311 200	164 685 100	1 592 200	56	1 751 100	13 121 200	15 113 400	10 862 200	456 218 83				
10- Logements	848	24 123 300	164 685 100	168 808 400			40									
Nombre : 1 (condominium)																
1 (seul condominium)	812	21 929 100	104 283 800	126 212 900			39	1 285 600	6 191 600	7 477 200						
2	11	54 000	2 851 500	3 202 500												
3	11	54 000	2 851 500	3 202 500												
4	10	62 400	6 289 500	6 913 900												
5	308															
5-9	299															
10 & 19	310	132 100	1 611 400	1 763 500												
20 & 23	311															
30 & 45	312	428 400	7 546 000	8 074 400												
50 & 99	313	390 100	21 555 500	21 935 600			1	465 500	4 670 600	5 136 100						
100 & 199	314															
200 et plus	315															
11- Chalets, maisons de villégiature	316	165 000	746 800	911 800												
12- Maisons mobiles, roulettes	317	4 245 300	27 631 700	31 877 000			13	209 700	2 092 000	2 301 700						
15- Habitations en commun	318	1 580 000	85 206 100	90 786 100			3	31 400	237 000	268 400						
16- Hôtels résidentiels	319															
17- Parc de roulettes et de maisons mobiles	320															
18-19- Autres immeubles résidentiels	321	11	539 700	2 388 200	2 927 900											
2-3- INDUSTRIES MANUFACTURIÈRES	322															
2-3- Industries manufacturières (seul condominium)	323	3	118 500	1 979 000	2 097 500			308 500	10 862 200	308 500						
2-3- Industries manufacturières (condominium)	324	3	118 500	1 979 000	2 097 500			308 500	10 862 200	308 500						
4- TRANSPORTS, COMM., SERVICES PUBLICS	325															
4111 Chemins de fer	326	17	784 100	3 433 300	6 197 500			358 100	6 847 100	7 225 300						
4111 Chemins de fer	327	2	434 100	1 229 200	1 663 300											
5- COMMERCE ET DÉTAIL EN GÉNÉRAL	328	3	1 012 400	6 312 000	7 324 400											
50- Centres et immeubles commerciaux	329	3	980 200	5 638 500	6 618 700											
51- Ventes au détail	330	1	9 600	547 800	557 400											
5200 à 5999- Vente au détail (seul 583-)	331	1	22 600	125 700	148 300											
583- Hôtels, motels et maisons de tourisme	332															
5- Commercial (seul condominium)	333	5	1 012 400	6 312 000	7 324 400											
5- Commercial (condominium)	334															
6- SERVICES	335															
60- Immeubles à bureaux	336	19	1 201 700	7 158 400	8 360 100			1 304 200	25 563 900	27 468 100						
60- Immeubles à bureaux	337	1	103 700	320 000	423 700											
6- Services (seul condominium)	338	19	1 201 700	7 158 400	8 360 100			1 304 200	25 563 900	27 468 100						
6- Services (condominium)	339															
7- CULTURELLE, RÉCREATIVE ET DE LOISIRS	340															
7411-7412 Terrains de golf	341	2	46 800	153 650	200 450			2 059 400	9 282 900	11 362 300						
78- Parcs	342	1	22 400		22 400											
81- Agriculture	343	3	7 144 900	588 710 000	595 854 900			365 900		365 900						
83- Exploitation forestière	344															
85- Exploitation minière	345	3	7 144 900	588 710 000	595 854 900											
9- IMMEUBLES NON EXPLOITÉS, TENUES D'EAU	346	110	4 269 100		4 269 100											
91- Terrains vagues	347	110	4 269 100		4 269 100											
9200- Forêts inexploitées qui ne sont pas des réserves	348															
TOTAL DU RÔLE D'ÉVALUATION FONCIÈRE	349	1 357	45 211 200	874 404 700	919 615 900			10 423 900	54 835 100	65 260 900						

OF-5 Sommaire du rôle de l'évaluation foncière (2016-2017-2018)

4. RÉGIMES FISCAUX PARTICULIERS			5. VALEURS PAR DISPOSITION FISCALE			6. VALEURS DES LOGEMENTS		
IDENTIFICATION	NOMBRE *	SUPERFICIE DES TERRAINS	IDENTIFICATION	NOMBRE *	VALEURS	IDENTIFICATION	NBRE LOG	VALEURS
Terrains de golf (L.R.O., c.F-2.1, art.211)	401	203 808 543	10-1 « condominium »	501	125 797 164	10-1 « condominium »	812	154 923
Unités d'évaluation comprenant des exploitations agricoles enregistrées	402		1 « seul condominium »	502	3 202 500	1 « seul condominium »	30	106 750
- Parties comprises dans l'« E.A.E. »	405		2	504	6 705 600	2	6	117 600
- Entièrement incluses en zone agricole	404		3	505	40	3	40	172 848
- Partiellement incluses en zone agricole	405		4	506		4	6 913 900	
- Exclues de la zone agricole	406		5	507		5	1 763 500	146 958
- Parties à vocation non-agricole	407		6 à 9	508		6 à 9	10 à 19	8 074 400
Presbytères d'Églises (L.R.O., c.F-2.1, art. 231.1)	409		10 à 19	510		10 à 19	20 à 29	21 093 726
Autres régimes fiscaux particuliers			30 à 49	511		30 à 49	50 à 89	81 130
			50 à 89	512		50 à 89	100 à 199	
			100 à 199	513	30 524	100 à 199	200 et plus	
			200 et plus	514		200 et plus	1211 Maisons mobiles	28 688 204
				515			17-- Parcs de roulettes et de maisons mobiles	118 058
				516	530 031		2-3- INDUSTRIES MANUFACTURIERES	
				517			4-- TRANSPORTS, COMM., SERVICES PUBLICS	
				518	929		5-- COMMERCIALES	
				519			6-- SERVICES	
				520			7-- CULTURELLE, RÉCRÉATIVE ET DE LOISIRS	
				521			81-- AGRICULTURE	162 600
				522			831- PRODUCTION FORESTIERE COMMERCIALE	
				523			9220 Forêts inexploitées qui ne sont pas des réserves	
				524			TOTAL	196 401 596
				525			TOTAL	1 489
				526				131 990
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CANADA
PROVINCE DE QUÉBEC
COMTÉ DUPLESSIS

VILLE DE FERMONT

RÈGLEMENT NUMÉRO 425 POUR DÉTERMINER LES TAUX DE TAXES MUNICIPALES POUR L'EXERCICE FINANCIER 2015 ET MODIFIANT LE RÈGLEMENT NUMÉRO 43

LE CONSEIL MUNICIPAL DÉCRÈTE CE QUI SUIT :

ARTICLE 1

VARIÉTÉ DE TAUX DE LA TAXE FONCIÈRE GÉNÉRALE 2015

1.1 Catégories d'immeubles

Les catégories d'immeubles pour lesquels la Municipalité fixe plusieurs taux de la taxe foncière générale sont celles déterminées par la Loi sur la fiscalité municipale (L.R.Q., chapitre F-2-1), à savoir :

1. Taux de base – catégorie résiduelle;
2. Taux particulier des immeubles de six (6) logements et plus;
3. Taux particulier des immeubles non résidentiels;
4. Taux particulier des immeubles industriels;
5. Taux particulier des terrains vagues desservis.

Une unité d'évaluation peut appartenir à plusieurs catégories.

- 1.2** Les dispositions énoncées aux articles 244.29 à 244.64 de la Loi sur la fiscalité municipale (L.R.Q., chapitre F-2-1) s'appliquent intégralement.

1.3 TAUX PARTICULIER À LA CATÉGORIE RÉSIDUELLE

Conséquemment, le taux particulier de la taxe foncière générale de la catégorie résiduelle est fixé à 0,92 \$ par 100 \$ de la valeur portée au rôle d'évaluation et cette taxe est imposée et prélevée annuellement sur tout terrain, lot ou partie de lot avec toutes les constructions y érigées, s'il y en a, et sur les biens-fonds ou immeubles incorporés auxdits fonds et définis à la Loi.

1.4 TAUX PARTICULIER À LA CATÉGORIE DES IMMEUBLES À SIX LOGEMENTS OU PLUS

Le taux particulier de la taxe foncière générale de la catégorie des immeubles à six logements ou plus est fixé à la somme de 1,20 \$ par 100 \$ de la valeur portée au rôle d'évaluation et cette taxe est imposée et prélevée annuellement sur tout terrain, lot ou partie de lot avec toutes les constructions y érigées, s'il y en a, et sur les biens-fonds ou immeubles incorporés auxdits fonds et définis par la Loi.

1.5 TAUX PARTICULIER À LA CATÉGORIE DES IMMEUBLES NON RÉSIDENTIELS

Le taux particulier de la taxe générale foncière de la catégorie des immeubles non résidentiels est fixé à la somme de 2,75 \$ par 100 \$ de la valeur portée au rôle d'évaluation et cette taxe est imposée et prélevée annuellement sur tout terrain, lot ou partie de lot avec toutes les constructions y érigées, s'il y en a, et sur les biens-fonds ou immeubles incorporés auxdits fonds et défini par la Loi.

OF-6 Règlement municipal numéro 425

1.6 TAUX PARTICULIER À LA CATÉGORIE DES IMMEUBLES INDUSTRIELS

Le taux particulier de la taxe générale foncière de la catégorie des immeubles industriels est fixé à la somme de 2,75 \$ par 100 \$ de la valeur portée au rôle d'évaluation et cette taxe est imposée et prélevée annuellement sur tout terrain, lot ou partie de lot avec toutes les constructions y érigées, s'il y en a, et sur les biens-fonds ou immeubles incorporés auxdits fonds et définis par la Loi.

1.7 TAUX PARTICULIER À LA CATÉGORIE DES TERRAINS VAGUES

Le taux particulier de la taxe générale de la catégorie des terrains vagues desservis est fixé à la somme de 1,84 \$ par 100 \$ de la valeur portée au rôle d'évaluation et cette taxe est imposée et prélevée annuellement sur tout terrain vague desservi au sens de la Loi sur la fiscalité municipale.

ARTICLE 2

TAXES POUR LE SERVICE D'AQUEDUC ET D'ÉGOUT

2.1 Qu'une taxe pour le service d'aqueduc et d'égout de 0,06 \$ par 100 \$ de la valeur réelle, telle que portée au rôle d'évaluation soit imposée et prélevée pour l'année fiscale 2015 sur tous terrains, lots ou parties de lots avec toutes les constructions y érigées et tout ce qui est incorporé au fond et défini des lots ou parties de lots ou terrains vacants sur lesquels aucune construction quelconque y est érigée.

ARTICLE 3

TAXE POUR LES SERVICES D'ENLÈVEMENT, DE TRANSPORT ET DE DISPOSITIONS DES ORDURES MÉNAGÈRES

3.1 Qu'une taxe pour le service d'enlèvement, de transport et de disposition des ordures ménagères de 0,08 \$ par 100 \$ de la valeur réelle, telle que portée au rôle d'évaluation soit imposée et prélevée pour l'année fiscale 2015, sur tous terrains, lots ou parties de lots avec toutes les constructions y érigées et tout ce qui est incorporé au fond et défini des lots ou parties de lots ou terrains vacants sur lesquels aucune construction quelconque y est érigée.

ARTICLE 4

TAXE POUR LE CONTRÔLE BIOLOGIQUE DES INSECTES PIQUEURS

4.1 Qu'une taxe de 75 \$ par année, par unité de logement soit facturée à tout propriétaire d'immeuble inscrit au rôle d'évaluation, dans le périmètre urbain, pour les coûts du contrôle biologique des insectes piqueurs.

ARTICLE 5

Le présent règlement entrera en vigueur suivant la Loi.

ADOPTÉ

(SIGNÉ) MARTIN ST-LAURENT

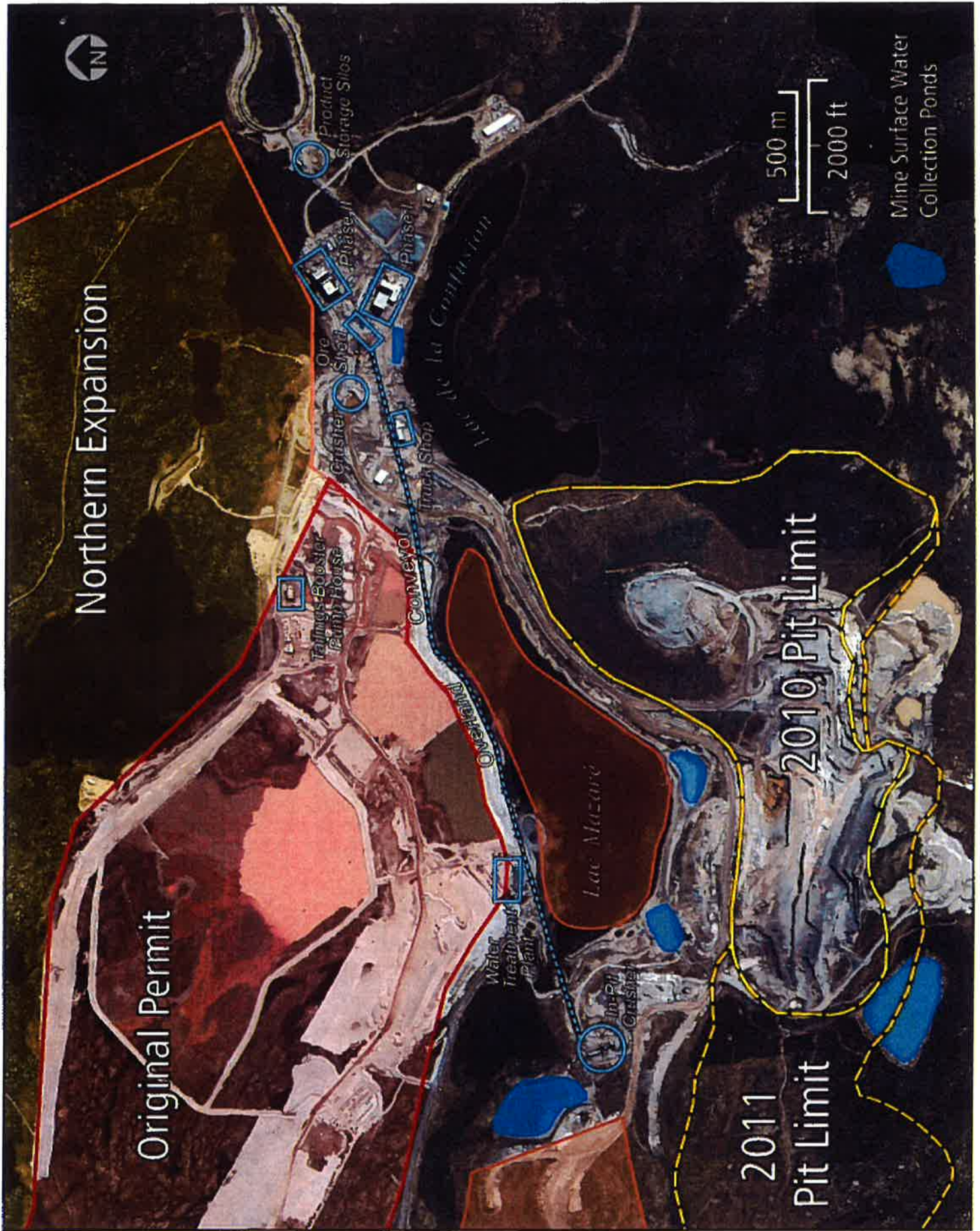
(SIGNÉ) CAROLLE BOURQUE

MAIRE

GREFFIÈRE

AVIS DE MOTION : LE 9 DÉCEMBRE 2014

ADOPTÉ : LE 16 DÉCEMBRE 2014



BLOOM LAKE General Partner limited											
VILLE DE FERMONT (97035)					GROUPE ALTUS						
### TAQ	Matricule	Lot	Adresse	Année du rôle	Valeur au rôle	Valeur demandée	DIFFÉRENCE DEMANDÉE DDR	% différence demandée	valeur proposée	DIFFÉRENCE PROPOSÉE	% différence proposée
SAI-Q-199551-1402	1657-14-8757		755, route 389	2013-14-15	180 009 000 \$	130 000 000 \$	(50 009 000) \$	-27.8%			0.0%
SAI-Q-208793-1505	1657-14-8757		755, route 389	2013-14-15	318 009 000 \$	105 000 000 \$	(213 009 000) \$	-67.0%			0.0%
SAI-Q-220081-1609	1657-14-8757		755, route 389	2016-17-18	318 009 000 \$	50 000 000 \$	(268 009 000) \$	-84.3%			0.0%
BLOOM LAKE Iron Ore Ltd Partners (1er janvier 2016 au 10 avril 2016)											
SAI-Q-220079-1609	3252-70-6995	B1463, 1230	388, rue du Fer	2016-17-18	18 435 400 \$	2 500 000 \$	(15 935 400) \$	-86.4%			0.0%
SFC Mine de Fer du Lac Bloom											
SAI-Q-205539-1411	3252-70-6995	B1463, 1230	388, rue du Fer	2010-11-12	8 174 300 \$	4 087 000 \$	(4 087 300) \$	-50.0%			0.0%
SAI-Q-205543-1411	3252-70-6995	B1463, 1230	388, rue du Fer	2013-14-15	12 786 600 \$	6 393 000 \$	(6 393 600) \$	-50.0%			0.0%
SAI-Q-205541-1411	3252-70-6995	B1463, 1230	388, rue du Fer	2013-14-15	12 786 600 \$	6 393 000 \$	(6 393 600) \$	-50.0%			
Mine de Fer Québec inc (11 avril 2016 au 31 décembre 2018)											
SAI-Q-219453-1608	3252-70-6995	B1463, 1230	388, rue du Fer	2016-17-18	18 435 400 \$	2 500 000 \$	(15 935 400) \$	-86.4%	18 435 400 \$	18 435 400 \$	0.0%
SAI-Q-219455-1608	1657-14-8757		755, route 389	2016-17-18	318 009 000 \$	50 000 000 \$	(268 009 000) \$	-84.3%	318 009 000 \$	318 009 000 \$	0.0%

ANNEXE III
LES DÉPOSITIONS

C A N A D A
PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL
N : 500-11-048114-157

C O U R S U P É R I E U R E

BLOOM LAKE GENERAL PARTNER LIMITED ET AL

Requérantes

- et -

**THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP
ET AL**

Mises-en-cause

- et -

FTI CONSULTING CANADA INC.

Contrôleur

- et -

BANQUE SCOTIA ET AL.

Créanciers

**AUDIENCE TENUE LE 26 JUIN 2017
DEVANT L'HONORABLE STEPHEN W. HAMILTON, J.C.S.**

170626.CS

**DENISE TURCOT, S.O./OCR
38-11, Place du Commerce, Suite 614
Ile des Soeurs (Québec) H3E 1T8
514.362.8600**

COMPARUTIONS

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Me BERNARD BOUCHER,
Me STEVEN WEISZ,
Me ILIA KRAVTSOV,
pour Bloom Lake General Partner Limited, Quinto
Mining Corporation, 8568391 Canada Limited, The
Bloom Lake Iron Ore Mining Limited Partnership et al
Me ROGER P. SIMARD,
pour Cliffs Quebec Iron Mining ULC
Me SYLVAIN RIGAUD et
Me ARAL MOJTAHELIV,
pour le contrôleur
Me GARY RIVARD,
pour MFC Industrial Ltd.
Me DENIS CLOUTIER,
Me GABRIEL SERENA et
Me JEAN-FRANÇOIS DELISLE,
pour City of Fermont
Me RICHARD LAFLAMME,
pour Wesco Distribution Canada Ltd.
Me EDWARD BÉCHARD-TURRES,
pour Superintendent of Pensions - Newfoundland
Me ANDREW HATNAY,
pour Retirees/Representatives Non-Union Low Red

Le 26 juin 2017

3

- 1 Salaried
- 2 **Me DANIEL BOUDREAU**,
3 pour Syndicat des métallos
- 4 **Me GUY P. MARTEL**,
5 pour Tacora Resources et al.
- 6 **Me MARC DUCHESNE** et
7 **Me VANESSA JODOIN**,
8 pour Alderon Iron Ore Corp. et The Kami Mine Limited
9 Partnership
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Le 26 juin 2017

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Le 26 juin 2017

6	<p>1 En l'an deux mille dix-sept (2017), ce vingt-sixième</p> <p>2 (26e) jour du mois de juin,</p> <p>3</p> <p>4 MOTION FOR THE ISSUANCE OF AN ORDER APPROVING THE</p> <p>5 ALLOCATION METHODOLOGY AND OTHER RELIEF</p> <p>6</p> <p>7 REPRÉSENTATIONS DE Me BERNARD BOUCHER,</p> <p>8 pour Bloom Lake General Partner Limited, Quinto</p> <p>9 Mining Corporation, 8568391 Canada Limited, The</p> <p>10 Bloom Lake Iron Ore Mining Limited Partnership et</p> <p>11 al. :</p> <p>12 With respect to this Motion, what I would</p> <p>13 like to do firstly is perhaps draw the</p> <p>14 attention of the Court to paragraph 9 of</p> <p>15 our Motion.</p> <p>16</p> <p>17 LA COUR :</p> <p>18 Sorry, which paragraph?</p> <p>19</p> <p>20 Me BERNARD BOUCHER :</p> <p>21 Paragraph 9.</p> <p>22</p> <p>23 LA COUR :</p> <p>24 Yes.</p> <p>25</p>	7	<p>1 Me BERNARD BOUCHER :</p> <p>2 Page 5. Where you will find in fact what</p> <p>3 is the methodology that is being proposed</p> <p>4 in order to proceed to the allocation of</p> <p>5 the proceed. What seems to cause an issue</p> <p>6 in this case is not per se the methodology</p> <p>7 that is being proposed. I don't believe</p> <p>8 that anyone has any objection with respect</p> <p>9 to the methodology per se.</p> <p>10 However, my understanding from the</p> <p>11 representations that were made before the</p> <p>12 Court by the representative of the City of</p> <p>13 Fermont is that if we go to paragraph</p> <p>14 9 a), in one specific case, there has been</p> <p>15 realization from one asset sale</p> <p>16 transaction, and this is the sale of the</p> <p>17 Bloom Lake Mine, in which the purchaser</p> <p>18 made the specific allocation of the price</p> <p>19 between the mine on one side and</p> <p>20 residential homes on the other. And what</p> <p>21 is being challenged in some way is the</p> <p>22 reasonableness of the decision that was</p> <p>23 made by the purchaser to allocate part of</p> <p>24 the purchase price in a given fashion</p> <p>25 between the mine and the residential</p>
8	<p>1 homes. So, that's pretty much the issue.</p> <p>2 So, on my side, I believe that our Motion</p> <p>3 should be granted subject to a provision</p> <p>4 that could be incorporated into the</p> <p>5 judgement, if ever (inaudible) may be if</p> <p>6 ever the Court was to believe there's a</p> <p>7 homologation to be made with respect to</p> <p>8 this specific transaction and with respect</p> <p>9 to this specific allocation that was made</p> <p>10 by the purchaser.</p> <p>11 However, the general principle that</p> <p>12 we had set out was based on the fact that,</p> <p>13 in some way, the purchaser has decided to</p> <p>14 allocate the proceed in a fashion that is</p> <p>15 proper to himself, after considering</p> <p>16 numerous factors, and that it would be</p> <p>17 perhaps awkward in some way to intervene</p> <p>18 in this allocation of the proceed that has</p> <p>19 been made by the purchaser to change it to</p> <p>20 favour the position of a given creditor to</p> <p>21 the detriment of others. But on that</p> <p>22 point, I will leave the floor to maître</p> <p>23 Rigaud, and then perhaps to the</p> <p>24 representative of the City of Fermont who</p> <p>25 will be in a better position to more fully</p>	9	<p>1 discuss this very narrow issue.</p> <p>2</p> <p>3 LA COUR :</p> <p>4 Although, in fairness, when these</p> <p>5 different sale transactions were</p> <p>6 approved...</p> <p>7</p> <p>8 Me BERNARD BOUCHER :</p> <p>9 Yes.</p> <p>10</p> <p>11 LA COUR :</p> <p>12 ... it was always under reserve of the</p> <p>13 parties' rights to challenge allocation</p> <p>14 when the time came.</p> <p>15</p> <p>16 Me BERNARD BOUCHER :</p> <p>17 I agree with...</p> <p>18</p> <p>19 LA COUR :</p> <p>20 To say now: You can't challenge it because</p> <p>21 that's what it says is...</p> <p>22</p> <p>23 Me BERNARD BOUCHER :</p> <p>24 I agree with that. And I don't have any</p> <p>25 concern with that. My key concern is</p>

Le 26 juin 2017

10	<p>1 that... is going to be what's the best way</p> <p>2 to do it. I will let perhaps maître</p> <p>3 Rigaud and the representative of the City</p> <p>4 of Fermont argue on this. According to</p> <p>5 me, there is no system or way to do it</p> <p>6 that is cast in stone, but...</p> <p>7</p> <p>8 LA COUR :</p> <p>9 Okay.</p> <p>10</p> <p>11 Me BERNARD BOUCHER :</p> <p>12 ... I will hear the argument, as the Court</p> <p>13 will do, on this point.</p> <p>14</p> <p>15 Me SYLVAIN RIGAUD :</p> <p>16 Mr. Justice Hamilton, I think that we</p> <p>17 should hear two witnesses, there's</p> <p>18 Mr. Chabot... monsieur Chabot va</p> <p>19 témoigner, qui est l'évaluateur municipal</p> <p>20 de Fermont, concernant les valeurs au</p> <p>21 rôle, parce que c'est le cheval de</p> <p>22 bataille de la ville de Fermont. Et on</p> <p>23 voudra faire entendre monsieur Meakin</p> <p>24 brièvement à propos de la méthodologie.</p> <p>25 Alors, les deux témoins sont</p>	11
12	<p>1 Me SYLVAIN RIGAUD :</p> <p>2 Absolument.</p> <p>3</p> <p>4 VOIX NON IDENTIFIÉE :</p> <p>5 Monsieur le Juge, vous permettez?</p> <p>6</p> <p>7 LA COUR :</p> <p>8 Oui.</p> <p>9</p> <p>10 VOIX NON IDENTIFIÉE :</p> <p>11 Alors, nous avons fait la correction</p> <p>12 (inaudible). Vous avez également un</p> <p>13 « blackline » aussi qui montre les</p> <p>14 changements qui peuvent fluctuer à</p> <p>15 l'annexe. Nous avons reçu quelques</p> <p>16 consentements, so we received assignments</p> <p>17 and some contracts for the (inaudible).</p> <p>18 The purchaser has signed off on</p> <p>19 (inaudible) the changes, paragraph 15</p> <p>20 (inaudible) all the changes that we have</p> <p>21 (inaudible).</p> <p>22</p> <p>23 LA COUR :</p> <p>24 Okay. And other than that, it's identical</p> <p>25 to what I've seen.</p>	13
10	<p>1 présents. Je ne pense pas que ce soit</p> <p>2 très long. Je ne pense pas que les</p> <p>3 faits... le témoignage de monsieur Chabot,</p> <p>4 il va être interrogé en chef, on aura</p> <p>5 quelques questions en contre-</p> <p>6 interrogatoire, mais les valeurs qui vont</p> <p>7 vous être présentées c'est plus des...</p> <p>8 différentes façons de les interpréter. Je</p> <p>9 ne pense pas véritablement qu'il y ait de</p> <p>10 faits très litigieux ou contestés.</p> <p>11 And we'll hear from Mr. Meakin as</p> <p>12 well that will explain the basis for the</p> <p>13 methodology and why we think it's</p> <p>14 preferable on a principle basis to stick</p> <p>15 with the allocations that were negotiated,</p> <p>16 well, negotiated... that were set really</p> <p>17 by a third party at arm's length from the</p> <p>18 debtors. So, that's basically what we</p> <p>19 have in terms of evidence.</p> <p>20</p> <p>21 LA COUR :</p> <p>22 Okay, well, perhaps we should hear from</p> <p>23 Mr. Meakin first on the general allocation</p> <p>24 system that is proposed, et ensuite on</p> <p>25 entendra la Ville.</p>	11
12	<p>1 VOIX NON IDENTIFIÉE :</p> <p>2 Otherwise, yes, (inaudible) changes.</p> <p>3</p> <p>4 LA GREFFIÈRE :</p> <p>5 I'm going to take your solemn oath. Do</p> <p>6 you swear to tell the truth, the whole</p> <p>7 truth, nothing but the truth? Raise your</p> <p>8 right hand and say: I do.</p> <p>9</p> <p>10 M. NIGEL MEAKIN :</p> <p>11 I do.</p> <p>12</p> <p>13 LA GREFFIÈRE :</p> <p>14 Your name, please?</p> <p>15</p> <p>16 M. NIGEL MEAKIN :</p> <p>17 Nigel Meakin.</p> <p>18</p> <p>19 LA GREFFIÈRE :</p> <p>20 Your address?</p> <p>21</p> <p>22 M. NIGEL MEAKIN :</p> <p>23 79 Wellington Street West, Toronto,</p> <p>24 Ontario.</p> <p>25</p>	13

<p style="text-align: right;">14</p> <p>1 LA GREFFIÈRE :</p> <p>2 Thank you. Your witness.</p> <p>3</p> <p>4 INTERROGÉ PAR Me SYLVAIN RIGAUD,</p> <p>5 pour le contrôleur :</p> <p>6 Q.: Mr. Meakin, before we turn our attention</p> <p>7 and focus to the purchase price allocation</p> <p>8 that was set with respect to the Champion</p> <p>9 deal, I would like to have from you a</p> <p>10 broader, just in general, where does the</p> <p>11 different purchase price allocation fit in</p> <p>12 into the cost allocation methodology that</p> <p>13 is being proposed to the Court by the</p> <p>14 Monitor?</p> <p>15 R. Okay. As Your Honour noted, the</p> <p>16 transactions that were approved from time</p> <p>17 to time throughout the case were all done</p> <p>18 on the basis that was without prejudice to</p> <p>19 stakeholders to make representations as to</p> <p>20 the allocation of the proceeds amongst the</p> <p>21 various lenders and amongst the various</p> <p>22 asset classes in each of those</p> <p>23 transactions. And, so, in order to</p> <p>24 determine the amounts available for</p> <p>25 distribution to creditors, we need to</p>	<p style="text-align: right;">15</p> <p>1 determine a method for allocation of the</p> <p>2 proceeds as well as the allocation of</p> <p>3 costs amongst the CCAA parties.</p> <p>4 What is being proposed is a</p> <p>5 methodology that is consistent with a</p> <p>6 methodology that used in a previous CCAA</p> <p>7 case that I was involved in, and it's</p> <p>8 being done on a principled basis, so,</p> <p>9 really looking at it from first principles</p> <p>10 as to what would be fair and reasonable as</p> <p>11 opposed to looking at different scenarios</p> <p>12 and what their specific outcome may have</p> <p>13 for any group of creditors or any</p> <p>14 particular creditor.</p> <p>15 In that regard, what is proposed is,</p> <p>16 firstly, that the realizations from</p> <p>17 transactions will be allocated amongst the</p> <p>18 specific assets and amongst the specific</p> <p>19 CCAA parties based on the allocations that</p> <p>20 were done by the purchasers in the</p> <p>21 transactions. I'll return to that in a</p> <p>22 moment.</p> <p>23 The non-transaction related</p> <p>24 realizations would be allocated to</p> <p>25 whichever CCAA party they were</p>
<p style="text-align: right;">16</p> <p>1 specifically attributable to. So, for</p> <p>2 example, at the beginning of the case,</p> <p>3 there was cash in the hands of CQM, there</p> <p>4 was cash in the hands of Bloom Lake, and</p> <p>5 so, those assets would remain with the</p> <p>6 companies that they were identifiable</p> <p>7 against.</p> <p>8 There were some realizations which</p> <p>9 would not be specifically attributable to</p> <p>10 individual CCAA parties, for example, we</p> <p>11 have been sitting on funds in the</p> <p>12 Monitor's bank accounts, those funds have</p> <p>13 been earning interest. And, so, until the</p> <p>14 source of those funds is allocated</p> <p>15 according to a methodology you can't say</p> <p>16 whose money that is, but those items would</p> <p>17 follow the allocation of the principle.</p> <p>18 On the cost side, a similar approach,</p> <p>19 any cost that is specifically attributable</p> <p>20 to an asset or a category of assets would</p> <p>21 go first to that realization. So, the</p> <p>22 best example we have, Your Honour will</p> <p>23 recall there was a large number of rail</p> <p>24 cars that were sold at one point during</p> <p>25 the proceeding which had been in storage</p>	<p style="text-align: right;">17</p> <p>1 with third-party storage providers; there</p> <p>2 was a monthly storage cost for those rail</p> <p>3 cars. And, so, that cost specifically</p> <p>4 attributable to those assets would be</p> <p>5 applied to the realizations of those</p> <p>6 assets.</p> <p>7 There are other costs where...</p> <p>8 they're more general costs that are</p> <p>9 specifically attributable to a particular</p> <p>10 CCAA party. So, for example, the</p> <p>11 operating cost of the Bloom Lake Mine</p> <p>12 would go to the Bloom Lake CCAA party.</p> <p>13 The operating cost of the Wabush Mine</p> <p>14 would go to the Wabush Mines CCAA parties.</p> <p>15 The non-attributable costs then would be</p> <p>16 allocated on a prorata basis based on net</p> <p>17 realization after those specifically</p> <p>18 attributable costs that we just discussed,</p> <p>19 and that includes the general management,</p> <p>20 legal and professional costs.</p> <p>21 On the legal and professional costs,</p> <p>22 as Your Honour may recall, at the start of</p> <p>23 the case, both the Monitor, its counsel</p> <p>24 and the companies' counsel set up billing</p> <p>25 methodologies that had billings for those</p>

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<p>18</p> <p>1 where we could identify specifically for 2 Bloom Lake parties, some which were 3 specifically for Wabush parties, and then 4 a joint code where, for example, hearings 5 like this where it covers all... both 6 parties, there was joint costs. 7 And, so, the Bloom Lake costs 8 invoicing would be allocated amongst the 9 Bloom Lake CCAA parties, again based on 10 their realizations; Wabush against the 11 Wabush parties; and the joint ones against 12 all of the CCAA parties. 13 The only other point to mention is 14 the Wabush Mines joint venture, which is 15 a « mise-en-cause » I think, of course is 16 not a legal entity, it's a non- 17 incorporated joint venture, and so, what 18 is proposed is that having gone through 19 the calculation, what would notionally be 20 attributable to Wabush Mines joint venture 21 would then be reallocated up to the joint 22 venture partners based on their respective 23 joint venture interests. 24 25</p>	<p>19</p> <p>1 LA COUR : 2 Sorry, if I can interrupt one second. 3 Legal fees, the claim for \$10,000 was 4 dismissed. 5 6 VOIX NON IDENTIFIÉE : 7 Yes, understood. 8 9 LA COUR : 10 I didn't mention that specifically, but... 11 12 VOIX NON IDENTIFIÉE : 13 But maître Schenke himself (inaudible) 14 properly when he withdraw his Motion, 15 so... 16 17 LA COUR : 18 Okay. Sorry. 19 20 LE TÉMOIN : 21 That's okay, I no longer need to allocate 22 the \$10,000. With respect to the 23 allocations of the realization from 24 transactions, there were a number of 25 deals, as Your Honour is aware, some of</p>
<p>20</p> <p>1 them were for specific assets, many of 2 them were deals that either involved 3 multiple vendors or involved multiple 4 asset categories. In each of the 5 transactions, the purchaser was asked to 6 provide a purchase price allocation 7 amongst the various vendors and against 8 the asset classes. And amongst asset 9 classes, potentially depending on... 10 because different creditors may have 11 different rights against different asset 12 classes, or there may be different tax 13 implications of the allocation on those 14 proceeds. 15 In each case, to my knowledge at any 16 rate, there was not... those allocations 17 were not subject to negotiation, they 18 were... the purchaser made its 19 determination. The purchasers all of 20 course were arm's length third parties who 21 had no vested interest in the benefit to 22 one group of creditors or another from 23 that allocation. And those allocations in 24 each case were accepted by the vendors 25 without negotiation. So, hence, what we</p>	<p>21</p> <p>1 have is a third-party assessment as to how 2 the purchaser of the assets values those 3 assets for their own purposes. 4 5 Me SYLVAIN RIGAUD : 6 Q2. In this specific case, you just provided 7 a general explanation, could you provide 8 a more specific view concerning the 9 purchase price allocation that was 10 determined by Champion with respect to the 11 Bloom Lake transaction? I think it's fair 12 to say for everyone, but City of Sept-Îles 13 is not disputing the price, the purchase 14 price of the... 15 16 LA COUR : 17 Fermont. 18 19 Me SYLVAIN RIGAUD : 20 Q3. Fermont, sorry, City of Fermont is not 21 disputing the purchase price and we're 22 only here to talk about a possible 23 reallocation of the 6.9 that was directed 24 to the real estate properties. 25 R. So, in the transaction in question, which</p>

22	<p>1 was the Bloom Lake transaction, sometimes</p> <p>2 referred to as the Champion transaction</p> <p>3 for the Bloom Lake Mine, the purchase</p> <p>4 price was \$10.5 million. Of that \$10.5</p> <p>5 million, 6.9 million was allocated by the</p> <p>6 purchaser to real and immoveable property.</p> <p>7 And that really comprised of three things:</p> <p>8 the fixed assets at the Bloom Lake Mine,</p> <p>9 the buildings and infrastructure; the</p> <p>10 mining lease and the property leases</p> <p>11 themselves; and then, the real property</p> <p>12 that was in the City of Fermont, there</p> <p>13 was, you may recall, Your Honour, a whole</p> <p>14 bunch of residential housing units that</p> <p>15 was used for employees. So, some of those</p> <p>16 were smaller, some were larger, there was</p> <p>17 a large apartment building, there was a</p> <p>18 cafeteria, there were various parts that</p> <p>19 were used by employees, separate and apart</p> <p>20 from the mine site.</p> <p>21 Q⁴. For the purpose of the Court, could you</p> <p>22 remind or could you confirm to the Court</p> <p>23 what were the values that were allocated</p> <p>24 to these different group of assets per</p> <p>25 Champion?</p>	23	<p>1 R. Right. So, the values that Champion put</p> <p>2 on those assets in the allocation was 1.5</p> <p>3 million on what I shall refer to as the</p> <p>4 fixed assets at the mine. 1.4 million for</p> <p>5 the mining and real property leases. So,</p> <p>6 a total of \$2.9 million for the mine, if</p> <p>7 you will. And then, \$4 million on the</p> <p>8 residential properties.</p> <p>9 Q⁵. I'll ask my... do you mind if we put the</p> <p>10 values that you're suggesting on the</p> <p>11 table, maître Delisle?</p> <p>12</p> <p>13 Me JEAN-FRANÇOIS DELISLE : -</p> <p>14 Non, vas-y. Non, il n'y a pas de</p> <p>15 problème, ça va. On va déposer le</p> <p>16 document aussi, mais...</p> <p>17</p> <p>18 Me SYLVAIN RIGAUD : -</p> <p>19 Oui, oui, oui, that's fine.</p> <p>20 Q⁶. So, I've just asked and there's no</p> <p>21 objection that we confirm the proposed</p> <p>22 values that are being proposed by Fermont,</p> <p>23 what they're asking for the values to be</p> <p>24 for the purpose of the purchase price</p> <p>25 allocation.</p>
24	<p>1 R. So, the City provided us with a schedule</p> <p>2 to essentially reallocate, or proposed</p> <p>3 reallocation of the \$6.9 million that's in</p> <p>4 the deal. And the basis of their proposal</p> <p>5 was based on the municipal tax assessments</p> <p>6 as they... as I believe they currently</p> <p>7 stand at each of those three property</p> <p>8 groups. The municipal assessments are</p> <p>9 approximately \$318 million on the mine and</p> <p>10 \$25 million on the residential properties.</p> <p>11 Those tax assessments are subject to the</p> <p>12 property tax contestations which we have</p> <p>13 provided information on in the Monitor's</p> <p>14 reports. The output of that..</p> <p>15</p> <p>16 LA COUR :</p> <p>17 Q⁷. Sorry, what were the numbers of the mine?</p> <p>18 R. So, 318 million, in round numbers, Your</p> <p>19 Honour, between the two bits of the mine,</p> <p>20 and 25 million approximately on the</p> <p>21 residential. When you apply... you</p> <p>22 allocate the 6.9 million prorata using</p> <p>23 those numbers, you end up with... just</p> <p>24 short of \$6.4 million on the mine, and a</p> <p>25 little over \$500,000 on the residential</p>	25	<p>1 properties. So, overall, a swing of \$3.5</p> <p>2 million approximately from the residential</p> <p>3 properties to the mine assets.</p> <p>4 The reason that becomes important is</p> <p>5 with the amounts outstanding on the</p> <p>6 residential properties, under both</p> <p>7 allocations, they would be paid in full,</p> <p>8 or thereabouts, very close to, but under</p> <p>9 the proposed reallocation by the City of</p> <p>10 Fermont, essentially there would be an</p> <p>11 additional \$3.5 million which would be</p> <p>12 subject to their prior-ranking secured</p> <p>13 claim, and therefore would move from</p> <p>14 assets available for unsecured creditors</p> <p>15 generally to a payment to the City of</p> <p>16 Fermont.</p> <p>17</p> <p>18 Me SYLVAIN RIGAUD : -</p> <p>19 Q⁸. Can you explain to the Court your</p> <p>20 understanding of the basis for the</p> <p>21 allocation that was prepared by Champion?</p> <p>22 R. Yes. I had a conversation with Mr. David</p> <p>23 Cataford of Champion, who was the person</p> <p>24 responsible for creating the allocation</p> <p>25 that went into the Bloom Lake APA. In</p>

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26	<p>1 that conversation, he explained the</p> <p>2 rationale that Champion used in coming up</p> <p>3 with this allocation.</p> <p>4 The general approach they took was to</p> <p>5 allocate the majority of the value to the</p> <p>6 assets which they felt would have value in</p> <p>7 any circumstance. The Bloom Lake Mine is</p> <p>8 not currently operational. While they</p> <p>9 hope it may become operational in the</p> <p>10 future, there's no guaranty that it will.</p> <p>11 The Bloom Lake Mine has carrying costs,</p> <p>12 according to Mr. Cataford, of</p> <p>13 approximately \$1.5 million per month.</p> <p>14 That's not inconsistent with what we were</p> <p>15 seeing in the cash flows from the estate</p> <p>16 prior to the sale of the Bloom Lake Mine.</p> <p>17 And, of course, the Bloom Lake Mine</p> <p>18 also has associated with it a very</p> <p>19 significant environmental reclamation</p> <p>20 ongoing activities, as well as reclamation</p> <p>21 obligations. So, to a certain extent, the</p> <p>22 mine can be viewed as a liability more</p> <p>23 than it can be viewed as an asset.</p> <p>24 On the other hand, the residential</p> <p>25 properties, they view as having potential</p>	27	<p>1 alternate uses, even if the Bloom Lake</p> <p>2 Mine should never restart operations.</p> <p>3 There are other operations in the</p> <p>4 area, including a project that Champion</p> <p>5 has called the Fire Lake North Project,</p> <p>6 which is a project not yet in operation,</p> <p>7 but a project that could be developed in</p> <p>8 the future. That project is about 40</p> <p>9 kilometers away from the residential</p> <p>10 properties in the City of Fermont.</p> <p>11 Currently, that's a significant travel,</p> <p>12 it's about an hour and a half of travel</p> <p>13 time. But as part of the Quebec</p> <p>14 Government's Plan Nord, the road link is</p> <p>15 being improved, and once that road link</p> <p>16 improves and is complete, Champion</p> <p>17 estimates that the travel time would be</p> <p>18 reduced to about 40 minutes to Fire Lake,</p> <p>19 making it a very viable option in their</p> <p>20 view for residential housing for the</p> <p>21 workers at the mine if the project is</p> <p>22 developed.</p> <p>23 So, really, that was their thinking</p> <p>24 is that there was more value placed on the</p> <p>25 residential properties because they had</p>
28	<p>1 alternate use, and the same for other</p> <p>2 assets which are not subject to this</p> <p>3 dispute, but that the mine had really</p> <p>4 « de minimis » value given its very large</p> <p>5 current costs and, you know, arguably no</p> <p>6 value in the context of the liabilities</p> <p>7 that are ongoing and assumed for that</p> <p>8 project.</p> <p>9 Q^s. Mr. Meakin, we had the chance to discuss</p> <p>10 the position of the City of Fermont. Can</p> <p>11 you comment on their position and</p> <p>12 concerning the position of the Monitor</p> <p>13 with respect to the revised or the</p> <p>14 proposed allocation by the City of</p> <p>15 Fermont?</p> <p>16 R. I would make I think two comments.</p> <p>17 Firstly, I think it's fair to say that the</p> <p>18 City of Fermont has a vested interest in</p> <p>19 the reallocation of the proceeds from the</p> <p>20 residential properties to the mine, given</p> <p>21 the size of the incremental recovery that</p> <p>22 that would result in as compared, as I</p> <p>23 mentioned earlier, to the purchaser who</p> <p>24 had no vested interest in how the proceeds</p> <p>25 would be distributed amongst the creditor</p>	29	<p>1 groups. And, so, their allocation was</p> <p>2 done without regard to what the outcome</p> <p>3 might be.</p> <p>4 The other thing I would note is even</p> <p>5 if one were to accept the methodology of</p> <p>6 the City of Fermont that the value should</p> <p>7 be based on the municipal tax assessments,</p> <p>8 and I would pause to note that it's not at</p> <p>9 all uncommon that value in a transaction</p> <p>10 is different from the municipal tax</p> <p>11 assessments. If I just take my own</p> <p>12 experience of buying my house, the price</p> <p>13 I had to pay was different from the</p> <p>14 municipal tax assessment.</p> <p>15 But those municipal tax assessments</p> <p>16 are themselves under contestation. The</p> <p>17 mine assessment currently is some \$318</p> <p>18 million. There are contestations which</p> <p>19 are filed and live and unresolved which</p> <p>20 argue that that value could be reduced to</p> <p>21 as low as \$50 million. And, so, even if</p> <p>22 one were to accept that methodology, there</p> <p>23 are questions as to what the prorata</p> <p>24 allocation should be, given the questions</p> <p>25 over the municipal tax assessments.</p>

<p style="text-align: right;">30</p> <p>1 Q¹⁰. And in the circumstances and in light of 2 your inquiries, specific inquiries, with 3 respect to the allocation that was 4 prepared by Champion, and with respect to 5 the revised allocation that was submitted 6 to you by the City of Vermont, what would 7 be your comment and your recommendation to 8 the Court with respect to that specific 9 purchase price allocation? 10 R. Well, based on the conversations that we 11 had with Champion, the rationale that they 12 provided for that allocation did not seem 13 unreasonable to me. And as I've noted 14 previously, the allocation methodology was 15 developed on a principle basis favouring 16 no creditor group over any other. And, 17 so, I would see no reason to change the 18 allocation methodology and to put a 19 special and different methodology on this 20 transaction than we would be using in 21 other transactions, because of course the 22 methodology we're proposing is to be used 23 consistently across all of the 24 transactions and all of the estates, and 25 there are no objections to the</p>	<p style="text-align: right;">31</p> <p>1 transactions which allocate value in a 2 similar manner, and potentially have 3 similar issues for the other transactions. 4 5 LA COUR : 6 Q¹¹. But everyone was told: « Don't object now, 7 object later. » 8 R. Well, they were told, Your Honour, to not 9 object when the deal was approved. Their 10 opportunity to object, as the City of 11 Vermont have done, is today. And as it 12 was noted earlier today, there was 13 originally six objections filed on the 14 allocation methodology. Five of those 15 objections were filed by the group we call 16 the Pension party, so, that's the pension 17 regulators, OSFI, the rep employees, the 18 hourly employees, and those objections 19 fundamentally were about we needed more 20 information or more time to consider those 21 allocations. 22 We had conversations with each of 23 those groups, we answered the questions 24 that they had, and none of them objected 25 to the methodology per se; they just</p>
<p style="text-align: right;">32</p> <p>1 wanted to have more information, which 2 they received, and then subsequently 3 withdrew their objections. 4 So, we have a situation where... so, 5 for example, the transaction for the port 6 facility has very similar issues, it has 7 assets which are moveable assets, assets 8 which are immoveable, real property 9 leases, also subject to property tax 10 claims. There is no objection with 11 respect to using the proposed methodology 12 in that transaction. And, so, we do run 13 the risk that we would be using different 14 methodologies in different transactions, 15 which conceptually, to me, I struggle 16 conceptually. 17 18 Me SYLVAIN RIGAUD : 19 Q¹². I have no further questions, but I assume 20 my friends may have some. 21 22 VOIX NON IDENTIFIÉE : 23 No, we don't. 24 25</p>	<p style="text-align: right;">33</p> <p>1 LA COUR : 2 Thank you very much. 3 4 LE TÉMOIN : 5 Thank you, Your Honour. 6 7 ET LE TÉMOIN NE DIT RIEN DE PLUS. 8 ***** 9 10 LA COUR : 11 So, that is the extent of your proof? 12 13 Me SYLVAIN RIGAUD : 14 Yes. I understand that Mr. Chabot will 15 testify, I will have just a few questions 16 in cross-examination. I could call him as 17 my witness, but I'll be happy to cross- 18 examine him. Thank you. 19 20 REPRÉSENTATIONS DE Me GABRIEL SERENA, 21 pour City of Vermont : 22 Donc, Monsieur le Juge, je crois que mes 23 confrères, maître Boucher et maître 24 Rigaud, ont très bien expliqué la nature 25 de notre proposition aujourd'hui.</p>

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34	<p>1 Évidemment, on ne s'oppose pas à la 2 transaction, on ne s'oppose pas au montant 3 de 10,5 millions, mais bien à l'allocation 4 de la valeur des actifs qui a été fournie 5 par l'acheteur, Champion, à l'effet que 6 ces actifs-là seraient, d'une part, la 7 valeur qui a été accordée aux actifs est 8 déraisonnable au regard, d'une part, de 9 l'évaluation municipale qui en est faite, 10 au regard, d'une autre part, que 11 l'allocation vient « de facto » anéantir 12 une bonne partie des créances prioritaires 13 de notre cliente sur ces valeurs-là. Et 14 que cette allocation-là vient désavantager 15 de manière déraisonnable et inéquitable 16 notre cliente sur ces questions-là. Je 17 vais inviter monsieur Chabot à s'avancer. 18 De manière préliminaire, j'aimerais 19 également vous mentionner, et vous l'avez 20 mentionné également, que dans le 21 « approval investing order » que vous avez 22 rendu le 27 janvier dernier, une réserve 23 avait été émise à votre... par vous au 24 paragraphe 10 à l'effet que cette 25 allocation-là, bien, l'approbation de la</p>	35	<p>1 vente était faite sous réserve de toute 2 contestation future de la part des 3 créanciers sur l'allocation des valeurs 4 allouées aux actifs pour la vente de ceux- 5 ci, pour la distribution. Le rapport du 6 contrôleur, le 36e rapport, fait référence 7 au fait que cette allocation-là est prévue 8 au contrat de vente, le « APA », qui a eu 9 lieu le 11 décembre 2015. 10 En fait, on prévoit à l'article 3.1 11 de ce document-là que, oui, il y a une 12 valeur globale de 10,5 millions pour la 13 vente, et on réfère à la cédule R, à 14 l'annexe R en fait. Et l'annexe R ne fait 15 qu'établir une allocation où on regarde 16 des entités possédant les actifs. On ne 17 fait pas une allocation, on regarde la 18 valeur des actifs à être distribués ou à 19 être vendus. Donc, la distinction est 20 importante à faire. Puis on prévoit dans 21 le contrat, à l'article 3.3, qu'une 22 allocation au regard de la valeur des 23 actifs à être vendus sera remise plus 24 tard, dans les 14 jours, je crois, 25 précédant le « approval investing order ».</p>
36	<p>1 Face à cette mention-là, à la mention 2 que l'allocation proposée par Champion 3 était convenue entre les parties à la 4 transaction dans le rapport, nous avons eu 5 des questionnements par rapport à quelle 6 était la valeur de cette allocation-là. 7 Et on nous a répondu par un document 8 émanant de maître Boucher, je crois, c'est 9 bien ça? 10 11 Me JEAN-FRANÇOIS DELISLE : 12 Bien, la première fois qu'on en a eu 13 connaissance, Monsieur le Juge, c'est 14 quand maître Rigaud qui nous l'avait remis 15 au moment où c'était en discussion, ça 16 avait été proposé par l'acheteur, mais pas 17 encore accepté par les débitrices, les 18 vendeuses. Puis on a eu par la suite la 19 version finale qui avait une légère une 20 modification, mais qui ne nous concerne 21 pas aujourd'hui, par maître Boucher. 22 23 Me GABRIEL SERENA : 24 Je proposerais de vous en remettre copie, 25 donc, copie du document qui nous a été</p>	37	<p>1 envoyé. Vous devez probablement l'avoir 2 dans vos documents, mais... 3 4 LA COUR : 5 Ça, est-ce que c'est la version finale ou 6 ça c'est la version... la première version 7 que vous avez reçue? 8 9 Me DENIS CLOUTIER : 10 Il faudrait que je la revoie, je peux vous 11 le dire rapidement. 12 13 LA GREFFIÈRE : 14 Est-ce qu'on lui donne une cote, maître? 15 16 Me SYLVAIN RIGAUD : 17 Si vous permettez, je peux compléter? 18 19 Me DENIS CLOUTIER : 20 Allez-y. 21 22 Me SYLVAIN RIGAUD : 23 Il y avait une allocation à l'annexe R au 24 « APA » et en vue du « closing », dans le 25 cadre du « flow of funds » il y a eu</p>

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38	<p>1 effectivement une allocation plus 2 détaillée, et c'est l'allocation plus 3 détaillée à laquelle monsieur Meakin a 4 fait référence quand on alloue une valeur 5 totale de 6,9 aux actifs immobiliers. 6 Alors, oui, effectivement, ce document-là 7 ça fait partie des documents qui ont été 8 transmis avant la conclusion de la 9 transaction, après la signature du 10 « APA ». C'était dans le cadre de ce 11 qu'on a appelé le « flow of funds ».</p> <p>12</p> <p>13 Me DENIS CLOUTIER : 14 Cette copie-là c'était pour Monsieur le 15 Juge, donc, on peut la...</p> <p>16</p> <p>17 LA COUR : 18 Ça, c'est la version finale, je m'excuse? 19</p> <p>20 Me DENIS CLOUTIER : 21 Je vais juste m'assurer. Oui, 22 effectivement, oui.</p> <p>23</p> <p>24 LA COUR : 25 Alors, ça, c'est après la signature du</p>	39	<p>1 « APA », mais avant...</p> <p>2</p> <p>3 Me DENIS CLOUTIER : 4 Avant votre jugement sur l'approbation le 5 27 janvier 2016.</p> <p>6</p> <p>7 LA GREFFIÈRE : 8 Allez-vous le coter? 9</p> <p>10 Me DENIS CLOUTIER : 11 Malheureusement, non.</p> <p>12</p> <p>13 Me SYLVAIN RIGAUD : 14 Monsieur le Juge, c'est à toutes fins... 15 c'est certainement avant la clôture. Là, 16 on ne veut pas vous induire en erreur, 17 est-ce que c'était avant ou après 18 l'ordonnance que vous avez rendue, mais 19 c'est avant évidemment la clôture. Puis 20 les montants, encore une fois, ne sont pas 21 en dispute.</p> <p>22</p> <p>23 Me DENIS CLOUTIER : 24 Exactement. Ce que je peux rajouter là- 25 dessus, Monsieur le Juge, c'est vrai ce</p>
40	<p>1 que maître Rigaud vous dit, puis c'est 2 que, en fait, moi, je l'ai reçu quelques 3 jours après votre ordonnance approuvant la 4 vente. Et on avait su dans le rapport du 5 contrôleur préalable à votre approbation 6 qu'il y avait eu une entente finale. 7 Donc, l'entente avait été conclue, mais je 8 n'avais pas vu le document 9 personnellement, je l'ai eu quelques jours 10 après votre approbation.</p> <p>11</p> <p>12 LA GREFFIÈRE : 13 La cote (inaudible)? 14</p> <p>15 Me DENIS CLOUTIER : 16 Vous pouvez l'appeler OF-1, peut-être.</p> <p>17</p> <p>18 PIÈCE OF-1 : 19 Proposed allocation pursuant to section 3- 20 3 of the APA (detailing the allocation of 21 schedule R).</p> <p>22</p> <p>23 Me GABRIEL SERENA : 24 Donc, il était donc de notre 25 compréhension, et ce que mes confrères</p>	41	<p>1 viennent avancer aujourd'hui vient valider 2 un peu celle-ci, vous n'avez probablement 3 pas eu ou vu ce document-là au moment de 4 rendre votre jugement sur le « approval 5 investing order ». Ce document-là n'est 6 pas daté, n'est pas initialé. On nous dit 7 qu'il a été fait dans le cadre de la 8 transaction. On ne peut pas... on aurait 9 aimé probablement avoir les commentaires 10 de Champion à cet effet-là. Mais sans 11 remettre la bonne foi de nos confrères et 12 de leur cliente en jeu ici, il nous 13 apparaît... il y a des valeurs qui sont 14 attribuées dans ce document-là sur 15 lesquelles nous nous posons d'importantes 16 questions et qui ont une instance tout à 17 fait incommensurable sur les réclamations 18 de notre cliente.</p> <p>19 Comment expliquer, par exemple, 20 qu'une mine évaluée à près de 318 millions 21 sur le rôle d'évaluation foncière puisse 22 être... on puisse lui allouer une valeur 23 de 1,5 million, tandis que des actifs 24 immobiliers, on les appelle ici les 25 « housing », dont les résidences pour les</p>

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42	<p>1 fins de l'exercice, qu'on leur accorde une</p> <p>2 valeur de quatre millions, tandis que</p> <p>3 c'est environ 25. Il y a une</p> <p>4 disproportion telle, Monsieur le Juge, que</p> <p>5 nous vous soumettons, et c'est le fond</p> <p>6 même de notre argument, que celle-ci est</p> <p>7 déraisonnable.</p> <p>8 Pour quelle raison celle-ci, cette</p> <p>9 allocation-là a-t-elle été faite? S'agit-</p> <p>10 il de raisons fiscales? On ne le sait</p> <p>11 pas. S'agit-il, en fait, d'une stratégie</p> <p>12 visant à venir étayer les prétentions de</p> <p>13 Champion dans leur contestation de la</p> <p>14 valeur de l'évaluation foncière devant le</p> <p>15 TAQ, ils sont présentement devant le TAQ.</p> <p>16 Tout ce qu'on peut vous dire c'est que nos</p> <p>17 prétentions sont à l'effet que cette</p> <p>18 allocation est déraisonnable.</p> <p>19 Nous avons appelé aujourd'hui</p> <p>20 monsieur Chabot, évaluateur de la ville de</p> <p>21 Fermont, pour venir attester, d'une part,</p> <p>22 la valeur des actifs qui sont en jeu ici,</p> <p>23 donc, principalement la mine et les</p> <p>24 résidences, et présenter également la</p> <p>25 méthode proposée, que nous proposons tout</p>	43
44	<p>1 maître.</p> <p>2</p> <p>3 INTERROGÉ PAR Me GABRIEL SERENA :</p> <p>4 Merci.</p> <p>5 Q¹³. Bonjour, monsieur Chabot. Pouvez-vous</p> <p>6 expliquer brièvement au Tribunal vos</p> <p>7 fonctions pour la ville de Fermont?</p> <p>8 R. Moi, je suis évaluateur agréé depuis 25</p> <p>9 ans et je suis à l'emploi de la firme</p> <p>10 d'évaluation Évimbéc depuis, aujourd'hui</p> <p>11 même, 39 ans. Donc, et je vais à Fermont,</p> <p>12 je suis... je me suis occupé de faire</p> <p>13 l'évaluation des mines d'ArcelorMittal,</p> <p>14 dans le temps Québec Cartier Mining,</p> <p>15 depuis 1980. Et je suis l'évaluateur</p> <p>16 signataire responsable du rôle</p> <p>17 d'évaluation de la ville de Fermont.</p> <p>18 Q¹⁴. Depuis combien... bien, les mines, vous</p> <p>19 êtes signataire d'évaluations depuis 1980</p> <p>20 également?</p> <p>21 R. Non, non, non, pas depuis 1980.</p> <p>22 Auparavant c'était mon patron qui était le</p> <p>23 signataire du rôle. Ça fait à peu près</p> <p>24 une douzaine d'années que je suis</p> <p>25 signataire du rôle.</p>	45
	<p>1 de même. Donc, allez-y.</p> <p>2</p> <p>3 LA GREFFIÈRE :</p> <p>4 Je vais l'assermenter. Est-ce que vous</p> <p>5 déclarez sous serment que vous allez dire</p> <p>6 la vérité, toute la vérité, rien que la</p> <p>7 vérité? Dites: Je le jure.</p> <p>8</p> <p>9 M. RICHARD CHABOT :</p> <p>10 Je le jure.</p> <p>11</p> <p>12 LA GREFFIÈRE :</p> <p>13 Votre nom?</p> <p>14</p> <p>15 M. RICHARD CHABOT :</p> <p>16 Richard Chabot.</p> <p>17</p> <p>18 LA GREFFIÈRE :</p> <p>19 Votre adresse, monsieur Chabot?</p> <p>20</p> <p>21 M. RICHARD CHABOT :</p> <p>22 490, rue David, Québec.</p> <p>23</p> <p>24 LA GREFFIÈRE :</p> <p>25 Parfait, je vous remercie. Votre témoin,</p>	
	<p>1 Q¹⁵. Je vais vous montrer un tableau, monsieur</p> <p>2 Chabot, et je le coterai pour les fins de</p> <p>3 l'exercice, OF-2. Il s'agit</p> <p>4 essentiellement du même tableau que vous</p> <p>5 avez sous la main, confrère.</p> <p>6</p> <p>7 LA GREFFIÈRE :</p> <p>8 On va l'appeler comment?</p> <p>9</p> <p>10 Me GABRIEL SERENA :</p> <p>11 Allocations proposées.</p> <p>12</p> <p>13 PIÈCE OF-2 :</p> <p>14 Allocations proposées par la Ville de</p> <p>15 Fermont.</p> <p>16</p> <p>17 Me GABRIEL SERENA :</p> <p>18 Donc, il peut être pertinent, Monsieur le</p> <p>19 Juge, que vous l'ayez en main parce qu'on</p> <p>20 va référer à certaines valeurs. En fait,</p> <p>21 il s'agit des valeurs qui ont été... sur</p> <p>22 lesquelles a témoigné monsieur Meakin tout</p> <p>23 à l'heure, donc, présentées dans un</p> <p>24 tableau. Vous avez, d'une part, à gauche,</p> <p>25 le résumé du premier tableau que je vous</p>	

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46	<p>1 ai donné, et à droite... excusez-moi,</p> <p>2 j'avoue que le témoin peut...</p> <p>3 Q¹⁶. Donc, monsieur Chabot, reconnaissez-vous</p> <p>4 le document qui est devant vous?</p> <p>5 R. Oui, c'est moi qui l'ai fait à partir du</p> <p>6 tableau que vous avez tantôt déposé qui</p> <p>7 était OF-1, où est-ce que j'ai ajouté</p> <p>8 trois colonnes entre la province et le</p> <p>9 vendeur, il y a trois colonnes qui sont</p> <p>10 ajoutées là, où on a une valeur au rôle</p> <p>11 d'évaluation, le pourcentage par rapport</p> <p>12 au rôle d'évaluation, puis la répartition</p> <p>13 du prix de vente portion immeuble.</p> <p>14 Donc, j'ai mis en tramé ce qui était</p> <p>15 considéré comme étant immeuble, ce qui est</p> <p>16 en orangé, ce qui totalise 6,9 millions.</p> <p>17 Et ce 6,9 millions c'est par rapport au</p> <p>18 concentrateur, le bâtiment du</p> <p>19 concentrateur à la mine, et ainsi que les</p> <p>20 installations qu'on a, minières, là-bas,</p> <p>21 qui sont évaluées au rôle d'évaluation</p> <p>22 pour les bâtiment seulement de</p> <p>23 314 710 000. On a, après ça, les Bloom</p> <p>24 Lake « mining leases and rail property</p> <p>25 leases », 3 299 000 qui sont au rôle. Et</p>	47	<p>1 on a aussi Fermont « housing » qui</p> <p>2 contient 28 bâtiments résidentiels</p> <p>3 détachés, ainsi qu'un complexe, qu'on</p> <p>4 pourrait dire hôtelier, qui abrite 244</p> <p>5 chambres, pour loger les employés de Bloom</p> <p>6 Lake, avec une cafétéria, avec tous les</p> <p>7 services de loisir courants; il y a même</p> <p>8 deux terrains de pratique de golf, il y a</p> <p>9 des tables de billard, il y a les salles</p> <p>10 pour faire de la musique et des choses</p> <p>11 comme ça. Donc, c'est pour accommoder les</p> <p>12 gens là-bas qui travaillaient à la mine.</p> <p>13 Le 314 millions, c'est strictement la</p> <p>14 portion taxable en vertu de la Loi sur la</p> <p>15 fiscalité municipale qu'on a mis là.</p> <p>16 Puis...</p> <p>17 Q¹⁷. Je vais vous arrêter ici, monsieur Chabot,</p> <p>18 on va y aller actif par actif. Je vais</p> <p>19 vous montrer un document ici. Nous allons</p> <p>20 le coter OF-3.</p> <p>21</p> <p>22 PIÈCE OF-3 :</p> <p>23 Rôle d'évaluation foncière de la Ville de</p> <p>24 Fermont pour les années 2016-2018.</p> <p>25</p>
48	<p>1 Me GABRIEL SERENA :</p> <p>2 Donc, vous parliez justement de</p> <p>3 l'évaluation de la mine?</p> <p>4 R. Oui, l'évaluation de la mine. Donc, on a</p> <p>5 ce qui est produit en OF-3, c'est le rôle</p> <p>6 d'évaluation foncière pour la propriété</p> <p>7 concernée, qui est Quebec Iron Ore inc.,</p> <p>8 qui est située au 755, route 389. On</p> <p>9 nomme les numéros de lot qui sont</p> <p>10 concernés, les numéros de matricule.</p> <p>11 L'utilisation prédominante, extraction du</p> <p>12 minerai de fer. Unité de voisinage.</p> <p>13 Notre numéro de dossier. On a les</p> <p>14 adresses de correspondance. On a la</p> <p>15 superficie du terrain; on parle d'un</p> <p>16 terrain de 52 962 530 mètres carrés. On</p> <p>17 voit que c'est un (inaudible) non</p> <p>18 résidentiel 1. On a une valeur du terrain</p> <p>19 de 3 299 000, une valeur de 314 710 000</p> <p>20 pour le bâtiment, pour un total de</p> <p>21 318 009 000.</p> <p>22 Q¹⁸. Je vous arrête ici, monsieur Chabot. On</p> <p>23 regarde la valeur, il s'agit du rôle 2016</p> <p>24 à 2018.</p> <p>25 R. C'est ça.</p>	49	<p>1 Q¹⁹. Qu'en est-il de la valeur au rôle de 2013</p> <p>2 à 2015?</p> <p>3 R. C'est la même valeur pour 2013 à 2015,</p> <p>4 c'était un... compte tenu de la taille de</p> <p>5 la municipalité qui a moins que 5000</p> <p>6 habitants, on pouvait se prévaloir de</p> <p>7 reporter le rôle pour un autre cycle</p> <p>8 triennal. Donc, c'est le rôle qui a été</p> <p>9 reconduit, le rôle 2013, 2014, 2015 qui a</p> <p>10 été reconduit pour 2016, 2017 et 2018 aux</p> <p>11 mêmes valeurs.</p> <p>12 Donc, on a d'autre information dans</p> <p>13 la répartition fiscale à l'item 5, c'est</p> <p>14 un bâtiment non résidentiel de classe 10</p> <p>15 avec industriel 4. Donc, ça, ça vient</p> <p>16 donner le focus au niveau du système de</p> <p>17 taxation. Le taux de taxe qui est</p> <p>18 applicable à ce genre de propriété là, on</p> <p>19 va le voir peut-être un peu plus tard,</p> <p>20 mais il y a un taux de taxe qui est</p> <p>21 nettement supérieur à l'utilisation</p> <p>22 résiduelle.</p> <p>23 Q²⁰. Parfait. Si on prend maintenant le</p> <p>24 deuxième actif sur lequel...</p> <p>25 R. Oui.</p>

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50	<p>1 Q²¹. ... traite votre document, on parle... on 2 va passer les baux, on parle des 3 résidences. 4 R. Oui. 5 Q²². Je vous montre un deuxième document. Pour 6 les fins de l'exercice, nous allons coter 7 ce document OF-4. 8 9 PIÈCE OF-4 : 10 Rôle d'évaluation foncière de la Ville de 11 Fermont pour les années 2016-2018 12 (strictement maison de chambres et 13 pension). 14 15 LE TÉMOIN : 16 C'est une portion, ce bâtiment-là c'est... 17 c'est encore une fois un extrait du rôle 18 d'évaluation foncière. C'est strictement 19 la partie maison de chambres et de pension 20 que j'ai là ici, parce que les 28 autres, 21 je ne les ai pas avec moi. C'était le 22 tableau à l'endos de OF-1 qui avait été 23 déposé. 24 25</p>	51	<p>1 Me GABRIEL SERENA : 2 Q²³. Exact. 3 R. Donc, là on parle juste du bloc de maison 4 de chambres et pension, qu'on pourrait 5 dire, et c'est... on l'appelle communément 6 l'hôtel là-bas, mais... c'est pour le 7 « fly-in, fly-out » dans Bloom Lake, ils 8 opéraient comme ça, deux semaines « in », 9 deux semaines « out », et on 10 interchangeait l'occupant de la chambre 11 pour un autre deux semaines. 12 Donc, on a pour celui-là un bâtiment 13 qui a trois étages, on a une valeur du 14 terrain de 712 200, valeur du bâtiment 15 17 723 200, pour une valeur totale de 16 l'immeuble de 18 435 000. Puis lui il est 17 affecté par la classe fiscale résiduelle, 18 donc, c'est le plus bas taux de la Ville 19 qui est appliqué là-dessus. On a pour 28 20 autres propriétés qui sont des résidences 21 détachées, jumelées, détachées, qui 22 existent, des documents comme celui-là, 23 qui, quand on les additionne ensemble 24 donneraient le 25 345 200. 25 Q²⁴. Et je vous pose la même question que tout</p>
52	<p>1 à l'heure, il s'agit du rôle 2016 à 2 2018... 3 R. Et c'est la même valeur pour 2013 à 2015. 4 Q²⁵. Donc, si on reprend votre document OF-2... 5 R. 1. 6 Q²⁶. En fait, c'est 2. 7 R. C'est 2, oui. 8 Q²⁷. Celui que vous avez produit, excusez-moi, 9 je me suis peut-être mépris tout à 10 l'heure. 11 R. Oui, c'est bon. 12 Q²⁸. On regarde l'allocation qui est proposée 13 par Champion, donc, la première colonne; 14 qu'en est-il de votre évaluation de... 15 R. C'est sûr que quand je regarde ça, on 16 parle quand même des... si on prenait 17 l'ensemble de ces... du 10,5 millions, si 18 on prenait ce montant-là, c'est plus de 19 deux milliards d'investissement qui a été 20 mis là-dessus, qui a été mis pour 21 l'ensemble de ces éléments-là. Et déjà, 22 dans la contribution du 314 710 000 qu'on 23 a pour les bâtiments, c'est une fine 24 partie quand même de cet investissement de 25 deux milliards, au-delà de deux milliards,</p>	53	<p>1 qui a été fait là-dessus. 2 Après ça, le « mining lease », c'est 3 les terrains. Après ça, on parle du 4 quatre millions pour Bloom Lake Fermont 5 « housing ». Puis tantôt, ce que j'ai 6 entendu, c'est qu'il y avait une mine qui 7 était à proximité qui était Fire Lake. 8 Fire Lake, pour l'avoir fait encore 9 dernièrement, moi, j'étais à Fermont la 10 semaine du 5 au 9 juin 2017, ça fait à 11 peine trois semaines, j'étais là justement 12 puis il fallait que j'aille à Fire Lake. 13 Il fallait que j'aille à Fire Lake, il 14 fallait que j'aille aussi à Gagnon, il 15 fallait que j'aille à la (inaudible), qui 16 est encore un peu plus loin. Puis la 17 route pour aller de Fermont à aller 18 jusqu'à Fire Lake, c'est une heure et 19 demie dans les bonnes conditions, en jeep, 20 4X4, en « pick-up » 4X4. 21 Puis il ne faut pas qu'on rencontre 22 de convoi ferroviaire, parce que la mine 23 de Mont Wright, elle, va transiter par 24 Fermont, descendre vers Gagnon, faire Fire 25 Lake, Gagnon, et descendre vers Port-</p>

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54	<p>1 Cartier, qui est son port d'attache. Il</p> <p>2 y a cinq convois de 160 à 200 wagons à la</p> <p>3 fois qui passent... qui partent du Mont</p> <p>4 Wright, donc, qui coupent cette route-là</p> <p>5 plusieurs fois, au minimum quatre fois.</p> <p>6 Et si on est malchanceux, on va le frapper</p> <p>7 deux fois le convoi. Parce que quand on</p> <p>8 parle de 160, 200 wagons, je me rappelle</p> <p>9 qu'il y a beaucoup de mes collègues dans</p> <p>10 le temps qu'on... juste avec le chemin de</p> <p>11 fer de Quebec Northshore & Labrador</p> <p>12 Railway, qui était à Labrador City,</p> <p>13 d'avoir manqué leur avion parce qu'il y</p> <p>14 avait un convoi qui traversait le chemin</p> <p>15 puis que les gens arrivaient en retard à</p> <p>16 leur avion à cause justement du temps</p> <p>17 d'attente de ce convoi.</p> <p>18 Q²⁹. Je comprends très bien. Donc...</p> <p>19 R. Il y a un autre convoi aussi, il y a un</p> <p>20 autre convoi de Fire Lake. À Fire Lake,</p> <p>21 ArcelorMittal exploite un gisement.</p> <p>22 D'ailleurs, ils vont investir dans les</p> <p>23 prochaines années 265 millions pour mettre</p> <p>24 en valeur ce gisement-là. Ils ont déjà</p> <p>25 des travaux qui sont amorcés. Je vous</p>	55	<p>1 disais tout à l'heure que ça prenait une</p> <p>2 heure et demie dans des bons temps pour se</p> <p>3 rendre là quand la route vient d'être</p> <p>4 « gradée » puis qu'il n'y a pas trop de</p> <p>5 pluie, il n'y a pas trop de trous. En</p> <p>6 hiver, ça dépend aussi des conditions</p> <p>7 météo.</p> <p>8 Puis ArcelorMittal a installé déjà</p> <p>9 présentement 140 unités de chambre à son</p> <p>10 site de Fire Lake pour exploiter le</p> <p>11 gisement de Fire Lake, qui lui, à raison</p> <p>12 de 40 wagons à la « shot », à la fois, des</p> <p>13 convois de 40 wagons, s'en vont vers la</p> <p>14 mine de... vers les installations du Mont</p> <p>15 Wright à Fermont. Donc, ça fait 40 trains</p> <p>16 qui partent de Fire Lake... excusez,</p> <p>17 quatre à cinq convois par jour de 40</p> <p>18 wagons qui partent de Fire Lake, qui s'en</p> <p>19 vont à Fermont, puis il y en a cinq</p> <p>20 convois de 160 à 200 wagons qui descendent</p> <p>21 vers Port-Cartier. Donc, ça fait quand</p> <p>22 même beaucoup de va-et-vient dans la</p> <p>23 région de Fermont, Fire Lake, pour se</p> <p>24 rendre là-bas.</p> <p>25 Donc, Fire Lake c'est quand même une</p>
56	<p>1 heure et demie, puis pour... dans les</p> <p>2 meilleurs des temps, puis on ne pourra pas</p> <p>3 faire ça matin et soir, trois heures de</p> <p>4 route dans ces conditions-là.</p> <p>5 Q³⁰. Puis vous évaluez à peu près la distance</p> <p>6 à combien de kilomètres de la ville de</p> <p>7 Fermont?</p> <p>8 R. Ce n'est pas tellement loin, c'est quand</p> <p>9 même 90 kilomètres. 90 kilomètres, mais</p> <p>10 c'est une route de gravelle, c'est une</p> <p>11 route qui a été faite pendant une grève,</p> <p>12 c'est pour s'en aller lier...</p> <p>13</p> <p>14 VOIX NON IDENTIFIÉE :</p> <p>15 Q³¹. Ça ressemble à une rue de Montréal, si je</p> <p>16 comprends bien?</p> <p>17 R. Pardon?</p> <p>18 Q³². Ça ressemble à une rue de Montréal.</p> <p>19</p> <p>20 Me GABRIEL SERENA :</p> <p>21 C'est mieux qu'une rue de Montréal.</p> <p>22 R. C'est mieux. Disons que ça ressemble à la</p> <p>23 route pour prendre mon chalet et je</p> <p>24 roule... rarement capable d'aller plus</p> <p>25 vite que 60 kilomètres/heure.</p>	57	<p>1 Q³³. Monsieur Chabot, vous avez mentionné lors</p> <p>2 de votre témoignage à l'instant que</p> <p>3 Arcelor avait installé des unités</p> <p>4 d'habitation sur le site de... sur quel</p> <p>5 site exactement?</p> <p>6 R. Fire Lake.</p> <p>7 Q³⁴. Fire Lake.</p> <p>8 R. Fire Lake, il y a deux gisements, il y a</p> <p>9 le gisement de... pour s'en aller dans</p> <p>10 l'historique, parce que j'étais là aussi,</p> <p>11 parce que j'ai fait le rôle d'évaluation</p> <p>12 de la ville de Gagnon, qui est détruite</p> <p>13 présentement, je ne sais pas si vous le</p> <p>14 savez, mais c'est des mines qui ont été</p> <p>15 opérées des années 60 à aller jusqu'à à</p> <p>16 peu près 84, je pense, de mémoire. Puis</p> <p>17 là, quand que... les opérations c'était la</p> <p>18 compagnie Sidbec Nord Mine qui opérait un</p> <p>19 concentrateur au Lac Jeannine, qui était</p> <p>20 dans la municipalité de Gagnon. Et quand</p> <p>21 le gisement de Lac Jeannine a été épuisé,</p> <p>22 là ils ont parti le gisement de Fire Lake,</p> <p>23 qui est à 60 milles, ça donne 90</p> <p>24 kilomètres, quelque chose comme ça, de</p> <p>25 route asphaltée. Il y a un bout</p>

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58	<p>1 d'asphalté de Fire Lake aller jusqu'à</p> <p>2 Gagnon. Donc, ils exploitaient ce</p> <p>3 gisement-là.</p> <p>4 Puis, après ça, ça a été complètement</p> <p>5 arrêté, ils ont démolé le concentrateur,</p> <p>6 ils ont démolé toutes les maisons. Vous</p> <p>7 passez dans ce secteur-là, vous voyez que</p> <p>8 du foin puis des petits arbustes puis des</p> <p>9 arbres. Et ce qui est curieux un peu,</p> <p>10 parce qu'on arrive sur la route en</p> <p>11 asphalte, puis quand on arrive vers l'ex-</p> <p>12 ville de Gagnon, on a une rue avec un</p> <p>13 terre-plein dans le milieu et des</p> <p>14 trottoirs chaque côté, mais il n'y a</p> <p>15 personne. Donc, c'est des choses qui ont</p> <p>16 été abandonnées avec le temps. Et là, le</p> <p>17 gisement...</p> <p>18 Q³⁵. Pour revenir à ma question, monsieur</p> <p>19 Chabot, les unités... Arcelor prend des</p> <p>20 unités et les met au site de Fire Lake.</p> <p>21 Mais n'était-il pas possible pour Arcelor</p> <p>22 de les mettre dans la ville de Fermont?</p> <p>23 R. Bien, quand ils ont... ça fait déjà quand</p> <p>24 même plusieurs années qu'ils ont reparti</p> <p>25 le site de Fire Lake. Disons que le site</p>	59	<p>1 de Fire Lake ils l'ont opéré avec à peu</p> <p>2 près 35, 40 unités, des roulottes, des</p> <p>3 roulottes, 35, 40 chambres, et là, compte</p> <p>4 tenu qu'ils vont mettre plus d'emphase sur</p> <p>5 l'exploitation de ce gisement-là, qui est</p> <p>6 plus fort que celui qu'on a à Fermont,</p> <p>7 plus forte teneur en fer, vont exploiter</p> <p>8 plus le secteur de Fire Lake. Donc, étant</p> <p>9 donné qu'ils ont besoin de plus de... ils</p> <p>10 vont faire transiter beaucoup plus de</p> <p>11 wagons en provenance de Fire Lake, ils</p> <p>12 vont... donc, il y a beaucoup de</p> <p>13 manutention qui va se faire là du minage</p> <p>14 et du chargement de wagons pour</p> <p>15 l'acheminer vers Fermont.</p> <p>16 Donc, le 40 unités qu'ils avaient,</p> <p>17 35, 40 unités, ce n'était pas suffisant,</p> <p>18 ils en ont rajouté une centaine, qu'ils</p> <p>19 ont pris à même leur « fly-in, fly-out »</p> <p>20 qui avait été fait pour la construction de</p> <p>21 l'expansion de Mont Wright. Il y avait</p> <p>22 1200 chambres qui étaient faites puis ils</p> <p>23 en ont pris un bloc de 100 qu'ils ont</p> <p>24 déménagé là.</p> <p>25 Q³⁶. Je reviens au tableau que vous avez</p>
60	<p>1 préparé, OF-2. Quel est le total des</p> <p>2 réclamations... en fait, je vais vous</p> <p>3 montrer un document. Pour les fins de</p> <p>4 l'exercice, je coterais cette pièce OF-5.</p> <p>5</p> <p>6 PIÈCE OF-5 :</p> <p>7 Sommaire du rôle de l'évaluation foncière</p> <p>8 (2016-2017-2018).</p> <p>9</p> <p>10 Me GABRIEL SERENA :</p> <p>11 Q³⁷. Donc, monsieur Chabot, de quel document</p> <p>12 s'agit-il?</p> <p>13 R. Ça, il s'agit du sommaire du rôle</p> <p>14 d'évaluation foncière, ça résume toutes</p> <p>15 les valeurs des propriétés qu'on a dans la</p> <p>16 ville de Fermont.</p> <p>17 Q³⁸. Donc, si on se reporte aux deux propriétés</p> <p>18 qui sont pertinentes pour le débat</p> <p>19 aujourd'hui, quelle proportion de</p> <p>20 l'assiette disons foncière ou fiscale de</p> <p>21 la ville de Fermont celles-ci</p> <p>22 représentent-elles, environ?</p> <p>23 R. Bien, je vais commencer par expliquer un</p> <p>24 peu le document.</p> <p>25 Q³⁹. Allez-y.</p>	61	<p>1 R. Si je prends, par exemple, les faits</p> <p>2 saillants qui est dans le point 2 en noir</p> <p>3 en haut, on parle des valeurs imposables,</p> <p>4 on parle de valeurs de terrain de 45</p> <p>5 millions, de valeurs de bâtiment de</p> <p>6 874 millions, et 919 615 000 pour les</p> <p>7 valeurs imposables. On a le total des</p> <p>8 valeurs non imposables de 65 millions.</p> <p>9 Donc, ici on a 1544 unités d'évaluation et</p> <p>10 1707 logements.</p> <p>11 Lorsqu'on tourne la page, on a une</p> <p>12 ventilation selon les codes d'utilisation,</p> <p>13 selon l'usage des propriétés. La</p> <p>14 catégorie 1 c'est la résidentielle. Donc,</p> <p>15 on a le total, on a 1198 unités</p> <p>16 résidentielles, pour un total immeuble de</p> <p>17 295 311 200. Et si je m'en vais en bas</p> <p>18 dans la section 8, production et</p> <p>19 extraction de richesse naturelle, on a,</p> <p>20 dans un premier temps, l'agriculture,</p> <p>21 exploitation forestière, on n'a rien là-</p> <p>22 bas à Fermont. Par contre, dans</p> <p>23 l'exploitation minière, on a un total de</p> <p>24 595 854 900, ce qui... à vue rapide, c'est</p> <p>25 deux tiers de l'évaluation foncière qui</p>

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62	<p>1 sont assignés à l'exploitation minière.</p> <p>2 Et le taux de taxe qui est appliqué</p> <p>3 pour ces éléments-là sont aux alentours de</p> <p>4 2,75 \$, tandis que dans le résidentiel</p> <p>5 résiduel il est à 0,92 \$. Donc, c'est</p> <p>6 trois fois plus cher. Donc, la</p> <p>7 proportion, juste au niveau minière, par</p> <p>8 rapport à l'ensemble au niveau taxation</p> <p>9 d'effort fiscal, c'est plus de 80% qui est</p> <p>10 l'effort fiscal pour la partie minière.</p> <p>11 Q⁴⁰. Donc, au regard de ce que vous venez tout</p> <p>12 juste d'expliquer, quel impact a ces</p> <p>13 actifs-là sur la possibilité de perception</p> <p>14 d'argent de la ville de Fermont?</p> <p>15 R. Présentement, c'est sûr que la ville de</p> <p>16 Fermont a un statut précaire quand même,</p> <p>17 parce que présentement c'est... on estime</p> <p>18 entre 16 et 18 millions le manque à gagner</p> <p>19 dans les non-payés, dans les taxes non</p> <p>20 payées par Bloom Lake et compagnie,</p> <p>21 incluant les intérêts. Si je ne prends</p> <p>22 pas les intérêts, je suis plus proche du</p> <p>23 16,5. Si je m'en vais avec les intérêts</p> <p>24 j'arrive plus à 18.</p> <p>25 Donc, là, on aurait peut-être un</p>	63	<p>1 potentiel de 6,9 qu'on pourrait peut-être</p> <p>2 recouvrer en premier choix, qu'on pourrait</p> <p>3 dire. Mais lorsqu'on fait la répartition,</p> <p>4 qu'on donne plus de poids au résidentiel,</p> <p>5 bien là, le taux de taxe il est trois fois</p> <p>6 moins haut que dans le cas de l'industrie,</p> <p>7 de la mine. Donc, c'est sûr que je trouve</p> <p>8 que le montant qui totalise 2,9 millions</p> <p>9 pour les propriétés de la mine, je trouve</p> <p>10 ça très bas. On achète une mine, on</p> <p>11 n'achète pas... on n'allait pas là pour</p> <p>12 acheter des résidences, on venait acheter</p> <p>13 un site minier. Donc, et déjà notre</p> <p>14 valeur de 314 millions représente à peine</p> <p>15 15% de l'investissement qui a été fait</p> <p>16 dans... qui était taxable, parce que les</p> <p>17 autres éléments ne sont pas taxables,</p> <p>18 parce que la Loi sur la fiscalité</p> <p>19 municipale entre autres, avec son article</p> <p>20 65.1 et 65.1.1, beaucoup d'immeubles qui</p> <p>21 ne sont pas portables au rôle. Donc, ça,</p> <p>22 ça nous donne cet élément-là.</p> <p>23 Q⁴¹. Au regard du tableau que vous avez</p> <p>24 produit, pouvez-vous expliquer au Tribunal</p> <p>25 le manque à gagner pour chacun des actifs?</p>
64	<p>1 R. C'est un peu... c'est sûr que si je prends</p> <p>2 la première façon, bien, j'irais chercher</p> <p>3 à peu près 1,5 million disons avec</p> <p>4 l'élément « fixed asset », puis le 1,4,</p> <p>5 j'irais chercher la proportion de terrain,</p> <p>6 c'est-à-dire à peu près peut-être</p> <p>7 66 000 \$. Puis dans le résidentiel,</p> <p>8 j'irais chercher peut-être 500 000,</p> <p>9 600 000 maximum. Donc, on parle de peut-</p> <p>10 être un élément de 2,2 millions rapidement</p> <p>11 en faisant cette sommation, au lieu du</p> <p>12 6,9, parce que c'est sûr que l'importance</p> <p>13 relative au niveau de la taxation c'est le</p> <p>14 bâtiment qui est utilisé comme mine, puis</p> <p>15 la mine comme telle.</p> <p>16 Q⁴². Pour le bénéfice du Tribunal maintenant,</p> <p>17 pouvez-vous expliquer le fonctionnement</p> <p>18 général de votre tableau, le calcul</p> <p>19 derrière celui-ci?</p> <p>20 R. Oui. Il est quand même fort simple.</p> <p>21 C'est qu'on a pris l'évaluation</p> <p>22 municipale, ma quatrième colonne ici,</p> <p>23 314 710 000, auquel on a ajouté la valeur</p> <p>24 du terrain, 3 299 000, auquel on a ajouté</p> <p>25 la valeur de 25 345 200 pour les 28</p>	65	<p>1 résidences, plus le complexe hôtelier</p> <p>2 qu'on pourrait dire, « fly-in, fly-out »,</p> <p>3 qui donne un total de 343 354 200. On a</p> <p>4 pris 6 900 000 divisés par ce montant-là,</p> <p>5 nous a donné un poids relatif de 2,01%.</p> <p>6 Et c'est ce qu'on a appliqué pour... en</p> <p>7 fonction de l'évaluation foncière. Donc,</p> <p>8 2,01% de 314 710 000 donne, pour la</p> <p>9 portion des bâtiments à la mine, de</p> <p>10 6 324 370. 2,01 à 3 299 000 donne 66 296.</p> <p>11 Et 2% du 25 millions donne 509 334. Ce</p> <p>12 qui donne le compte de 6 900 000.</p> <p>13 Q⁴³. Donc, serait-il exact de dire que la</p> <p>14 proportion, ou du moins le pro rata qui</p> <p>15 est proposé initialement est repris dans</p> <p>16 votre proposition?</p> <p>17 R. Oui.</p> <p>18 Q⁴⁴. Dans l'optique où le scénario que vous</p> <p>19 proposez serait accueilli par le Tribunal,</p> <p>20 que seraient les effets pour la ville de</p> <p>21 Fermont?</p> <p>22 R. Bien, si mon scénario ou le scénario du... 23 qui a été proposé par la répartition, je 24 comprends mal votre question, j'ai peut- 25 être mal écouté.</p>

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66	<p>1 Q⁴⁵. Je veux dire quels seraient les effets si 2 la Ville est capable de venir chercher le 3 manque à gagner...</p> <p>4 R. Bien, c'est sûr que s'ils vont chercher 5 tout près de 6,9 millions au maximum, on 6 s'entend, mais... c'est sûr que compte 7 tenu qu'il y a déjà 17, 18 millions de 8 dette, ça va réduire l'effort fiscal de 9 tous les autres contribuables. C'est sûr 10 que c'est un budget que la Ville a et 11 l'ensemble des contribuables va en 12 souffrir parce que les taux de taxe vont 13 être obligés d'être augmentés. Ça veut 14 dire qu'aussi l'autre mine... que 15 ArcelorMittal va en souffrir parce que si 16 le taux augmente de leur côté aussi, il va 17 y avoir un effort à demander auprès de 18 ArcelorMittal pour combler les manques à 19 gagner. C'est des services qui ont été 20 rendus en plus, c'est sûr.</p> <p>21 Q⁴⁶. Et avant de terminer avec vous, monsieur 22 Chabot, vous parliez du pourcentage 23 d'allocation sur chacun des actifs, dans 24 le fond l'industriel versus le 25 résidentiel. Je vous montre un document.</p>	67	<p>1 Pour les fins de l'exercice sera coté OF- 2 6.</p> <p>3</p> <p>4 PIÈCE OF-6 : 5 Règlement municipal #425.</p> <p>6</p> <p>7 Me GABRIEL SERENA : 8 Q⁴⁷. Simplement pour venir compléter ce que 9 vous avez dit...</p> <p>10 R. Oui, ça, ce sont les montants de... c'est 11 le règlement 425 qui détermine les taux de 12 taxes municipales pour l'exercice 13 financier de 2015. Puis là on parle des 14 catégories d'immeuble. Donc, on a le taux 15 particulier à la catégorie résiduelle, 16 alors 1,3, on parle de 0,92 \$ du 100 \$ 17 d'évaluation. Ça, ça s'applique entre 18 autres à tout ce qui est « housing », les 19 maisons qu'il y a à Fermont, ainsi que le 20 complexe de chambres. Après ça, on a la 21 catégorie des immeubles de six logements 22 et plus, ça ne s'applique pas ici, mais on 23 en a des taux comme ça. On a le taux 24 particulier pour la catégorie des 25 immeubles non résidentiels qui est de</p>
68	<p>1 2,75 \$ du 100. Ça, ça vise les propriétés 2 commerciales qu'on a à Fermont. On a un 3 taux qui est particulier à la catégorie 4 des immeubles industriels qui est 5 exactement le même taux que celui du 6 commercial à 2,75. Puis il y a une taxe 7 aussi sur les terrains vagues desservis, 8 1,84 \$ du 100.</p> <p>9 Après ça, on va parler des taxes 10 supplémentaires d'aqueduc et d'égout qui 11 sont à 0,06 \$. La taxe pour les services 12 d'enlèvement de transport disposition des 13 ordures ménagères à 0,08 \$ du 100. Puis 14 la taxe pour le contrôle biologique des 15 insectes piqueurs qui est 75 \$ par année 16 par logement. Les gens sont très contents 17 depuis qu'il y a ça, parce que...</p> <p>18 Q⁴⁸. Le document avait déjà été produit au 19 soutien de notre réclamation, Monsieur le 20 Juge, donc, techniquement, il est au 21 dossier de la Cour. Mais pour les fins de 22 l'explication, les explications fournies 23 par monsieur Chabot, il semblait pertinent 24 de vous le soumettre également. 25 Je n'ai plus d'autres questions pour</p>	69	<p>1 vous, monsieur Chabot.</p> <p>2</p> <p>3 CONTRE-INTERROGÉ PAR Me SYLVAIN RIGAUD : 4 Q⁴⁹. Monsieur Chabot, quand on parle des 5 résidences dans votre tableau OF-2, c'est 6 des Fermont « housing » ? 7 R. Oui.</p> <p>8 Q⁵⁰. Ça, on parle bien des 28 unités de 9 logement du complexe hôtelier, également 10 du complexe de la cafétéria, avec le 11 centre de divertissement ? 12 R. Ça comprend les 28 résidences, ainsi que 13 les chambres dans le « fly-in, fly-out », 14 et le complexe cafétéria. 15 Q⁵¹. O.K., ça comprend le tout. 16 R. Oui.</p> <p>17 Q⁵². Maintenant, pouvez-vous me donner une idée 18 du coût de remplacement de l'ensemble de 19 ces immeubles ? 20 R. De quels immeubles que vous me parlez ? 21 Q⁵³. Des 28 unités, le complexe d'hôtellerie, et 22 la cafétéria. 23 R. Bien, disons qu'il faudrait que je retire 24 la valeur du terrain. 25 Q⁵⁴. Oui.</p>

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70	<p>1 R. Mais ça je ne l'ai pas sous la main. Mais</p> <p>2 c'est sûr que le 25 345 200 correspond</p> <p>3 sensiblement à la valeur du coût de</p> <p>4 remplacement, plus la valeur du terrain,</p> <p>5 de ces immeubles.</p> <p>6 Q⁵⁵. D'accord. Et, ça, c'est pour le rôle</p> <p>7 2016-2018. Pour les fins de taxation</p> <p>8 foncière, je crois comprendre que le</p> <p>9 principe c'est qu'on doit se situer au 1er</p> <p>10 juillet de l'année précédant le début du</p> <p>11 rôle, donc, ça, ce serait la valeur...</p> <p>12 R. Au 1er juillet 2014.</p> <p>13 Q⁵⁶. 1er juillet 2014.</p> <p>14 R. Pour le rôle 2016, 2017 et 2018.</p> <p>15 Q⁵⁷. D'accord.</p> <p>16 R. Et le rôle précédent c'était au 1er</p> <p>17 juillet 2011, et c'est une valeur qui a</p> <p>18 été reconduite.</p> <p>19 Q⁵⁸. Donc, c'est la valeur du rôle 2013 à 2015</p> <p>20 qui a été reconduite telle quelle pour le</p> <p>21 rôle 2016-2018?</p> <p>22 R. Exact. Donc, ça correspondait à une</p> <p>23 valeur au 1er juillet 2011 qu'on a</p> <p>24 reconduite.</p> <p>25 Q⁵⁹. O.K. Alors, vous n'avez pas fait</p>	71	<p>1 l'exercice quand vous avez préparé et</p> <p>2 déposé le rôle 2016-2018 de tenir compte</p> <p>3 des circonstances propres au complexe en</p> <p>4 date du 1er juillet 2014?</p> <p>5 R. Effectivement, c'est en 2014, lorsqu'on a</p> <p>6 fait le diagnostic du rôle, les</p> <p>7 proportions médianes, quand on analysait</p> <p>8 les transactions immobilières de tout type</p> <p>9 qu'on avait là-bas, on n'en a pas des</p> <p>10 tonnes, donc, ça nous donnait une tendance</p> <p>11 que le marché... on sentait qu'il</p> <p>12 commençait à y avoir quelque chose qui</p> <p>13 pourrait peut-être se passer, mais pas</p> <p>14 significativement avant plus 2015 qu'on a</p> <p>15 senti des changements légers. Si bien que</p> <p>16 la médiane qui a été acceptée par le</p> <p>17 ministère des Affaires municipales pour le</p> <p>18 rôle 2016 a fait l'objet d'obstination</p> <p>19 avec eux autres, parce qu'il a fallu que</p> <p>20 je défende... il faut que je défende mon</p> <p>21 point de vue quand je dépose ma valeur</p> <p>22 puis la proportion médiane. La proportion</p> <p>23 médiane est à 97%. Et, donc, je dois</p> <p>24 soumettre mes transactions au Ministère</p> <p>25 des affaires municipales qui doit</p>
72	<p>1 approuver la médiane administrative que je</p> <p>2 dois déposer.</p> <p>3 Eux autres, ils voulaient que ce soit</p> <p>4 plus aux alentours de 103, puis moi je</p> <p>5 trouvais que ce n'était pas correct, puis</p> <p>6 on a fait les démonstrations avec les</p> <p>7 transactions, parce qu'il y a quand même</p> <p>8 beaucoup de ventes qui sont faites entre</p> <p>9 la compagnie ArcelorMittal et - c'est des</p> <p>10 parties liées - entre les travailleurs et</p> <p>11 d'autre chose, et ils ont accepté ma</p> <p>12 médiane.</p> <p>13 Q⁶⁰. Mais ma question c'était pour savoir en ce</p> <p>14 qui concerne l'évaluation au rôle 2016-</p> <p>15 2018 pour les « residential housing »,</p> <p>16 est-ce que ça a été établi en fonction de</p> <p>17 la valeur au 1er juillet 2014? Votre</p> <p>18 réponse c'est non?</p> <p>19 R. Non, c'est non.</p> <p>20 Q⁶¹. Merci.</p> <p>21 R. C'est une valeur au 1er juillet 2011 qui</p> <p>22 a été reconduite.</p> <p>23 Q⁶². Parfait. Est-ce qu'on s'entend, selon</p> <p>24 vous, les résidences qui ont été évaluées</p> <p>25 à quatre millions par Champion, elles</p>	73	<p>1 valent plus que quatre millions, elles</p> <p>2 valent, selon vous, 25 millions?</p> <p>3 R. 25 millions au 1er juillet 2011 et</p> <p>4 compagnie, et caetera, oui, une à une,</p> <p>5 oui.</p> <p>6 Q⁶³. Oui, merci. Maintenant, pour ce qui est</p> <p>7 du rôle pour la valeur de la mine, on va</p> <p>8 parler, si vous me permettez, de 320</p> <p>9 millions approximativement.</p> <p>10 R. Bien, 300... oui. Oui.</p> <p>11 Q⁶⁴. 318.</p> <p>12 R. 318, oui.</p> <p>13 Q⁶⁵. O.K., 318. Alors, ça, c'est la valeur au</p> <p>14 rôle 2016-2018, c'est exact?</p> <p>15 R. Et c'est aussi la valeur 2013, 2014, 2015.</p> <p>16 Q⁶⁶. O.K. Alors, quand vous avez déposé la</p> <p>17 valeur 2016, vous avez simplement</p> <p>18 reconduit la valeur au rôle précédent?</p> <p>19 R. Exact.</p> <p>20 Q⁶⁷. C'est exact. Donc, vous n'avez pas refait</p> <p>21 l'évaluation sur la base, comme le prévoit</p> <p>22 la Loi sur la fiscalité municipale, en</p> <p>23 tenant compte des circonstances qui</p> <p>24 prévalaient au 1er juillet 2014, c'est</p> <p>25 exact?</p>

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74	<p>1 R. C'est un droit qu'on a quand c'est une 2 municipalité de moins de 5000 habitants 3 de... et que la médiane n'est pas 4 significativement en déséquilibre de 5 reconduire le rôle d'évaluation. 6 Q⁶⁸. D'accord. Donc, quand vous avez reconduit 7 le rôle, quand vous avez déposé la valeur 8 pour le rôle 2016-2018, vous n'avez pas 9 tenu compte de la valeur de la mine en 10 date du 1er juillet 2014, est-ce exact? 11 R. J'ai regardé la valeur que j'avais au 1er 12 juillet 2011 voir s'il y avait des 13 éléments significatifs, puis j'ai 14 reconduit le rôle en 2014. Je ne voyais 15 pas nécessairement d'éléments différents 16 qui pouvaient s'appliquer. 17 Q⁶⁹. O.K. Pour le rôle 2013-2015, je comprends 18 que vous avez ajouté par voie de 19 modification une valeur de l'ordre de 140 20 millions qui représente la phase 2 de la 21 mine, exact? 22 R. Exact. 23 Q⁷⁰. D'accord. Et ça, la phase 2, ça a été 24 complété quand ça, monsieur Chabot, est-ce 25 que ça a été complété la phase 2?</p>	75	<p>1 R. Non, la phase 2 n'est pas complétée, elle 2 n'était pas complétée la dernière fois que 3 je l'ai... la fois que je l'ai visitée 4 avant juin cette année, on voyait qu'il y 5 avait beaucoup d'équipement à l'intérieur 6 de la phase 2 qui était encore leur boîte, 7 qui n'était pas installé. 8 Q⁷¹. O.K. Et ça, la phase 2, elle a été 9 interrompue quand, monsieur Chabot? 10 R. Il faudrait que je prenne des notes à 11 quelque part, je... 12 Q⁷². Vous ne le savez pas? 13 R. Par coeur, non, je ne peux pas tout savoir 14 par coeur. 15 Q⁷³. Non. Avant ou après votre décision de 16 reconduire pour le rôle 2016-2018 la 17 valeur qui avait été attribuée pour le 18 rôle 2013-2015? 19 R. Oui, dans le rôle 2013 à 2015, on avait 20 tenu compte justement... d'une part, quand 21 on a émis le certificat, c'est que la loi 22 nous dit on doit porter au rôle un 23 bâtiment lorsqu'il est substantiellement 24 terminé, ou lorsqu'il y a un délai de deux 25 ans suivant le début des travaux. Et</p>
76	<p>1 c'est en fonction du deux ans depuis le 2 début des travaux qu'on a mis au rôle les 3 éléments qui sont là. Puis on a accordé 4 des désuétudes pour tenir compte justement 5 que ce n'était pas terminé. Qui est de 6 l'ordre de 30% d'ailleurs. 7 Q⁷⁴. D'accord. Donc, on se comprend, la phase 8 2 n'a jamais été terminée, n'a jamais été 9 mise en opération? 10 R. N'a jamais été mise en opération. 11 Q⁷⁵. Il faut combien d'investissement pour 12 compléter la phase 2, selon vous? 13 R. Parce qu'il faut faire quand même 14 attention de ce qui est attribuable à ce 15 que j'ai comme fins de taxation. On avait 16 fait un exercice justement pour approuver 17 la phase 2; ça coûtait aux alentours d'un 18 milliard à faire. Et pour compléter, on 19 avait estimé avec les évaluateurs de 20 l'autre partie, parce qu'on a eu beaucoup 21 de rencontres avec les autres parties, 22 d'estimer que ça coûterait probablement 23 300 millions pour rendre à terme cette 24 portion-là pour compléter le bâtiment avec 25 ses équipements. Je ne parle pas des</p>	77	<p>1 ententes avec les voies de chemin de fer 2 que je ne suis pas capable de livrer des 3 choses comme ça, juste au niveau du 4 bâtiment, alors que ça aurait dû se faire 5 dans un investissement initial d'un 6 milliard. Donc, on a amputé... on a mis 7 30% de désuétude pour tenir compte de 8 l'élément qui était non terminé. 9 Q⁷⁶. Mais on se comprend que, pour le rôle 10 2016-2018, vous avez reconduit une valeur 11 qui avait été portée au rôle précédent à 12 l'égard d'une phase qui n'a pas été 13 terminée et qui n'a jamais été mise en 14 opération et qui requiert encore plusieurs 15 millions d'investissement? 16 R. Oui. 17 Q⁷⁷. D'accord. En ce qui concerne la route 18 d'accès, moi, on m'a parlé plus d'une 19 distance d'environ 40 kilomètres entre le 20 complexe des résidences et le projet de 21 Fire Lake Nord. Pouvez-vous me parler du 22 projet d'investissement du gouvernement du 23 Québec qui a été annoncé, les travaux de 24 réfection, d'amélioration du lien routier? 25 R. Je ne connais pas le... je sais qu'il y a</p>

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78	<p>1 un projet qui est en vue, mais de passer</p> <p>2 de 90 kilomètres à 45 kilomètres, ça, je</p> <p>3 ne crois pas à ça. Je regardais sur le</p> <p>4 site, justement sur Google Earth, puis des</p> <p>5 éléments là-dessus pour voir la route</p> <p>6 puis... parce que je voulais valider</p> <p>7 c'étaient 90 kilomètres, puis c'étaient</p> <p>8 vraiment 90 kilomètres qu'on a entre les</p> <p>9 deux lieux. De là à dire qu'on est</p> <p>10 capable de couper ça en deux, je trouve ça</p> <p>11 un peu étonnant.</p> <p>12 Q⁷⁸. O.K. Mais est-ce que vous êtes au courant</p> <p>13 des annonces qui ont été faites par le</p> <p>14 gouvernement du Québec, les sommes qui</p> <p>15 doivent être investies pour améliorer le</p> <p>16 lien routier entre ce qui serait le projet</p> <p>17 Fire Lake Nord et la ville de Fermont?</p> <p>18 R. Les projets d'amélioration de la route</p> <p>19 389, ce n'est pas la première fois qu'on</p> <p>20 en entend parler, ça fait des années et</p> <p>21 des années qu'on en entend parler. Tant</p> <p>22 que ce ne sera pas fait... je vais le</p> <p>23 croire quand ça va être fait, parce que</p> <p>24 c'est... on parle même aussi d'un lien</p> <p>25 peut-être pour se rendre à Sept-Îles en</p>	79	<p>1 direct avec ça, mais ça fait longtemps</p> <p>2 qu'on en parle, puis ça fait plus de 15</p> <p>3 ans qu'on parle d'amélioration de cette</p> <p>4 route-là. Quand ça va être fait, je vais</p> <p>5 le croire.</p> <p>6 Q⁷⁹. D'accord.</p> <p>7</p> <p>8 VOIX NON IDENTIFIÉE :</p> <p>9 Il y a des élections qui s'en viennent.</p> <p>10</p> <p>11 Me SYLVAIN RIGAUD :</p> <p>12 Q⁸⁰. Pour ce qui est de la mine, monsieur</p> <p>13 Chabot, les valeurs de la mine sont</p> <p>14 contestées aussi bien pour les rôles 2013-</p> <p>15 2015 que 2016-2018?</p> <p>16 R. Effectivement, comme ArcelorMittal faisait</p> <p>17 contestation. C'est presque un pèlerinage</p> <p>18 à tous les trois ans qu'on a de</p> <p>19 contestations dans ces industries-là.</p> <p>20 Dans le 318 millions, il y a certains</p> <p>21 éléments qui sont des éléments fiscaux.</p> <p>22 On a interprété l'article 65, 65.1. On</p> <p>23 est présentement déjà encore avec</p> <p>24 Champion, on était justement au Tribunal</p> <p>25 administratif du Québec jeudi dernier sur</p>
80	<p>1 ça; on avait des propositions à faire à</p> <p>2 Champion, on les a faites. Eux autres</p> <p>3 nous avait fait une proposition, on a fait</p> <p>4 une contre-offre. Il y a certains</p> <p>5 éléments qu'on a étudiés ensemble. Puis</p> <p>6 lorsqu'on a visité aussi l'immeuble encore</p> <p>7 une fois en juin dernier, j'ai fait la</p> <p>8 visite avec David Cataford et leur expert</p> <p>9 - attendez minute - 5, 6, 7... le 7 juin</p> <p>10 dernier, sur place pour voir un peu les</p> <p>11 attentes. Puis là, avec les opinions</p> <p>12 juridiques que j'avais demandées du bureau</p> <p>13 de Cain Lamarre, certains éléments qu'on</p> <p>14 est prêt à prendre en compte, mais on ne</p> <p>15 baissera pas ça de 50%, c'est sûr.</p> <p>16 Q⁸¹. Ça, c'est votre droit. Vous avez des</p> <p>17 contestations à la fois par Champion et</p> <p>18 également par les débitrices, monsieur</p> <p>19 Chabot, pour le rôle 2013-2015?</p> <p>20 R. Exact, oui.</p> <p>21 Q⁸². Oui. Je n'ai pas d'autres questions pour</p> <p>22 le témoin, Monsieur le Juge.</p> <p>23</p> <p>24 Me BERNARD BOUCHER :</p> <p>25 J'en ai quelques-unes.</p>	81	<p>1 Me DENIS CLOUTIER :</p> <p>2 Juste une question de... est-ce que la</p> <p>3 Cour a une carte des lieux? Est-ce qu'on</p> <p>4 a une carte des lieux qu'on aimerait</p> <p>5 exhiber à la Cour? Peut-être du « mine</p> <p>6 pit » puis des bâtiments puis tout ça,</p> <p>7 juste pour leur intelligence, l'image vaut</p> <p>8 1000 mots. Est-ce que ça a été fait, ça,</p> <p>9 dans le dossier jusqu'à maintenant?</p> <p>10</p> <p>11 Me SYLVAIN RIGAUD :</p> <p>12 Oui, il y a eu des cartes, oui, mais je ne</p> <p>13 sais pas pour les fins...</p> <p>14</p> <p>15 LA COUR :</p> <p>16 Je ne me souviens pas de carte</p> <p>17 particulière pour ce projet-là ou ces</p> <p>18 immeubles-là, à moins que ce soit annexé</p> <p>19 à l'« APA »?</p> <p>20</p> <p>21 Me SYLVAIN RIGAUD :</p> <p>22 Bien, une carte, oui, mais des photos des</p> <p>23 bâtiments, mais je ne pense pas que ce</p> <p>24 soit nécessaire. Mais si vous avez</p> <p>25 quelque chose...</p>

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82	<p>1 Me GABRIEL SERENA :</p> <p>2 Q⁸³. Avez-vous une carte avec vous, monsieur</p> <p>3 Chabot?</p> <p>4 R. Moi, j'ai une photo aérienne, mais j'en ai</p> <p>5 seulement qu'une copie.</p> <p>6 Q⁸⁴. Si ça peut permettre au Tribunal de mieux</p> <p>7 comprendre la... de visualiser...</p> <p>8</p> <p>9 LA COUR :</p> <p>10 Visualiser la situation des lieux.</p> <p>11</p> <p>12 LE TÉMOIN :</p> <p>13 Complexe minier phase 1, phase 2,</p> <p>14 bâtiments et...</p> <p>15</p> <p>16 Me GABRIEL SERENA :</p> <p>17 Q⁸⁵. Puis ça?</p> <p>18 R. Ça, c'est un document qui est</p> <p>19 confidentiel.</p> <p>20</p> <p>21 Me SYLVAIN RIGAUD :</p> <p>22 Q⁸⁶. Non, non, bien, ça, je comprends. Mais on</p> <p>23 a une carte ici qui montre différents</p> <p>24 éléments, on pourrait en faire une copie</p> <p>25 pour le Tribunal. Quant à moi, ce n'est</p>	83	<p>1 pas nécessaire, mais évidemment c'est à</p> <p>2 vous de juger. Je n'ai pas de problème à</p> <p>3 ce qu'on vous remette une copie du...</p> <p>4</p> <p>5 LA COUR :</p> <p>6 O.K., je vais le prendre.</p> <p>7</p> <p>8 Me GABRIEL SERENA :</p> <p>9 O.K.</p> <p>10</p> <p>11 LA COUR :</p> <p>12 OF-7.</p> <p>13</p> <p>14 Me SYLVAIN RIGAUD :</p> <p>15 O.K. OF-7, puis on pourra en faire une</p> <p>16 copie peut-être maintenant ou à la pause.</p> <p>17</p> <p>18 LA GREFFIÈRE :</p> <p>19 C'est vous qui le produisez?</p> <p>20</p> <p>21 Me SYLVAIN RIGAUD :</p> <p>22 Non.</p> <p>23</p> <p>24 Me GABRIEL SERENA :</p> <p>25 Non, bien, on va le prendre, si vous</p>
84	<p>1 permettez, sur notre...</p> <p>2</p> <p>3 Me SYLVAIN RIGAUD :</p> <p>4 Oui, oui, sur votre liste OF-7,</p> <p>5</p> <p>6 PIÈCE OF-7 :</p> <p>7 Carte aérienne des installations minières.</p> <p>8</p> <p>9 Me SYLVAIN RIGAUD :</p> <p>10 Alors, moi, je n'ai pas d'autres</p> <p>11 questions, Monsieur le Juge.</p> <p>12</p> <p>13 LA COUR :</p> <p>14 Merci.</p> <p>15</p> <p>16 CONTRE-INTERROGÉ PAR Me BERNARD BOUCHER :</p> <p>17 J'en ai quelques-unes.</p> <p>18 Q⁸⁷. Si vous voulez prendre le document OF-2.</p> <p>19 R. Oui.</p> <p>20 Q⁸⁸. Juste pour bien comprendre, en fait, le</p> <p>21 fonctionnement en fait du calcul qui a été</p> <p>22 fait au niveau du tableau OF-2. Vous avez</p> <p>23 une colonne intitulée « Valeur au rôle</p> <p>24 d'évaluation ».</p> <p>25 R. Oui.</p>	85	<p>1 Q⁸⁹. Il y a trois chiffres qui apparaissent là?</p> <p>2 R. Oui.</p> <p>3 Q⁹⁰. Le premier chiffre 314 710 000, c'est un</p> <p>4 chiffre qui correspond à la valeur qui</p> <p>5 apparaît au rôle d'évaluation pour la</p> <p>6 mine?</p> <p>7 R. Pour le bâtiment.</p> <p>8 Q⁹¹. Pour le bâtiment. Et en ce qui concerne</p> <p>9 votre chiffre de 3 299 000, que</p> <p>10 représente-t-il?</p> <p>11 R. C'est pour le terrain.</p> <p>12 Q⁹². Pour le terrain, d'accord. Et en ce qui</p> <p>13 concerne le 25 345 200?</p> <p>14 R. C'est les 28 bâtiments on pourrait dire</p> <p>15 résidentiels, plus le camp « fly-in, fly-</p> <p>16 out » avec sa cafétéria.</p> <p>17 Q⁹³. Parfait. Par la suite, je crois</p> <p>18 comprendre que vous avez fait un total</p> <p>19 pour cette colonne-là?</p> <p>20 R. Oui.</p> <p>21 Q⁹⁴. Total des valeurs au rôle d'évaluation qui</p> <p>22 représente 343 354 200 \$, exact?</p> <p>23 R. Oui.</p> <p>24 Q⁹⁵. Par la suite, vous avez une colonne</p> <p>25 intitulée « Pourcentages par rapport au</p>

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86	<p>1 rôle d'évaluation ».</p> <p>2 R. C'est le 6,9 millions de répartition qui</p> <p>3 avait été mis au niveau de l'allocation</p> <p>4 par votre rapport, puis ce qu'on a mis,</p> <p>5 divisé par la valeur foncière, qui donne</p> <p>6 un poids relatif de 2,01%.</p> <p>7 Q⁹⁶. Bien, c'est parce que votre poids relatif</p> <p>8 de 2,01% est constant dépendamment du</p> <p>9 chiffre?</p> <p>10 R. Oui.</p> <p>11 Q⁹⁷. Est-ce qu'il ne serait pas plus juste,</p> <p>12 monsieur Chabot, de faire l'opération</p> <p>13 suivante, on devrait vous donner les</p> <p>14 chiffres qui apparaissent dans la colonne</p> <p>15 de l'extrême droite, on a un chiffre de</p> <p>16 314 710 000 \$ qui apparaît pour la mine.</p> <p>17 R. Oui.</p> <p>18 Q⁹⁸. Est-ce que ma compréhension est exacte que</p> <p>19 ça représente 91,69% du montant total qui</p> <p>20 apparaît au rôle d'évaluation de</p> <p>21 343 354 200?</p> <p>22 R. Attendez un peu, comment vous dites ça le</p> <p>23 montant?</p> <p>24 Q⁹⁹. On va regarder ensemble, je vais vous</p> <p>25 donner le chiffre, ça va être plus facile.</p>	87	<p>1 Juste pour bien comprendre. C'est parce</p> <p>2 que vous avez un chiffre constant de 2,01%</p> <p>3 qui est là.</p> <p>4 R. Oui, c'est l'importance relative, oui.</p> <p>5 Q¹⁰⁰. Oui, mais le chiffre qui est là de</p> <p>6 6 234 370, de façon ultime, ça, c'est un</p> <p>7 pourcentage, c'est un pro rata par rapport</p> <p>8 au chiffre de 6 900 000, c'est exact?</p> <p>9 R. Non.</p> <p>10 Q¹⁰¹. Non?</p> <p>11 R. Non. Le 6 900 000 c'est pour balancer</p> <p>12 avec le 6 900 000...</p> <p>13 Q¹⁰². Oui, c'est ça.</p> <p>14 R. ... mais le 2,1% c'est 6,9 millions</p> <p>15 divisés par 343 millions. Et si</p> <p>16 j'applique 2,1% à ça, ça me donne six</p> <p>17 millions. Si je prends deux millions...</p> <p>18 2% fois trois millions...</p> <p>19 Q¹⁰³. O.K., non, je vois la façon dont vous</p> <p>20 l'avez réattribué. Mais l'autre façon</p> <p>21 qu'on aurait pu le faire c'est en prenant</p> <p>22 le 314 710 000 représente 91,6% de</p> <p>23 l'évaluation totale de 343 millions?</p> <p>24 R. Oui.</p> <p>25 Q¹⁰⁴. Ce qui va nous donner le même chiffre de</p>
88	<p>1 six millions qui est là?</p> <p>2 R. La même chose, oui.</p> <p>3 Q¹⁰⁵. O.K., je comprends la façon dont vous</p> <p>4 l'avez fait.</p> <p>5 R. Oui.</p> <p>6 Q¹⁰⁶. Autre question. À un certain stade il est</p> <p>7 possible que l'acquéreur des immeubles</p> <p>8 veuille les revendre.</p> <p>9 R. Ça peut être une éventualité.</p> <p>10 Q¹⁰⁷. Bon. Et dans ces immeubles-là on a des</p> <p>11 résidences, il y a 28 résidences, un</p> <p>12 complexe hôtelier puis une mine.</p> <p>13 R. Oui.</p> <p>14 Q¹⁰⁸. Sur la base de votre expérience, d'après</p> <p>15 vous, qu'est-ce qui va se vendre le plus</p> <p>16 facilement?</p> <p>17 R. Ah! c'est sûr que ça va être le</p> <p>18 résidentiel, mais ce n'est pas... si je</p> <p>19 ferais ça, j'aurais des valeurs zéro pour</p> <p>20 toutes mes industries quand... partout,</p> <p>21 ça...</p> <p>22 Q¹⁰⁹. Non, je comprends. Et quand il va</p> <p>23 revendre ces immeubles-là l'acheteur, il</p> <p>24 va réaliser un gain en capital?</p> <p>25 R. Forcément.</p>	89	<p>1 Q¹¹⁰. Potentiellement, s'il revend l'immeuble</p> <p>2 plus cher qu'il l'a payé.</p> <p>3 R. Oui, mais ça pourrait être la même chose</p> <p>4 dans le cas de la mine.</p> <p>5 Q¹¹¹. Et vous ne pensez pas que pour minimiser</p> <p>6 le gain en capital qu'il va réaliser sur</p> <p>7 la vente des résidences qu'il va vendre</p> <p>8 plus vite la mine, il a intérêt à</p> <p>9 maximiser le prix attribué aux résidences?</p> <p>10 R. C'est ce qui fait un non-sens, parce que</p> <p>11 ça peut être une façon de le faire pour</p> <p>12 sauver des sous en gain de capital, mais</p> <p>13 dans les faits, ça devient une façon de</p> <p>14 pénaliser le reste. Ça n'a aucune</p> <p>15 incidence avec le prix de vente.</p> <p>16 Q¹¹². Ma question est pour vous, je pense que</p> <p>17 vous avez perçu en fait très bien le sens</p> <p>18 de ma question. Vous ne pensez pas que</p> <p>19 pour l'acheteur c'est avantageux de</p> <p>20 maximiser le prix des résidences, que</p> <p>21 potentiellement il peut vendre plus vite</p> <p>22 qu'une mine?</p> <p>23 R. Il faut que je fasse... il faut faire</p> <p>24 attention avec ça, parce que je me</p> <p>25 rappelle que ArcelorMittal dans les</p>

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90	<p>1 années, je vous dirais 2005, était sur le</p> <p>2 bord de la faillite. Sur le bord de la</p> <p>3 faillite. Était en mode on s'en va fermer</p> <p>4 l'usine. Et finalement le prix du fer a</p> <p>5 augmenté un peu. Et ils avaient demandé</p> <p>6 un effort auprès d'Investissement Québec</p> <p>7 pour embarquer avec eux autres pour avoir</p> <p>8 un financement de 300 millions qui était</p> <p>9 pour enlever la partie stérile qui avait</p> <p>10 été mise par-dessus du minerai au fil du</p> <p>11 temps.</p> <p>12 Puis là il y avait du gisement, mais</p> <p>13 il y avait du stérile par-dessus qui avait</p> <p>14 été mis là. Ça coûtait 300 millions. Ça</p> <p>15 fait qu'il a demandé l'apport</p> <p>16 d'Investissement Québec pour favoriser...</p> <p>17 à déplacer cette roche-là avant d'utiliser</p> <p>18 le gisement. Puis l'usine s'est vendue.</p> <p>19 C'est ArcelorMittal qui l'a achetée et le</p> <p>20 gouvernement du Québec n'a même pas</p> <p>21 déboursé une cent puis a eu 150 millions</p> <p>22 de ristourne.</p> <p>23 Donc, moi, j'ai un peu de difficulté</p> <p>24 à embarquer dans votre position à l'effet</p> <p>25 que je pourrais peut-être dire que ça va</p>	91	<p>1 se vendre plus vite puis je n'aurai pas de</p> <p>2 gain de capital dans une autre affaire,</p> <p>3 c'est de l'hypothétique. Moi, je sais</p> <p>4 que, avec ArcelorMittal, ça n'a pas été</p> <p>5 hypothétique puis que le gouvernement du</p> <p>6 Québec a gagné 150 millions sans avoir</p> <p>7 déboursé une cent.</p> <p>8 Q¹¹³. Monsieur Chabot, là vous me parlez du</p> <p>9 dossier d'ArcelorMittal; moi, je vous</p> <p>10 parle du dossier de la mine de Bloom Lake.</p> <p>11 La question que je vous pose, et vous êtes</p> <p>12 là pour nous donner une opinion, vous êtes</p> <p>13 un expert, vous ne pensez pas qu'un</p> <p>14 acheteur d'un immeuble peut choisir de</p> <p>15 prendre une stratégie qui, au niveau</p> <p>16 fiscal, va être plus avantageuse pour lui?</p> <p>17 R. Il pourrait faire ça, mais je ne suis pas</p> <p>18 sûr que c'est nécessairement la meilleure</p> <p>19 façon de le faire, parce que... là, je</p> <p>20 sais que Investissement Québec est avec</p> <p>21 eux autres aussi, mais qui sait là, si le</p> <p>22 minerai repart puis il remonte là, peut-</p> <p>23 être qu'elle va être à vendre, ce joyau-</p> <p>24 là, à une petite fortune, puis ils vont</p> <p>25 faire peut-être un gain de capital aussi</p>
92	<p>1 important que ArcelorMittal en fait un</p> <p>2 avec... Québec Cartier Mining en a fait un</p> <p>3 quand ils l'ont vendue à ArcelorMittal.</p> <p>4 Ce n'est pas d'hier ça, puis on ne s'en</p> <p>5 attendait pas celle-là.</p> <p>6 Q¹¹⁴. Autre question pour vous. Est-ce que vous</p> <p>7 êtes... la ville de Fermont, c'est une</p> <p>8 cliente à vous depuis longtemps?</p> <p>9 R. Ça doit faire depuis le début de la</p> <p>10 fondation de la Ville, qui date des années</p> <p>11 1975, 1976.</p> <p>12 Q¹¹⁵. O.K. Est-ce que vous connaissez bien la</p> <p>13 situation financière de la ville de</p> <p>14 Fermont?</p> <p>15 R. Pas vraiment la situation financière.</p> <p>16 Moi, je m'occupe de l'évaluation. C'est</p> <p>17 sûr que quand j'y ai été il y a... j'y</p> <p>18 vais une fois par... à peu près par année</p> <p>19 à Fermont. Oups! ce n'est pas mon</p> <p>20 document ça.</p> <p>21</p> <p>22 Me DENIS CLOUTIER :</p> <p>23 Q¹¹⁶. Ah! excusez-moi.</p> <p>24 R. C'est mon...</p> <p>25 Q¹¹⁷. C'est moi, je pensais que c'était votre</p>	93	<p>1 document.</p> <p>2 R. Excusez, j'ai perdu le fil.</p> <p>3</p> <p>4 Me BERNARD BOUCHER :</p> <p>5 Q¹¹⁸. Ma question, est-ce que vous connaissez</p> <p>6 bien la situation financière de la ville</p> <p>7 de Fermont?</p> <p>8 R. Je les rencontre une fois par année avec</p> <p>9 le conseil de Ville, mais de là à dire que</p> <p>10 je connais le budget annuel de la Ville</p> <p>11 puis tout ça, je ne connais pas ça.</p> <p>12 Q¹¹⁹. Est-ce que vous savez si la ville de</p> <p>13 Fermont a des réserves accumulées</p> <p>14 importantes?</p> <p>15 R. Moi, je sais qu'ils ont des réserves,</p> <p>16 parce qu'ils n'ont pas le choix de le</p> <p>17 faire quand il y a des contestations</p> <p>18 d'évaluations municipales.</p> <p>19 Q¹²⁰. O.K. Si je vous disais qu'au niveau de</p> <p>20 ses actifs la ville de Fermont aurait</p> <p>21 60 \$ millions déclarés au dernier budget</p> <p>22 à titre de réserve?</p> <p>23 R. Ça, je ne pourrais... je n'ai jamais</p> <p>24 entendu de montant aussi élevé que ça, je</p> <p>25 sais juste...</p>

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94	<p>1 Q¹²¹. Et est-ce que vous savez si la ville de 2 Fermont par hasard n'accumulerait pas ces 3 réserves justement pour faire face à des 4 situations comme celle-ci, des situations 5 où une mine ferme, il y a un 6 ralentissement de l'économie? 7 R. Ils en ont toujours fait un peu pour les 8 contestations d'évaluations municipales, 9 mais de dire quel montant, je ne peux 10 vraiment... vous dites un chiffre, 60 11 millions, je n'ai jamais entendu ça. Je 12 n'ai jamais entendu de montant aussi 13 important que ça. Puis, habituellement, 14 je ne mêle pas de leurs affaires. Je fais 15 mon évaluation, je suis un officier 16 municipal, je fais ce que j'ai à faire 17 comme travail, puis l'incidence que ça 18 a... c'est sûr qu'ils ont besoin de mes 19 « in » et de mes « out » pour être 20 capables de faire un budget. Mais, non, 21 je ne connais pas ces chiffres-là. 22 Q¹²². J'ai un document ici, ça représente le 23 profil financier pour 2016 de la ville de 24 Fermont, qui est à date pour 2015, c'est 25 le Ministère des affaires municipales qui</p>	95	<p>1 prépare ça. On parle d'actifs de 2 60 316 304 \$. Est-ce que ce chiffre-là, 3 ça ne vous dit rien? 4 R. Non. Non, je n'ai jamais vu ce document- 5 là, puis... 6 Q¹²³. O.K. Mais vous êtes conscient quand même 7 que la Ville a des réserves pour faire 8 face à des éventualités de la nature de 9 celle qu'on connaît maintenant? 10 R. Pas aussi importantes que ça, jamais je 11 croirai. 12 Q¹²⁴. Pas d'autres questions pour le témoin. 13 Merci. 14 15 LA COUR : 16 Merci. Est-ce que vous avez d'autres 17 questions? 18 19 VOIX NON IDENTIFIÉE : 20 Est-ce que vous le cotez? 21 22 Me BERNARD BOUCHER : 23 On peut le produire, effectivement, le 24 produire sous la cote... 25 R. Mon document original est où?</p>
96	<p>1 LA GREFFIÈRE : 2 Il est ici. 3 4 LE TÉMOIN : 5 O.K., oui, oui, mais... c'est correct, 6 mais j'avais quelque chose... 7 8 LA GREFFIÈRE : 9 Ah! il est là. 10 11 LE TÉMOIN : 12 O.K. 13 14 Me GABRIEL SERENA : 15 Q¹²⁵. Il est ici. L'original de la photo? 16 R. Non, tout le document. 17 Q¹²⁶. Je le garde pour le témoin parce que c'est 18 son document à lui, et il est 19 confidentiel. 20 21 LA COUR : 22 Mais l'original de la photo, je pense que 23 (inaudible). 24 25</p>	97	<p>1 LA GREFFIÈRE : 2 C'est ici, mais j'attends que maître la 3 produise. 4 5 LA COUR : 6 Parfait. 7 8 Me GABRIEL SERENA : 9 Oui, exact, donc, OF-7. 10 11 LA GREFFIÈRE : 12 OF-7. 13 14 Me GABRIEL SERENA : 15 Exact. 16 17 LA COUR : 18 Si le témoin veut garder sa copie couleur, 19 je peux prendre une copie noir et blanc. 20 21 LE TÉMOIN : 22 J'aimerais ça, mais j'en demanderai une 23 autre à monsieur Cataford. C'est monsieur 24 Cataford qui m'a donné ça. Ce n'est 25 pas... non, vous pouvez la garder.</p>

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98	<p>1 LA COUR :</p> <p>2 O.K., merci.</p> <p>3</p> <p>4 Me BERNARD BOUCHER :</p> <p>5 Q¹²⁷. En ce qui me concerne, je vais produire</p> <p>6 sous la cote CCA-1 ce document. C'est un</p> <p>7 document qui a été publié par la Direction</p> <p>8 générale des finances municipales, 25</p> <p>9 octobre 2016, c'est le profil financier de</p> <p>10 2016 de la ville de Fermont.</p> <p>11</p> <p>12 LA GREFFIÈRE :</p> <p>13 Ça s'appelle comme ça, profil financier...</p> <p>14</p> <p>15 Me BERNARD BOUCHER :</p> <p>16 Profil financier de 2016 ville de Fermont.</p> <p>17</p> <p>18 PIÈCE CCA-1 :</p> <p>19 Profil financier 2016 de la Ville de</p> <p>20 Fermont.</p> <p>21</p> <p>22 RÉINTERROGÉ PAR Me GABRIEL SERENA :</p> <p>23 J'aurais simplement une petite précision</p> <p>24 en...</p> <p>25 Q¹²⁸. On vous a posé des questions, monsieur</p>	99
100	<p>1 favorable pour visiter l'installation pour</p> <p>2 tenir compte de ces éléments-là.</p> <p>3 Donc, je voulais voir aussi ce que</p> <p>4 monsieur Cataford voulait faire avec son</p> <p>5 complexe, qu'est-ce qu'il voulait utiliser</p> <p>6 de la phase 1, qu'est-ce qu'il ne voulait</p> <p>7 pas utiliser de la phase 2, et vice-versa,</p> <p>8 pour connaître un peu qu'est-ce qu'il va</p> <p>9 faire avec ces installations-là, parce que</p> <p>10 ça a une incidence sur la valeur. Dans la</p> <p>11 phase 1, tout ce qui est concasseur numéro</p> <p>12 1, avec toute sa ligne de distribution, va</p> <p>13 être abandonné; il va utiliser pour faire</p> <p>14 fonctionner le concentrateur de la phase</p> <p>15 1 le concasseur numéro 2 avec sa galerie</p> <p>16 de convoyeurs qui a... je pense que c'est</p> <p>17 quatre kilomètres de long, pour se rendre</p> <p>18 au site d'entreposage.</p> <p>19 Puis il y avait certaines questions</p> <p>20 de station de pompage, des « booster</p> <p>21 pumps », pour les résidus, puis il nous a</p> <p>22 fait visiter qu'est-ce qu'il était pour</p> <p>23 faire avec ces installations-là pour</p> <p>24 essayer d'avoir un topo pour tenir compte</p> <p>25 le plus possible des éléments pour la</p>	101
	<p>1 Chabot, sur les actifs immobiliers et</p> <p>2 résidentiels, sur leur valeur.</p> <p>3 Présentement, est-ce que ces actifs-là</p> <p>4 sont occupés?</p> <p>5 R. Je vous dirais que le principal, pour</p> <p>6 l'avoir visité le... 5, 6, 7... le 7 juin,</p> <p>7 il était vide. Le complexe de « fly-in,</p> <p>8 fly-out », j'ai visité l'ensemble des deux</p> <p>9 blocs de chambres et de la cafétéria avec</p> <p>10 les services et et caetera puis c'était</p> <p>11 vacant.</p> <p>12 Q¹²⁹. Puis en ce qui concerne la mine, on a</p> <p>13 parlé de la phase 2 également?</p> <p>14 R. La phase 2, quand j'ai visité c'était</p> <p>15 vacant. Il y avait très peu de</p> <p>16 travailleurs sur place, c'est sûr. Puis</p> <p>17 on n'a quand même pas eu beaucoup de</p> <p>18 temps, monsieur Cataford est arrivé plus</p> <p>19 tard de son avion, puis on s'est attardé</p> <p>20 beaucoup plus à la phase 2, puis voir un</p> <p>21 peu dans la perspective... moi, j'ai un</p> <p>22 nouveau rôle d'évaluation à déposer</p> <p>23 l'année prochaine, donc, le portrait de</p> <p>24 l'évaluation c'est le 1er juillet 2017, en</p> <p>25 juin 2017. Donc, c'est le moment</p>	
	<p>1 prochaine évaluation.</p> <p>2 Q¹³⁰. Plus d'autres questions.</p> <p>3</p> <p>4 LA COUR :</p> <p>5 Q¹³¹. J'ai juste une couple de questions pour</p> <p>6 vous. Quelles sont les évaluations qui</p> <p>7 sont en ce moment contestées parmi les</p> <p>8 trois qui nous intéressent?</p> <p>9 R. Je vous dirais que les deux éléments qu'on</p> <p>10 vous a produits, et qui est OF-3 et OF-4,</p> <p>11 ce sont les deux propriétés qui sont</p> <p>12 contestées. Le reste, les 28 résidences,</p> <p>13 ne le sont pas.</p> <p>14 Q¹³². O.K. Et quelle est la conclusion qui est</p> <p>15 demandée dans la contestation?</p> <p>16 R. J'ai un tableau, attendez un peu, j'ai un</p> <p>17 tableau de ça. Parce que c'est... ce qui</p> <p>18 est compliqué un petit peu là-dessus,</p> <p>19 Monsieur le Juge, c'est qu'on a différents</p> <p>20 certificats puis on a différents</p> <p>21 propriétaires dépendant... j'ai un tableau</p> <p>22 ici...</p> <p>23</p> <p>24 Me GABRIEL SERENA :</p> <p>25 Monsieur le Juge, votre question porte</p>	

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102	<p>1 bien sur la contestation au TAQ?</p> <p>2</p> <p>3 LA COUR :</p> <p>4 Oui.</p> <p>5</p> <p>6 Me GABRIEL SERENA :</p> <p>7 O.K., parfait.</p> <p>8</p> <p>9 Me SYLVAIN RIGAUD :</p> <p>10 La valeur que j'ai, moi, c'est 2,5 \$</p> <p>11 millions qui est recherché sur la</p> <p>12 contestation pour...</p> <p>13</p> <p>14 LE TÉMOIN :</p> <p>15 J'ai toutes les plaintes avec moi, je les</p> <p>16 ai toutes.</p> <p>17</p> <p>18 Me SYLVAIN RIGAUD :</p> <p>19 O.K., c'est bon.</p> <p>20</p> <p>21 LA COUR :</p> <p>22 Q¹³³. Oui, mais je ne veux pas connaître le</p> <p>23 montant de taxe qui sont en jeu, mais la</p> <p>24 contestation porte sur l'évaluation?</p> <p>25 R. Parce qu'il y a beaucoup de choses, je</p>	103	<p>1 vous dirais, j'ai une, deux, trois,</p> <p>2 quatre, cinq, six, sept, huit, neuf</p> <p>3 requêtes au Tribunal administratif pour</p> <p>4 deux unités d'évaluation. Mais dépendant</p> <p>5 si c'est Bloom Lake General Partner</p> <p>6 Limited, si c'est Bloom Lake Iron Ore</p> <p>7 Limited Partner, si c'est Société mine de</p> <p>8 fer du Lac Bloom, puis Mine de fer Québec</p> <p>9 inc., ça fait qu'il y a différentes dates.</p> <p>10 Mais je vous dirais que, en premier</p> <p>11 lieu, pour le 2013, j'ai des plaintes de</p> <p>12 2013, 2014, 2015 sur la phase 1, j'ai une</p> <p>13 plainte sur la phase 2, 2013, 2014, 2015,</p> <p>14 j'en ai une plainte aussi sur le 2016,</p> <p>15 2017, 2018, si on parle juste dans Bloom</p> <p>16 Lake General Partner.</p> <p>17 Après ça, j'ai une autre plainte sur</p> <p>18 Bloom Lake Iron Ore Partner qui se trouve</p> <p>19 à être les chambres en ville, sur le 18</p> <p>20 millions. J'en ai un sur les différentes</p> <p>21 phases qu'il y a eu dans le temps que</p> <p>22 c'était Société mine de fer, parce qu'on</p> <p>23 l'avait... la première phase de 122</p> <p>24 chambres qui avait été faite. La phase 2</p> <p>25 d'un autre bloc de 122 chambres. Après</p>
104	<p>1 ça, ils ont ajouté en troisième lieu la</p> <p>2 cafétéria. Donc, ça fait trois... la même</p> <p>3 unité d'évaluation, mais qui change de</p> <p>4 valeur à chaque fois.</p> <p>5 Et après ça, j'ai les dernières qui</p> <p>6 sont faites par Champion. Donc, je ne</p> <p>7 sais pas laquelle vous donner comme</p> <p>8 valeur, j'en ai... j'ai de la soupe aux</p> <p>9 chiffres.</p> <p>10 Q¹³⁴. O.K. Est-ce que vous avez sur la feuille</p> <p>11 que vous avez en main, est-ce que ça</p> <p>12 montre la valeur qui est demandée?</p> <p>13 R. Oui, demandée, oui.</p> <p>14 Q¹³⁵. Est-ce que je peux voir le document voir</p> <p>15 si je le comprends?</p> <p>16 R. Il y a une annotation dessus, parce que...</p> <p>17 mais ce n'est pas...</p> <p>18 Q¹³⁶. O.K., mais ce document me semble assez</p> <p>19 clair.</p> <p>20 R. Oui.</p> <p>21 Q¹³⁷. Que dans la plainte 2016, 2017, 2018 on</p> <p>22 demande que le 318 millions soit réduit à</p> <p>23 50 millions.</p> <p>24 R. Oui.</p> <p>25</p>	105	<p>1 Me SYLVAIN RIGAUD :</p> <p>2 Exact.</p> <p>3</p> <p>4 LA COUR :</p> <p>5 Q¹³⁸. On demande, pour les mêmes années, que le</p> <p>6 18,4 millions pour l'hôtel, entre</p> <p>7 guillemets, soit réduit à 2,5 millions.</p> <p>8 R. Oui.</p> <p>9 Q¹³⁹. Je ne sais pas c'est quoi le 12 millions</p> <p>10 qu'on demande la réduction (inaudible).</p> <p>11 R. Le 12 millions c'est qu'il y avait au</p> <p>12 départ un huit millions pour la première</p> <p>13 phase du bloc de chambres. Après ça, le</p> <p>14 bloc de chambres, il y en a un autre qui</p> <p>15 s'est rajouté. Ça fait qu'après ça...</p> <p>16 Q¹⁴⁰. O.K., pour l'année précédente...</p> <p>17 R. Oui. Puis, après ça, quand ça devient 18,</p> <p>18 ça devient avec l'ajout de la cafétéria.</p> <p>19 Q¹⁴¹. O.K.</p> <p>20 R. Mais c'est courant de voir sur une... je</p> <p>21 pourrais vous donner des plaintes</p> <p>22 d'évaluation dans l'industrie, ce qu'on</p> <p>23 fait, bien souvent, on est rendu qu'on met</p> <p>24 entre 30 et 50% de la valeur au rôle, sans</p> <p>25 faire d'analyse, puis on dépose une</p>

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106	<p>1 requête et les gens mettent une valeur qui</p> <p>2 va se situer entre 30 et 50% de la valeur</p> <p>3 foncière. Parce que c'est déjà arrivé</p> <p>4 qu'ils demandent supposons 75% puis qu'on</p> <p>5 était prêt à aller plus bas que ça, puis</p> <p>6 ils ne pouvaient pas le faire.</p> <p>7 Q¹⁴². Ça, c'est l'offre de départ?</p> <p>8</p> <p>9 Me DENIS CLOUTIER :</p> <p>10 Oui, c'est ça.</p> <p>11</p> <p>12 LE TÉMOIN :</p> <p>13 C'est l'offre de départ.</p> <p>14</p> <p>15 LA COUR :</p> <p>16 Q¹⁴³. O.K. Moi, j'aimerais garder ce document-</p> <p>17 là, je ne sais pas si les avocats ont des</p> <p>18 objections quelconques, mais juste pour</p> <p>19 résumer les contestations ça me semble</p> <p>20 très utile. Alors, pouvez-vous le montrer</p> <p>21 aux avocats juste voir si ça pose</p> <p>22 problème?</p> <p>23</p> <p>24 LA GREFFIÈRE :</p> <p>25 Je vais demander des copies.</p>	107	<p>1 LA COUR :</p> <p>2 Q¹⁴⁴. L'autre question, l'autre sujet, c'était</p> <p>3 tout simplement les arrérages de taxes,</p> <p>4 connaissez-vous les montants d'arrérages</p> <p>5 sur les différents...</p> <p>6 R. Pas par unité, mais la majorité de l'info</p> <p>7 est sur... la majorité de l'arrérage est</p> <p>8 sur la mine. On m'a dit que l'arrérage de</p> <p>9 taxes était aux alentours de 500 000,</p> <p>10 600 000 sur les résidents... le bloc de</p> <p>11 chambres. Puis le reste, il y aurait</p> <p>12 entre 16 et 18 millions pour le reste en</p> <p>13 arrérages de taxes.</p> <p>14 Q¹⁴⁵. Alors, ça, c'est un 18 millions, puis</p> <p>15 16...</p> <p>16 R. Bien, disons le 18 millions inclut le</p> <p>17 600 000.</p> <p>18 Q¹⁴⁶. O.K., mais ce n'est pas loin de 18</p> <p>19 millions sur la mine?</p> <p>20 R. Oui.</p> <p>21</p> <p>22 Me DENIS CLOUTIER :</p> <p>23 Oui, c'est ça.</p> <p>24</p> <p>25</p>
108	<p>1 LE TÉMOIN :</p> <p>2 Oui.</p> <p>3</p> <p>4 LA COUR :</p> <p>5 Q¹⁴⁷. Donc, ça veut dire que si on prend</p> <p>6 l'allocation qui est faite dans le contrat</p> <p>7 de vente, le 2,9 millions de la mine irait</p> <p>8 à la Ville. Sur le quatre millions sur</p> <p>9 les résidences il y a un 500 000 qui irait</p> <p>10 à la Ville?</p> <p>11 R. Oui.</p> <p>12 Q¹⁴⁸. Si on prend votre allocation,</p> <p>13 essentiellement le plein montant va à la</p> <p>14 Ville?</p> <p>15 R. Oui.</p> <p>16 Q¹⁴⁹. O.K. O.K., c'est tout ce que je voulais</p> <p>17 clarifier. À moins que ça ne soulève</p> <p>18 d'autres questions?</p> <p>19</p> <p>20 Me BERNARD BOUCHER :</p> <p>21 Bien, une petite question...</p> <p>22</p> <p>23 LA COUR :</p> <p>24 Et j'aimerais le document.</p> <p>25</p>	109	<p>1 CONTRE-INTERROGÉ PAR Me BERNARD BOUCHER :</p> <p>2 ... qui donne suite à la réponse de</p> <p>3 monsieur Chabot.</p> <p>4 Q¹⁵⁰. Sur le document OF-2, la valeur au rôle</p> <p>5 d'évaluation pour l'hôtel et les maisons,</p> <p>6 on parle de 25 345 200?</p> <p>7 R. Oui.</p> <p>8 Q¹⁵¹. Sur le document OF-4...</p> <p>9 R. C'est strictement le complexe...</p> <p>10 Q¹⁵². L'hôtel à 17 700 000?</p> <p>11 R. Oui. Oui.</p> <p>12 Q¹⁵³. Si je comprends bien, donc, si on a</p> <p>13 25 345 200 pour l'hôtel et les maisons, la</p> <p>14 valeur des maisons non contestée au rôle</p> <p>15 ce serait 7 632 000 \$?</p> <p>16 R. 25 moins 18... 25 345 000 moins</p> <p>17 18 435 000, c'est ça.</p> <p>18 Q¹⁵⁴. Donc, plus ou moins 7 \$ millions?</p> <p>19 R. Oui.</p> <p>20 Q¹⁵⁵. Parfait, merci.</p> <p>21</p> <p>22 LA COUR :</p> <p>23 Est-ce qu'il y a un problème à ce que je</p> <p>24 prenne ce document-là?</p> <p>25</p>

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110	<p>1 Me GABRIEL SERENA :</p> <p>2 On peut peut-être en faire des copies et</p> <p>3 remettre l'original au...</p> <p>4</p> <p>5 LA COUR :</p> <p>6 Faites-en quatre.</p> <p>7</p> <p>8 LA GREFFIÈRE :</p> <p>9 Quatre. Et qui la produit sous quelle</p> <p>10 cote? Est-ce que c'est vous?</p> <p>11</p> <p>12 Me GABRIEL SERENA :</p> <p>13 On peut la prendre sous notre cote, OF-8.</p> <p>14</p> <p>15 LA GREFFIÈRE :</p> <p>16 Et ça va s'appeler comment?</p> <p>17</p> <p>18 Me GABRIEL SERENA :</p> <p>19 Résumé des contestations à des valeurs</p> <p>20 d'évaluation foncières.</p> <p>21</p> <p>22 LE TÉMOIN :</p> <p>23 Résumé des requêtes et des prétentions des</p> <p>24 parties que je propose.</p> <p>25</p>	111	<p>1 LA GREFFIÈRE :</p> <p>2 Résumé des contestations des valeurs au</p> <p>3 rôle?</p> <p>4</p> <p>5 LE TÉMOIN :</p> <p>6 Oui.</p> <p>7</p> <p>8 LA GREFFIÈRE :</p> <p>9 Résumé des contestations des valeurs au</p> <p>10 rôle.</p> <p>11</p> <p>12 PIÈCE OF-8 :</p> <p>13 Résumé des contestations des valeurs au</p> <p>14 rôle.</p> <p>15</p> <p>16 Me GABRIEL SERENA :</p> <p>17 Maître Boucher a déposé un document, y a-</p> <p>18 t-il possibilité d'en avoir une copie?</p> <p>19</p> <p>20 Me BERNARD BOUCHER :</p> <p>21 Oui.</p> <p>22</p> <p>23 LA COUR :</p> <p>24 Oui, sûrement.</p> <p>25</p>
112	<p>1 Me GABRIEL SERENA :</p> <p>2 O.K., merci.</p> <p>3</p> <p>4 LA COUR :</p> <p>5 O.K. O.K., je pense que ça complète pour</p> <p>6 les questions. Merci.</p> <p>7</p> <p>8 LE TÉMOIN :</p> <p>9 Merci.</p> <p>10</p> <p>11 ET LE TÉMOIN NE DIT RIEN DE PLUS.</p> <p>12 *****</p> <p>13</p> <p>14 LA COUR :</p> <p>15 Là, si je comprends bien, vous allez</p> <p>16 vouloir plaider?</p> <p>17</p> <p>18 Me GABRIEL SERENA :</p> <p>19 On aurait quelques représentations à</p> <p>20 faire, effectivement.</p> <p>21</p> <p>22 LA COUR :</p> <p>23 O.K., vous en avez pour combien de temps</p> <p>24 pour qu'on planifie ça?</p> <p>25</p>	113	<p>1 Me GABRIEL SERENA :</p> <p>2 J'en aurais peut-être pour une vingtaine</p> <p>3 de minutes.</p> <p>4</p> <p>5 LA COUR :</p> <p>6 Parce que je pense comprendre assez bien</p> <p>7 le...</p> <p>8</p> <p>9 Me GABRIEL SERENA :</p> <p>10 Oui, absolument, votre dernière question</p> <p>11 résumait... vous comprenez l'enjeu.</p> <p>12</p> <p>13 LA COUR :</p> <p>14 Et vous en avez pour combien de temps</p> <p>15 de...</p> <p>16</p> <p>17 Me BERNARD BOUCHER :</p> <p>18 Sincèrement, en ce qui me concerne, je</p> <p>19 n'ai pas de représentations particulières</p> <p>20 à faire. La situation est une situation</p> <p>21 très factuelle. On comprend qu'il y a une</p> <p>22 allocation qui a été faite... je peux vous</p> <p>23 faire ça en trois minutes, ce n'est pas...</p> <p>24 j'en ai déjà 30 secondes de passées.</p> <p>25</p>

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114	<p>1 Me SYLVAIN RIGAUD :</p> <p>2 (Inaudible) selon les... je pense que cinq</p> <p>3 minutes, en ce qui me concerne, c'est</p> <p>4 suffisant.</p> <p>5</p> <p>6 LA COUR :</p> <p>7 O.K. Alors, je m'excuse, madame, on va</p> <p>8 dépasser 4 h 30, préférez-vous prendre une</p> <p>9 courte pause maintenant avant de compléter</p> <p>10 ou... on va tout droit?</p> <p>11</p> <p>12 LA GREFFIÈRE :</p> <p>13 (Inaudible) il faudrait que j'appelle.</p> <p>14</p> <p>15 LA COUR :</p> <p>16 O.K., voulez-vous qu'on prenne une pause</p> <p>17 maintenant?</p> <p>18</p> <p>19 LA GREFFIÈRE :</p> <p>20 Oui, s'il vous plaît.</p> <p>21</p> <p>22 LA COUR :</p> <p>23 Donc, on va prendre une pause de 15</p> <p>24 minutes maintenant.</p> <p>25</p>	115	<p>1 SUSPENSION DE L'AUDIENCE</p> <p>2 REPRISE DE L'AUDIENCE</p> <p>3</p> <p>4 ARGUMENTATION DE Me BERNARD BOUCHER:</p> <p>5 So, essentially, I mean, I've already</p> <p>6 informed the client that my intent is to</p> <p>7 do it in less than 180 seconds.</p> <p>8 Basically, our position on this</p> <p>9 transaction and allocation of the proceeds</p> <p>10 is that, at some point, I mean, the</p> <p>11 purchaser made an allocation of the</p> <p>12 purchase price. This allocation has been</p> <p>13 made for reasons that are personal in fact</p> <p>14 to the purchaser itself. One of the</p> <p>15 reasons which may have justified the</p> <p>16 purchaser to allocate the price in such a</p> <p>17 fashion are surely the tax considerations;</p> <p>18 this is definitely a legitimate reason for</p> <p>19 any purchaser to do the price allocation</p> <p>20 in this specific fashion.</p> <p>21 And I believe that it will be rather</p> <p>22 easy to agree that it's most likely that</p> <p>23 if ever something is to be sold in the</p> <p>24 short-term the houses are going to be the</p> <p>25 quickest sale than the mine. We have seen</p>
116	<p>1 all the difficulties we have had to go</p> <p>2 through in order to potentially sell the</p> <p>3 mine. So if a capital gain was to be</p> <p>4 realized at some point it will be, in the</p> <p>5 short-term, on the houses and not on the</p> <p>6 mine.</p> <p>7 This being said, we have seen that</p> <p>8 the value of the municipal evaluation of</p> <p>9 the houses is uncontested, while</p> <p>10 definitely, I mean, the value of the mine</p> <p>11 and the hotel is highly contested. So, I</p> <p>12 don't see a reason why, I mean, we should</p> <p>13 depart from what has been suggested to the</p> <p>14 Monitor and to the (inaudible) parties</p> <p>15 with respect to the price allocation. And</p> <p>16 it seems to me that these values should be</p> <p>17 respected, that this is the price</p> <p>18 allocation that should... that's pretty</p> <p>19 much what I had to say.</p> <p>20</p> <p>21 LA COUR:</p> <p>22 Thank you.</p> <p>23</p> <p>24 ARGUMENTATION DE Me SYLVAIN RIGAUD:</p> <p>25 Mr. Justice Hamilton, I'll be brief, maybe</p>	117	<p>1 not as brief as maître Boucher. Our</p> <p>2 position is as follows. You've heard the</p> <p>3 testimony and the recommendation of</p> <p>4 Mr. Nigel Meakin, your Monitor. This</p> <p>5 testimony and this recommendation has not</p> <p>6 been subject to any form of cross-</p> <p>7 examination by the City of Fermont.</p> <p>8 Mr. Meakin explained why it was</p> <p>9 important for him, for the Monitor, to</p> <p>10 submit a methodology on a principle basis,</p> <p>11 not looking into the specific preference</p> <p>12 and specific recovery of specific creditor</p> <p>13 groups. And that's exactly what the City</p> <p>14 of Fermont is asking us to do now.</p> <p>15 Mr. Meakin reached out to have a better</p> <p>16 understanding of the allocation that was</p> <p>17 worth... that was set by the purchaser</p> <p>18 Champion.</p> <p>19 The highlights are as follows. The</p> <p>20 mine is a liability, there is no certainty</p> <p>21 that the mine will be reopened. Of</p> <p>22 course, Champion bought the mine and</p> <p>23 related residential properties with the</p> <p>24 prospect of reopening the mine, but</p> <p>25 there's uncertainty as to timing. In the</p>

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<p style="text-align: right;">118</p> <p>1 interim, that represents carrying costs of 2 approximately \$1.5 million, plus having to 3 support whatever bad surprise can arise in 4 terms of potential environmental 5 liabilities. So, this is a real liability 6 with no certainty as to when it will 7 restart. And on top of that, the company 8 will have to invest substantial sums to 9 complete Phase 2. 10 It was in these circumstances that 11 for Champion it was reasonable for it to 12 attribute or to allocate values to assets 13 which could have alternate usage, be it 14 the mobile equipment, but also the 15 residential properties. 16 The value which is submitted by 17 Champion, with respect to the residential 18 properties, is well below what is 19 determined to be the fair market value or 20 the... I should say, the value for 21 municipal tax assessment that was 22 determined by the City of Fermont. So, 23 it's not as if the City of Fermont says 24 that well, these properties are worth a 25 lot less than four million. No, they're</p>	<p style="text-align: right;">119</p> <p>1 saying they're worth a lot more, but 2 they're saying well, you should not have 3 put so much on the houses. 4 Well, it's not for the City to 5 determine that, it's for the purchaser and 6 this was, you know, it's the purchaser 7 that bought these properties and it's for 8 the purchaser to make that determination. 9 But it's very clear that the value that 10 was allocated to these properties are way 11 below the assessed value by the 12 municipality. 13 You've asked, in your questions, 14 you've looked into the assessed value for 15 role 1618 in comparison with the values of 16 the contestation. There is a limit to 17 that exercise, we've looked into it. 18 The first problem is as follows, the 19 \$318 million value for role 1618 is 20 totally incorrect. It's based on two 21 false premises that completely disrupt the 22 exercise. 23 First, it's based on a fictional 24 value as of July 1st, 2011. It does not 25 rest on a proper evaluation as of July</p>
<p style="text-align: right;">120</p> <p>1 1st, 2014, as admitted by the evaluator 2 Chabot. He said that the role for 1618 3 was a simple re-conduction of the previous 4 role. So, it does not account for the 5 situation of the mine in July of 2014. 6 Mr. Chabot said, well, nothing really 7 happened of relevance. Well, I think we 8 know otherwise in terms of the price of 9 iron ore. 10 The fact that Phase 2... because 11 Phase 2 was added during the role of 2013 12 and 2015, it was added on the assumption 13 that it would be completed; there's a rule 14 that it needs to be added within two 15 years. Well, it was never completed. 16 Operations were never... it never started 17 in operation, Phase 2, not during role of 18 2013-15 and definitely not during role 19 2016 to 2018, well, up until now. 20 So, to take as a starting point 320, 21 I submit, is totally wrong because it's 22 not a proper value. On the residential 23 properties, we have the 388 du Fer 24 Complex, and that approximate... this is 25 worth approximately \$18 million, while its</p>	<p style="text-align: right;">121</p> <p>1 assessed value is approximately 2 \$18 million, out of the total \$25 million 3 amount for the whole... the various other 4 residential properties. That 18 million, 5 the amount which is proposed by way of the 6 contestation is 2.5, but the remainder, 7 the remaining \$7 million is not subject to 8 contestation. 9 So, again, even if we look at the 10 non-contested portion, it would still add 11 up to 9.5 million which, again, is way in 12 excess of the value that was attributed by 13 the parties. 14 We don't think that -and we've heard 15 submissions by the City of Fermont - we 16 don't think it's a proper exercise only to 17 reallocate value to maximize recovery of 18 outstanding taxes on the mine. As a 19 matter of fact, the mine, there's no 20 operation and the value that was received 21 as part of the Champion transaction was 22 the best, the only... the best offer that 23 could be achieved through a robust, long 24 and transparent sale process. 25 So, we maintain the position of the</p>

122	<p>1 Monitor that we should not disrupt, and</p> <p>2 there's no reason to disrupt, the</p> <p>3 allocation that was set by a third party</p> <p>4 dealing at arm's length that reflects its</p> <p>5 own valid reality and perception of value,</p> <p>6 and to try to prorate the value based on</p> <p>7 fictional values of \$320 million, is</p> <p>8 certainly not proper in the circumstances.</p> <p>9</p> <p>10 ARGUMENTATION DE Me GABRIEL SERENA:</p> <p>11 Donc, Monsieur le Juge, vous devez garder</p> <p>12 en tête que la Ville de Fermont est une</p> <p>13 ville minière; c'est central dans le cadre</p> <p>14 de la réclamation qu'on vous pose ici.</p> <p>15 Sans la mine, la Ville, ses actifs, la</p> <p>16 valeur des immeubles résidentiels ne</p> <p>17 valent rien s'il n'y a pas une mine en</p> <p>18 activité. Tout comme le disait monsieur</p> <p>19 Chabot, Fermont pourrait devenir comme la</p> <p>20 ville de Gagnon, disparaître.</p> <p>21 Le débat qui a lieu aujourd'hui est</p> <p>22 un débat sur les sommes à être</p> <p>23 distribuées, l'allocation. C'est</p> <p>24 important de ne pas... on parle du débat</p> <p>25 de la contestation, par exemple, des</p>	123	<p>1 valeurs d'évaluation au TAQ, qui a lieu</p> <p>2 présentement. C'est un débat qui est</p> <p>3 parallèle. Ce que vous devez vous poser</p> <p>4 comme question aujourd'hui, c'est à titre</p> <p>5 de créancière prioritaire... parce que la</p> <p>6 Ville, en vertu de la loi, tant sous le</p> <p>7 Code civil, tant sous la Loi sur les cités</p> <p>8 et villes, est dotée pour les taxes</p> <p>9 municipales qui sont impayées, pour</p> <p>10 services rendus d'ailleurs, est une</p> <p>11 créancière prioritaire.</p> <p>12 Le fait que la valeur des actifs</p> <p>13 puisse évoluer de manière cyclique par</p> <p>14 rapport à l'industrie. Le fait que, par</p> <p>15 exemple, il puisse y avoir de la</p> <p>16 spéculation immobilière de la part de</p> <p>17 l'acheteur n'est pas central. Au regard</p> <p>18 des principes et des facteurs sous-tendant</p> <p>19 les lois sur l'insolvabilité, les</p> <p>20 objectifs sont d'une part de réhabiliter</p> <p>21 la débitrice, de réouvrir ou de permettre,</p> <p>22 dans le cas qui intéresse Fermont ici, la</p> <p>23 mine, de permettre que des nouveaux</p> <p>24 acheteurs puissent repartir la mine, et</p> <p>25 Fermont ne conteste pas cet élément-là, et</p>
124	<p>1 surtout permettre que les créanciers</p> <p>2 soient, dans une mesure raisonnable, juste</p> <p>3 et équitable, renfloués pour leurs</p> <p>4 créances impayées.</p> <p>5 Notre prétention est à l'effet que,</p> <p>6 par le fait d'allouer une plus grande</p> <p>7 valeur... et vous compreniez absolument,</p> <p>8 votre dernière question au témoin était</p> <p>9 tout à fait juste, en allouant une valeur</p> <p>10 de quatre millions sur des immeubles dont</p> <p>11 la créance de la Ville équivaut à environ</p> <p>12 500 000 \$, et en évaluant une valeur de</p> <p>13 1,5 million sur des actifs qui en valent</p> <p>14 314 et dont la réclamation de la Ville est</p> <p>15 tout près de 6 millions ou... 16 millions,</p> <p>16 excusez-moi, on vient littéralement</p> <p>17 empêcher la Ville de réaliser ses</p> <p>18 priorités sur ces actifs-là.</p> <p>19 D'ailleurs, j'aimerais revenir, d'une</p> <p>20 part sur le document qui a été déposé par</p> <p>21 maître Boucher. Celui-ci, je ne sais pas</p> <p>22 comment l'avions-nous coté. On faisait</p> <p>23 référence à la ligne des actifs de 60</p> <p>24 millions, on l'assimilait à une réserve... 25 c'est CCA-1, Monsieur le Juge.</p>	125	<p>1 LA GREFFIÈRE:</p> <p>2 Profil financier 2016 de la Ville de</p> <p>3 Fermont.</p> <p>4</p> <p>5 Me GABRIEL SERENA:</p> <p>6 Oui, exactement. On faisait référence à</p> <p>7 la ligne de 60 millions. On faisait</p> <p>8 référence à la ligne « Actifs », puis on</p> <p>9 assimilait ça à une réserve pour imprévus,</p> <p>10 dans les cas, par exemple, où le marché</p> <p>11 évoluait, on avait besoin d'une réserve,</p> <p>12 peut-être pour des taxes impayées ou des</p> <p>13 choses comme ça, mais les actifs, on parle</p> <p>14 ici d'actifs immobiliers, d'actifs</p> <p>15 mobiliers, par exemple, la caserne de</p> <p>16 pompiers, l'usine d'épuration des eaux, on</p> <p>17 ne parle pas d'une réserve pour imprévus.</p> <p>18 Si réserve y a-t-il à avoir, et je ne</p> <p>19 crois pas qu'elle est clairement prévue</p> <p>20 dans le document qui est là, elle se</p> <p>21 retrouverait probablement plus à</p> <p>22 l'excédent de fonctionnement accumulé qui</p> <p>23 se retrouve...</p> <p>24</p> <p>25</p>

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AUDIENCE

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126	<p>1 Me BERNARD BOUCHER: 2 Je suis d'accord, Monsieur le Juge. 3 4 Me GABRIEL SERENA: 5 Parfait. 6 7 Me BERNARD BOUCHER: 8 Sur 20 millions ou 60. Seulement 20. Je 9 m'excuse, je n'avais pas eu le temps de le 10 lire de façon détaillée, mais je... I 11 agree. 12 13 Me GABRIEL SERENA: 14 Parfait. Ceci étant dit, vous comprenez 15 le débat et vous comprenez notre position. 16 Et nos prétentions sont simples, 17 l'allocation qui est proposée par les 18 acheteurs... et maître Boucher l'a dit, ou 19 l'a supposé, probablement que cette 20 allocation était là pour favoriser 21 l'acheteur. 22 Dans le cadre d'une vente d'actifs, 23 de la réalisation d'une vente d'actifs 24 dans le cadre des lois sur 25 l'insolvabilité, les objectifs ne sont pas</p>	127	<p>1 nécessairement de venir favoriser les 2 intérêts de l'acheteur, mais bien des 3 créanciers et de la débitrice. Ça, c'est 4 important à garder en tête. 5 Donc, par rapport à cette allocation- 6 là, nos prétentions sont à l'effet que 7 celle-ci est déraisonnable, celle-ci n'est 8 pas équitable pour la Ville. Et je vous 9 parlais des objectifs de la loi, sans 10 vouloir les nommer comme ça dans les airs, 11 je vous propose une décision datée de 12 2016, Métaux Kitco, j'en ai une copie 13 également pour mes collègues. Je passerai 14 très rapidement là-dessus, mais si vous 15 allez au paragraphe 48 de la décision, la 16 juge vient justement reprendre ces 17 objectifs-là prévus à la loi. Elle cite, 18 d'ailleurs, la Cour Suprême à cet effet- 19 là. 20 21 LA COUR: 22 « Faire le sous- 23 partage équitable des 24 biens du débiteur 25 entre ses créanciers</p>
128	<p>1 selon l'ordre de 2 priorité qu'elles 3 établissent. » 4 5 Me GABRIEL SERENA: 6 Exactement, donc au paragraphe 48. 7 D'ailleurs, l'appel sur cette question-là 8 a été rejeté, Monsieur le Juge. Je vous 9 le donne simplement pour que vous puissiez 10 garder et avoir en tête les objectifs. 11 Après une recherche de notre côté sur 12 la question qui se pose aujourd'hui, à 13 savoir qu'en est-il d'une contestation 14 d'une créancière, prioritaire de surcroît, 15 sur la valeur allouée aux actifs par les 16 parties à une transaction, disons que la 17 jurisprudence est un peu faible à cet 18 effet-là. 19 Nous avons trouvé une décision dans 20 l'affaire Skana Forest Products, de la 21 Colombie-Britannique, qui est un peu 22 assimilable disons, il faut faire les 23 nuances. C'est dans le cadre d'une 24 allocation des coûts relatifs à la 25 procédure de distribution. Puis je vous</p>	129	<p>1 référerai plus particulièrement au 2 paragraphe 28 où les faits sont un peu 3 complexes, mais grosso modo, la créancière 4 qui est une ville également, qui est la 5 ville de Prince Rupert, se retrouve dans 6 une position intenable où elle doit, en 7 fait, décider... elle se retrouve 8 contrainte d'acheter l'actif en question 9 qui est une usine de pâtes et papier et se 10 retrouve, incidemment, à payer plus... 11 l'allocation prévoit, finalement, qu'elle 12 doit payer une plus grande proportion de 13 l'allocation des coûts de la procédure que 14 des créancières ordinaires. 15 Le juge parle de quelque chose qui 16 est un peu étrange, qui est un peu 17 surmaturel et vient dire aux dernières 18 phrases du paragraphe 28, en gros, que la 19 méthodologie d'allocation ne doit pas 20 indirectement priver une créancière, 21 prioritaire ici, de bénéficier, dans le 22 fond, de sa priorité. C'est exactement ça 23 dans le cas qui nous intéresse. La 24 méthodologie d'allocation prévue entre 25 deux parties privées ne doit pas,</p>

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130	<p>1 incidemment, venir empêcher la ville de 2 Fermont de réaliser ses créances 3 prioritaires. 4 Maître Rigaud parlait du fait qu'il y 5 avait une incertitude quant à la reprise 6 des activités de la mine. Ce que je vous 7 soumetts, Monsieur le Juge, c'est que si la 8 mine ne reprend pas, les maisons 9 d'habitation ne vaudront rien. Je vous 10 l'ai déjà dit, mais c'est important. Peu 11 importe le résultat des contestations en 12 ce moment du rôle d'évaluation au TAQ, peu 13 importe ça, il est inconcevable, il est 14 rationnellement impossible de justifier 15 qu'une mine de fer puisse valoir plus que 16 des immeubles résidentiels. 17 18 Me BERNARD BOUCHER: 19 Bien là. 20 21 Me GABRIEL SERENA: 22 Excusez-moi, exactement l'inverse. C'est 23 tout à fait impossible d'exprimer 24 rationnellement que des immeubles 25 résidentiels puissent valoir plus qu'une</p>	131	<p>1 mine, peu importe le résultat de la 2 contestation au TAQ. Donc, face à un... 3 on va nous dire de l'autre côté qu'il 4 s'agit d'une réclamation... bien, d'une 5 réclamation, qu'il s'agit d'une allocation 6 faite de bonne foi entre les parties 7 contractantes. Cela n'en fait pas... du 8 moins, oui, il y a une présomption de 9 raisonnabilité, mais nous vous soumettons 10 que la présomption doit être levée puisque 11 évidemment, manifestement, face au rôle 12 d'évaluation, il y a une disproportion. 13 À vous, maintenant, de venir exercer 14 votre discrétion pour rétablir la 15 situation et permettre à la ville de 16 Fermont de pouvoir réaliser ses créances. 17 Et au même titre que vous avez approuvé la 18 transaction, par votre Vesting Order, 19 Approval and Vesting Order, nous vous 20 soumettons que l'article 36 de la Loi sur 21 les arrangements avec les créanciers des 22 compagnies, et plus précisément l'article 23 36(3)(f), qui prévoit que lorsqu'il 24 autorise la vente, le Tribunal doit 25 prendre en considération le caractère</p>
132	<p>1 juste et raisonnable de la contrepartie 2 reçue pour les actifs compte tenu de la 3 valeur marchande et j'insiste sur les mots 4 « valeur marchande ». 5 Donc, la loi prévoit que dans le cas 6 de l'approbation de la vente vous avez ce 7 pouvoir-là en vertu de la loi. 8 Évidemment, l'allocation qui devait être 9 prévue au contrat de vente est assimilée 10 ici au contrat, donc vous avez la même 11 discrétion, vous avez les mêmes facteurs, 12 le même guide législatif quant à votre 13 discrétion sur ce tableau-là d'allocation, 14 appelons-le comme ça. Et vous avez même, 15 et je vous cite, dans le jugement que vous 16 avez rendu concernant la question de... le 17 jugement sur Pointe-Noire et Ville de 18 Sept-Îles, 2016 QCCS 5620, vous dites au 19 paragraphe 23, et je trouvais ça 20 intéressant de vous le rappeler: 21 « Le but des 22 ordonnances de vente 23 sous l'article 36 est 24 de vendre au meilleur 25 prix possible au</p>	133	<p>1 bénéfice de l'ensemble 2 des créanciers, sans 3 toutefois préjudicier 4 les créanciers 5 garantis et les 6 créanciers 7 prioritaires. » 8 De votre plume, Monsieur le Juge. 9 Puis vous parlez également de votre 10 discrétion. Cette discrétion est prévue 11 à l'article 11 de la Loi sur les 12 arrangements avec les créanciers des 13 compagnies et vous permet d'ordonner 14 qu'une distribution qui n'est pas 15 nécessairement calquée sur l'allocation 16 soumise par les débitrices, lorsque les 17 circonstances le justifient, de venir 18 permettre d'ordonner une modification à 19 cette allocation-là au regard des 20 objectifs de la loi. 21 Puis je vous soumettrai sur cette 22 question-là l'arrêt de la Cour Suprême que 23 vous connaissez sans doute, Century 24 Services Inc., où l'on traite, d'une part, 25 aux paragraphes 68 et suivants de ce</p>

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134	<p>1 pouvoir discrétionnaire, large pouvoir 2 discrétionnaire comme l'explique la Cour 3 suprême. Mais surtout, et dans le cas qui 4 nous intéresse ici, paragraphes 60 et 5 suivants, la notion d'intérêt public et de 6 l'importance pour le Tribunal, lors de 7 l'autorisation de la distribution, par 8 exemple, du produit de la réalisation, de 9 garder en tête cette notion d'intérêt 10 public là. 11 La Ville étant une personne de droit 12 public, il est évident que l'intérêt 13 public ici est en jeu, l'intérêt public de 14 payeurs de taxes, de l'économie d'une 15 ville, l'intérêt public de services qui 16 ont été rendus et qui seront absorbés par 17 une population qui est un peu sous 18 l'effet... ou disons, dépendante de 19 l'économie ou de la santé de la mine. 20 Comme au regard de nos prétentions à 21 l'effet que cette allocation-là est 22 déraisonnable, la loi vous permet, en 23 vertu de votre discrétion, de venir rendre 24 l'ordonnance appropriée, puis ce que nous 25 vous soumettons ici c'est que la</p>	135	<p>1 proposition de l'allocation qui a été 2 présentée par monsieur Chabot serait, dans 3 les circonstances, celle qui est 4 appropriée. 5 Donc, on demanderait à cet effet-là 6 d'accueillir notre objection, de rejeter 7 l'allocation telle que proposée par 8 l'acheteur, Champion, puis d'entériner le 9 projet de proposition d'allocation que 10 monsieur Chabot est venu présenter 11 aujourd'hui. 12 13 LA COUR: 14 Du moins, je regarde juste... votre avis 15 d'objection, évidemment n'est pas rendu là 16 dans le sens que c'était... 17 18 Me GABRIEL SERENA: 19 Exactement, parce qu'on attendait à ce 20 moment-là, Monsieur le Juge, le résultat 21 de négociations face à ça avec les 22 procureurs à... bien, du Contrôleur 23 principal. 24 25</p>
136	<p>1 LA COUR: 2 Je comprends. Donc, pouvez-vous me 3 décrire encore qu'est-ce que vous demandez 4 comme conclusions pour ce que soit clair? 5 6 Me GABRIEL SERENA: 7 On vous demanderait, en fait, d'accueillir 8 notre proposition. 9 10 LA COUR: 11 Oui. 12 13 Me GABRIEL SERENA: 14 Excusez-moi, d'accueillir notre 15 proposition, notamment quant à 16 l'allocation proposée de la valeur des 17 actifs pour distribution. Je peux 18 référer... je pense qu'on l'avait cotée 19 sous OF-1. OF-2? 20 21 Me BERNARD BOUCHER: 22 Ce document-là c'est OF-2. 23 24 Me GABRIEL SERENA: 25 Bien ça ça va être... moi, je parle de</p>	137	<p>1 OF-1. 2 3 LA COUR: 4 Mais ce qu'on demande c'est OF-2. 5 6 Me GABRIEL SERENA: 7 O.K., oui, excusez-moi. Accueillir OF-2, 8 rejeter OF-1. 9 10 LA COUR: 11 O.K., vous... 12 13 Me GABRIEL SERENA: 14 Je vais recommencer. 15 16 LA COUR: 17 Mais est-ce que ce n'est pas la 18 méthodologie... 19 20 Me GABRIEL SERENA: 21 Non, la méthodologie de l'allocation... 22 23 LA COUR: 24 La façon générale, dans votre cas 25 particulier.</p>

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138	<p>1 Me GABRIEL SERENA: 2 Absolument. Exactement, on est une 3 créancière prioritaire, on est la seule 4 dans la situation vis-à-vis ces actifs-là, 5 donc la méthodologie en soi n'est pas 6 attaquée. On attaque les valeurs 7 attribuées dans l'allocation, donc on vous 8 demanderait d'accueillir notre objection, 9 de rejeter la proposition qui a été 10 proposée, qu'on vous a déposée sous OF-1, 11 et d'entériner la proposition déposée sous 12 OF-2. 13 Et un dernier point... dernier, 14 dernier point. Veux-tu l'expliquer? 15</p> <p>16 Me JEAN-FRANÇOIS DELISLE: 17 Si vous prenez, Monsieur le Juge, le 18 tableau dans OF-2. Tout à l'heure, on se 19 demandait un peu, bon, qu'est-ce qui se 20 passe? Qu'est-ce que la Ville, si on 21 prend l'allocation telle qui est proposée 22 à la base par les débitrices, qu'est-ce 23 que la Ville irait chercher? On avait 24 ciblé le 1,5 million que la Ville, bon, 25 irait chercher probablement au complet ou,</p>	139	<p>1 en tout cas, moins les coûts de 2 l'arrangement. C'est par rapport au bail 3 minier de 1,4 million. 4 Ce qu'il faut comprendre c'est que la 5 garantie de la Ville ça se limite au 6 montant qui est dû sur le bail minier, 7 puis ça c'est le montant que vous avez à 8 droite, là, dans OF-2, qui est 66 000 \$. 9 Ça fait qu'on n'irait pas chercher le 10 1 400 000, on irait chercher seulement un 11 66 000, qui est la créance qui est due par 12 rapport à cet actif-là du bail minier, tel 13 qu'il est évalué au rôle d'évaluation. Il 14 est évalué à 3 299 000, donc il y a des 15 taxes dues de 66 000. 16</p> <p>17 LA COUR: 18 O.K., mais le montant dû sur... est-ce que 19 le bail, comme tel, il est taxable, je 20 présume? 21</p> <p>22 Me JEAN-FRANÇOIS DELISLE: 23 Oui, il est évalué puis c'est la valeur au 24 rôle de 3 299 000 que vous avez là. 25</p>
140	<p>1 LA COUR: 2 O.K., donc si on prend le premier 3 scénario, avec l'allocation selon le 4 Contrôleur. 5</p> <p>6 Me JEAN-FRANÇOIS DELISLE: 7 Oui? 8</p> <p>9 LA COUR: 10 Vous dites que le 1,5 million sur la mine, 11 comme telle, vous allez chercher le 1,5 12 million? 13</p> <p>14 Me JEAN-FRANÇOIS DELISLE: 15 Oui. 16</p> <p>17 LA COUR: 18 Le 1,4 million, quel est le montant de la 19 dette envers la Ville? 20</p> <p>21 Me JEAN-FRANÇOIS DELISLE: 22 C'est quelque chose qui est dans le coin 23 du 66 000 \$, c'est ce montant-là. 24 25</p>	141	<p>1 LA COUR: 2 O.K. 3</p> <p>4 Me JEAN-FRANÇOIS DELISLE: 5 Puis le 400 000, bien, vous avez le 6 500 000 là. Ça, ça ne change pas par 7 rapport à ce qu'on avait dit, mais il y 8 avait une nuance quand même importante là, 9 c'est qu'on ne peut pas aller plus que ce 10 que la Ville doit par rapport au bail. 11</p> <p>12 LA COUR: 13 Alors, ce serait aux alentours de 70 000? 14</p> <p>15 Me JEAN-FRANÇOIS DELISLE: 16 Oui, Monsieur le Juge. 17</p> <p>18 LA COUR: 19 O.K. Et le fait que votre allocation 20 donne 66 000, sur une dette de 70 000... 21 509 000 sur une dette de 500 000 à 22 600 000, c'est un heureux hasard 23 probablement? 24 25</p>

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AUDIENCE

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142	<p>1 Me JEAN-FRANÇOIS DELISLE: 2 Oui, bien, c'est sûr que là vu qu'on prend 3 les proportions au rôle ça finit par se... 4 ça se rapproche, là, c'est sûr. 5 6 LA COUR: 7 O.K., merci. Ça conclut? 8 9 Me JEAN-FRANÇOIS DELISLE: 10 Oui. 11 12 LA COUR: 13 Merci. 14 15 ARGUMENTATION DE Me BERNARD BOUCHER : 16 C'est tout simplement, en fait c'est un 17 commentaire très mathématique. Quand on 18 regarde le tableau en question, quand on 19 regarde en fait ce qui est fait à l'heure 20 actuelle. Dans la première version, si on 21 regarde ce que représente le 1 500 000 par 22 rapport au 6 900 000, en ce qui concerne 23 la mine, c'est 21,9 %. Dans la situation, 24 ce qui est proposé par la mine... 25</p>	143	<p>1 LA COUR: 2 Excusez-moi, vous regardez quel chiffre? 3 4 Me BERNARD BOUCHER: 5 C'est des chiffres qui n'apparaissent pas 6 sur le tableau, mais que j'ai rajouté de 7 façon manuscrite. En fait, si on regarde 8 maintenant ce qui est proposé, au départ 9 on avait pour la mine 1,5 million sur 6,9 10 millions; ça, ça représente 21,7 %. 11 Maintenant ce qu'on nous dit c'est qu'on 12 va augmenter ce chiffre-là à 6 324 370, on 13 parle de 21,7 à 91,6 % du montant. 14 En ce qui concerne le bail, qui 15 représentait 20,2, on passe à 0,96 du 16 montant de 6 900 000. Et en ce qui 17 concerne les propriétés, qui 18 représentaient 57,9, on vous suggère de 19 modifier les proportions pour être à 20 7,38 %. Donc, on quadruple, 21 effectivement, le montant pour la mine. 22 Le pourcentage passe de 21,7 à 91,68 %. 23 En ce qui concerne le bail qui donne 24 le droit d'exploiter la mine, ça passe de 25 20 % à en bas de 1 %, donc on le diminue</p>
144	<p>1 de 20 fois. Et en ce qui concerne les 2 résidences, où pourtant on sait qu'il n'y 3 a pas de contestation d'évaluations, qu'il 4 n'y a aucun problème à ce niveau-là, on 5 passe de 57,9 % à 7,38. 6 Je peux vous présenter ma copie pour 7 que ce soit plus facile à... que vous 8 voyiez un petit peu l'exercice auquel je 9 me suis livré. C'est la fluctuation, en 10 fait, des prorata. 11 Malheureusement, il n'y a pas de 12 logique, d'après moi, derrière ça. Il n'y 13 a pas un système qui est meilleur que 14 l'autre. Ce que mentionnait mon confrère 15 tout à l'heure, c'est qu'il y a une 16 présomption de raisonnable en faveur de 17 l'imputation qui est faite par l'acheteur. 18 J'aurais tendance à partager son principe 19 à l'effet qu'il existe... son point de vue 20 à l'effet qu'il existe une présomption de 21 raisonnable. 22 Ceci étant, c'est donc à la Ville qui 23 se présente devant vous de venir vous 24 démontrer que cette présomption de 25 raisonnable là devrait être renversée.</p>	145	<p>1 C'est le fardeau de la preuve qui impose, 2 à ce moment-là, sur les épaules, en fait, 3 de la ville de Fermont, de venir vous 4 expliquer pourquoi on devrait renverser 5 cette présomption-là et on devrait 6 modifier l'imputation qui a été faite par 7 l'acheteur pour des raisons qui lui sont 8 propres, afin d'avantager un créancier par 9 rapport aux autres, puis je ne vois pas de 10 raison légitime. 11 J'ai beau examiner la situation sous 12 tous ses angles, je ne vois pas de raison 13 légitime pour en arriver à semblable 14 résultat. Les raisons qui ont été 15 invoquées par l'acheteur, par 16 l'intermédiaire du Contrôleur, sont tout 17 à fait légitimes. Il y a une raison, il 18 y a une logique qui est derrière ça, puis 19 il y a des raisons qui sont propres à 20 l'acheteur. Puis je pense que, 21 malheureusement, les raisons de l'acheteur 22 sont tout aussi bonnes que celles de la 23 ville de Fermont. 24 Alors, dans ces circonstances-là, je 25 pense qu'on devrait respecter ce choix-là</p>

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146	<p>1 qui a été exercé par l'acheteur. Surtout</p> <p>2 que si on vient modifier éventuellement le</p> <p>3 choix qui a été fait par l'acheteur, si on</p> <p>4 pose la question suivante, si jamais de</p> <p>5 façon ultime, dans trois ans, les maisons</p> <p>6 pour lesquelles il vient déclarer qu'il a</p> <p>7 mis, en fait, une valeur de 4 \$ millions</p> <p>8 pour son coût d'acquisition, il les a</p> <p>9 revendues pour cinq millions, qui serait</p> <p>10 à ce moment-là un gain capital d'un</p> <p>11 million, si par jugement on venait</p> <p>12 modifier ces valeurs-là pour en venir à la</p> <p>13 valeur de 500 000 qui est proposée par la</p> <p>14 Ville, c'est un gain capital de 4,5</p> <p>15 millions qu'il va faire.</p> <p>16</p> <p>17 LA COUR:</p> <p>18 Mais je n'ai pas l'intention de modifier</p> <p>19 le contrat.</p> <p>20</p> <p>21 Me BERNARD BOUCHER:</p> <p>22 O.K.</p> <p>23</p> <p>24 LA COUR:</p> <p>25 Si je modifie l'allocation, je ne crois</p>	147	<p>1 pas que je modifie le contrat. Je ne</p> <p>2 crois pas avoir d'impact sur l'acheteur.</p> <p>3</p> <p>4 Me BERNARD BOUCHER:</p> <p>5 Écoutez, je ne sais pas comment Revenu</p> <p>6 Canada et Revenu Québec interpréteraient</p> <p>7 votre jugement sur la question, mais</p> <p>8 j'aurais une préoccupation légitime. Moi,</p> <p>9 en tout cas, si j'étais l'acheteur ça me</p> <p>10 préoccuperait. Alors, je fais valoir</p> <p>11 cette considération-là.</p> <p>12 L'expérience m'enseigne que lorsqu'on</p> <p>13 est placé devant une difficulté</p> <p>14 d'interprétation avec Revenu Canada ou</p> <p>15 Revenu Québec, la position qui serait</p> <p>16 exprimée dans un jugement pourrait</p> <p>17 potentiellement être préjudiciable à</p> <p>18 l'acheteur. En tous les cas, je vous</p> <p>19 invite à faire preuve... il faut être</p> <p>20 attentif à cette préoccupation-là et, quoi</p> <p>21 qu'il en soit, si on en revient aux</p> <p>22 commentaires qui ont été formulés par mon</p> <p>23 confrère, qu'est-ce qui nous justifie</p> <p>24 d'intervenir? Quelles sont les raisons</p> <p>25 qui sont mises par l'avant pour venir nous</p>
148	<p>1 dire, écoutez, on doit avoir un traitement</p> <p>2 équitable des créanciers en vertu de la</p> <p>3 Loi sur la faillite. On est tous d'accord</p> <p>4 avec la vertu, nul ne peut être contre la</p> <p>5 vertu, mais encore faut-il que s'il y a</p> <p>6 un... on vous démontre qu'il y a eu</p> <p>7 atteinte à la vertu, ce qui n'est peut-</p> <p>8 être pas fait. Merci.</p> <p>9</p> <p>10 LA COUR:</p> <p>11 Merci.</p> <p>12</p> <p>13 ARGUMENTATION DE Me SYLVAIN RIGAUD :</p> <p>14 Monsieur le Juge Hamilton, simplement si</p> <p>15 on regarde les conclusions, nous, on vous</p> <p>16 demande d'accueillir la requête. La</p> <p>17 contestation elle est très limitée, alors</p> <p>18 sujet à ce que vous allez décider dans</p> <p>19 votre délibéré, je pense que la requête</p> <p>20 pourrait néanmoins être accueillie suivant</p> <p>21 ces conclusions. Il y aurait un « carve-</p> <p>22 out », si vous voulez, simplement par</p> <p>23 rapport à l'allocation aux fins de</p> <p>24 distribution, pas l'allocation</p> <p>25 contractuelle comme vous venez de le</p>	149	<p>1 mentionner, simplement prévoir une</p> <p>2 exception et ça, ça fera partie de votre</p> <p>3 délibéré, par rapport à la seule</p> <p>4 allocation, la transaction de Champion, en</p> <p>5 fonction des représentations que vous avez</p> <p>6 déjà entendues de part et d'autre.</p> <p>7 Alors, je n'ai rien à ajouter sur</p> <p>8 cette question-là. Je comprends que vous</p> <p>9 allez prendre en délibéré, mais pour le</p> <p>10 reste nous vous soumettons que la requête</p> <p>11 peut être accueillie suivant ses</p> <p>12 conclusions. Je regarde mes confrères,</p> <p>13 ils semblent hocher de la tête en accord.</p> <p>14 C'est le seul point que je voulais vous...</p> <p>15</p> <p>16 LA COUR:</p> <p>17 C'est mon intention. Je ne crois pas que</p> <p>18 vous voulez... en fait, je vous ai posé la</p> <p>19 question tantôt. Vous n'attaquez pas la</p> <p>20 méthodologie dans son ensemble. Vous</p> <p>21 dites dans votre cas particulier, ça ne</p> <p>22 fonctionne pas.</p> <p>23</p> <p>24 Me SYLVAIN RIGAUD :</p> <p>25 Exact.</p>

Le 26 juin 2017

150	<p>1 ARGUMENTATION DE Me GABRIEL SERENA :</p> <p>2 Exact. Puis, on parlait de... je finirai</p> <p>3 là-dessus. On parlait d'un intérêt ou</p> <p>4 d'une préoccupation légitime de la part de</p> <p>5 l'acheteur face à peut-être votre décision</p> <p>6 de rendre jugement simplement sur</p> <p>7 l'allocation, mais malheureusement ici,</p> <p>8 aujourd'hui, l'acheteur n'est pas présent.</p> <p>9 S'il avait été sincèrement préoccupé par</p> <p>10 l'issue du débat aujourd'hui peut-être</p> <p>11 serait-il venu faire quelques</p> <p>12 représentations que ce soit à cet effet-</p> <p>13 là.</p> <p>14</p> <p>15 LA COUR:</p> <p>16 Je ne sais pas dans quelle mesure il est</p> <p>17 au courant de ce qui se passe aujourd'hui.</p> <p>18 O.K. J'aurais bien aimé rendre jugement</p> <p>19 aujourd'hui, mais ce ne sera pas le cas.</p> <p>20</p> <p>21 Me BERNARD BOUCHER:</p> <p>22 Je pourrais récupérer, Monsieur le Juge,</p> <p>23 avec votre permission, le document que je</p> <p>24 vous ai remis? C'était ma copie. Merci.</p> <p>25</p>	151
152	<p>1 Je, soussignée, DENISE TURCOT, sténographe</p> <p>2 officielle bilingue 264848-2, certifie sous mon</p> <p>3 serment d'office que la transcription des notes,</p> <p>4 prises au moyen de l'enregistrement mécanique et</p> <p>5 hors de mon contrôle, est au meilleur de la qualité</p> <p>6 dudit enregistrement, le tout conformément à la loi.</p> <p>7</p> <p>8 Et j'ai signé,</p> <p>9</p> <p>10 Digitally signed by Denise</p> <p>11 Turcot</p> <p>12 DN: cn=Denise Turcot, o=Denise</p> <p>13 Turcot, S.A., ou,</p> <p>14 email=steno@deniseturcot.com,</p> <p>15 c=CA</p> <p>16 Date: 2017.09.01 00:32:48 -04'00'</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

ATTESTATION DE L'AUTEUR DU MÉMOIRE

Je, soussigné, FRANÇOIS BOUCHARD, atteste que le présent exposé est conforme au *Règlement de procédure civile de la Cour d'appel* et que je mets à la disposition des autres parties, sans frais, les dépositions obtenues sur support papier ou en version technologique.

Le temps souhaité pour ma plaidoirie est de 30 minutes.

le 27 décembre 2017, à Saguenay



Me François Bouchard
Cain Lamarre S.E.N.C.R.L.
Partie appelante

