

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:**

WABUSH IRON CO. LIMITED

-and-

WABUSH RESOURCES INC.

-and-

**WABUSH LAKE RAILWAY COMPANY
LIMITED**

Debtors

-and-

WABUSH MINES

-and-

0778539 B.C. LTD.

Mises-en-cause

-and-

TACORA RESOURCES INC.

-and-

MAGGLOBAL LLC

Applicants/ Mises-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

DEMAND FOR THE ISSUANCE OF AN ORDER HOMOLOGATING A TRANSACTION AND ORDERING THE RELEASE OF TRUST FUNDS HELD BY THE MONITOR
 (Articles 9 and 11 of the *Companies' Creditors Arrangement Act* and Sections 2631 ff. of the *Civil Code of Quebec*)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT SITTING IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL, THE MISES EN CAUSE MAGGLOBAL LLC AND TACORA RESOURCES INC., RESPECTFULLY SUBMIT THE FOLLOWING:

A. OVERVIEW

1. MagGlobal LLC ("**MagGlobal**") and Tacora Resources Inc. ("**Tacora**", collectively with MagGlobal, the "**Tacora Parties**") hereby seek the issuance by this Court of an order:
 - a) homologating a transaction in the form of a settlement agreement (the "**Settlement Agreement**") and between the Tacora Parties and 0778539 B.C. Ltd. (formerly, MFC Bancorp Ltd., "**MFC**"); and
 - b) declaring that the Monitor (as defined hereinafter) must release certain trust funds in the manner described hereinafter.

A copy of the draft Order Homologating a Transaction and Ordering the Release by the Monitor of Trust Funds is communicated herewith as **Exhibit R-1**.

B. BACKGROUND

(i) CCAA Proceedings

2. On January 27, 2015, the Honourable Justice Martin Castonguay, J.S.C., issued an Initial Order (as subsequently amended, rectified and/or restated, the "**Bloom Lake Initial Order**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**") in respect of the debtors Bloom Lake General Partner Limited ("**Bloom Lake GP**"), Quinto Mining Corporation, 8568391 Canada Limited, Cliffs Québec Iron Mining ULC ("**CQIM**"), 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.
3. Pursuant to the Bloom Lake Initial Order, FTI Consulting Canada Inc. was appointed as monitor to the Bloom Lake CCAA Parties (the "**Monitor**") and a stay of proceedings was ordered until February 26, 2015 (the "**Stay Period**"), which Stay Period has been extended on several occasions, and most recently to November 30, 2017.

4. On May 20, 2015, the Honourable Justice Hamilton, J.S.C., extended the scope of the CCAA proceedings to Wabush Iron Co. Limited, Wabush Resources Inc., Wabush Mines, Arnaud Railway Company and Wabush Lake Railway Company Limited (collectively with the Bloom Lake CCAA Parties, the "**CCAA Parties**"), as appears from the Court record.

(ii) **Asset Purchase Agreement**

5. On June 2, 2017, Wabush Iron, Wabush Resources, Wabush Lake Railway Company, as vendors (the "**Vendors**"), and the Tacora Parties, as purchaser, entered in an Asset Purchase Agreement ("**APA**") which provided for, *inter alia*, the divestiture of substantially all of the Vendors' right, title and interest in the remaining assets of the Vendors relating to (i) the Scully Mine, and (ii) a railway connecting the Scully Mine to the Northern Land Railway for the transportation of iron ore concentrate, which includes, *inter alia*, the Amendment and Consolidation of Mining Leases dated September 2, 1959, initially made between Canadian Javelin Limited (now MFC), as lessor, and Wabush Iron Co. Limited, as lessee (as amended and assigned from time to time, the "**Wabush Sub-Lease**").
6. On June 26, 2017, the Honourable Stephen W. Hamilton, J.S.C. issued the following orders:
 - a) an approval and vesting order, pursuant to which, the Court approved the transaction proposed by the APA and vested all of the Vendors' right, title and interest in and to the Purchased Assets (as defined in the Approval and Vesting Order);
 - b) an Assignment Order, which provides, *inter alia*, for the assignment of all rights and obligations of the Vendors under the Assignment Order Contracts (as defined in the Assignment Order), upon the issuance to the Vendors and the Purchase of the Monitor's Certificate (the "**Assignment Order**").

(iii) **The MFC Pre-Filing Claim**

7. Pursuant to the Assignment Order and APA, Tacora paid \$11,237,679 in trust to the Monitor (the "**Trust Funds**") in respect of MFC's claim relating to or arising from the Wabush Sub-Lease prior to May 20, 2015, including any claim contemplated by the Proof of Claim filed by MFC pursuant to the Claims Procedure Order dated November 5, 2015 and the arbitration proceedings commenced in respect of the Wabush Sub-Lease (the "**MFC Pre-Filing Claim**").
8. Pursuant to the Assignment Order, upon final determination of the MFC Pre-Filing Claim, the Monitor shall be permitted to release the Trust Funds to MFC and/or Tacora.

(iv) **The Settlement Agreement**

9. On October 30, 2017, MFC and the Tacora Parties entered into the Settlement Agreement in order to, *inter alia*, fully settle the MFC Pre-Filing Claim and to amend and restate the Wabush Sub-Lease, as appears from a copy of the Settlement Agreement, communicated herewith, under confidential seal, as **Exhibit R-2**.
10. The Settlement Agreement provides for the payment of \$5,618,839 to MFC from the Trust Funds (the "**Settlement Amount**"), which is equivalent to approximately half of the Trust Funds, with the remaining balance to be paid to Tacora.
11. The Settlement Agreement further provides for irrevocable releases and discharges for MFC and Tacora, including without limitation, in relation to the MFC-Pre-Filing Claim.

C. **GROUND FOR THIS MOTION**

12. The Settlement Agreement specifically contemplates the filing of a demand to this Court seeking the following orders:
 - a) pursuant to Paragraph 15 of the Assignment Order directing the Monitor to irrevocably and unconditionally pay the Settlement Amount to MFC from the Trust Funds with the balance of the Trust Funds to be paid by the Monitor to Tacora; and
 - b) homologating the transactions contemplated in this Agreement.
13. As mentioned above, by entering into the Settlement Agreement, the Tacora Parties and MFC have settled any issues in connection with the MFC Pre-Filing Claim and future potential litigation in respect of the Wabush Sub-Lease, and accordingly, this binding transaction is subject to homologation by this Court.
14. Moreover, in light of the Settlement Agreement, the result of which is the final determination of the MFC Pre-Filing Claim, the Tacora Parties respectfully submit that the Monitor should be ordered to release the Trust Funds as follows:
 - a) the payment of \$5,618,839 to MFC; and
 - b) the payment of the balance of the Trust Funds to Tacora.
15. The Tacora Parties respectfully submit that the Settlement Agreement should be approved and homologated by this Court.
16. The present action is well founded in fact and in law.

WHEREFORE, MAY IT PLEASE THIS COURT TO:

GRANT the present Application;

ISSUE an order substantially in the form of the draft Homologation Order communicated as Exhibit R-1;

THE WHOLE WITHOUT COSTS.

Montréal, November 2, 2017

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Attorneys for the Mise-en-cause

Magglobal LLC

Our file: 141231-1001

AFFIDAVIT

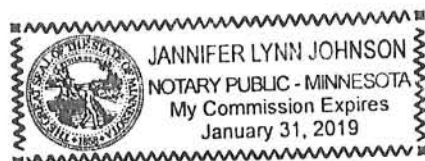
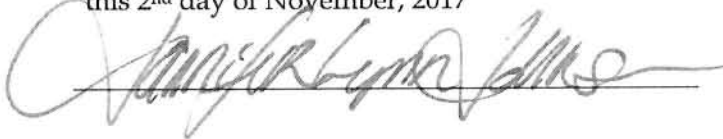
I, the undersigned, Larry J. Lehtinen, having my principal place of business at 102 NE Third Street, Suite 120, Grand Rapids, Minnesota, USA, solemnly declare the following:

1. I am the Executive Chairman and CEO of Tacora Resources Inc.;
2. All the facts alleged in the *Demand for the Issuance of an Order Homologating a Transaction and Ordering the Release of Trust Funds Held by the Monitor* are true.

AND I HAVE SIGNED



SOLEMNLy SWORN before me
in Itasca County of Minnesota
this 2nd day of November, 2017



NOTICE OF PRESENTATION

TO: the Service List

TAKE NOTICE that the *Demand for the issuance of an order homologating a transaction and ordering the release of trust funds* will be presented for adjudication before one of the Honorable Judges of Superior Court, sitting in practice in and for the District of Montréal, in the Montréal Courthouse, 1 Notre-Dame Street East, on a date and in a room to be determined by the Court.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, November 2, 2017



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**LIST OF EXHIBITS IN SUPPORT OF THE DEMAND FOR THE ISSUANCE OF AN
ORDER HOMOLOGATING A TRANSACTION AND ORDERING THE RELEASE
OF TRUST FUNDS HELD BY THE MONITOR**

Exhibit R-1: Draft Order Homologating a Transaction and Ordering the Release by the Monitor of Trust Funds

Exhibit R-2: Copy of the Settlement Agreement

UNDER
CONFIDENTIAL
SEAL

Montréal, November 2, 2017



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DEMAND FOR THE ISSUANCE OF AN ORDER
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ORIGINAL

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