

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF **MONTREAL**

N°: 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-

FTI CONSULTING CANADA INC.

Monitor

MOTION FOR THE ISSUANCE OF A POST-FILING CLAIMS PROCEDURE ORDER¹
(Sections 9, 10 and 11 of the *Companies' Creditors Arrangement Act*)

TO MR. JUSTICE STEPHEN W. HAMILTON, J.S.C. OR ONE OF THE HONORABLE JUDGES OF THE SUPERIOR COURT, SITTING IN THE COMMERCIAL DIVISION FOR THE DISTRICT OF MONTRÉAL, THE CCAA PARTIES (AS DEFINED BELOW) SUBMIT:

1. BACKGROUND

1. On November 5, 2015, Mr. Justice Stephen W. Hamilton, J.S.C., issued an order (as amended on November 16, 2015, the “**Amended Claims Procedure Order**”) establishing a claims procedure for claims against the CCAA Parties and their officers and directors for the purpose of, *inter alia*:
 - a) establishing a claims bar date of 5:00 p.m. (prevailing Eastern time) on December 18, 2015 for the filing of creditors’ proofs of claim with the Monitor against the CCAA Parties;
 - b) establishing a claims bar date of 5:00 p.m. (prevailing Eastern time) on December 18, 2015 for the filing of creditors’ proofs of claim with the Monitor against the CCAA Parties’ directors and officers (in relation to certain claims);
 - c) approving the implementation and administration of the applicable procedure with respect to the review, determination, adjudication or compromise of claims, and the respective roles of the Monitor, CCAA Parties, D&O counsel (as defined in the Claim Procedure Order), and Representatives’ Counsel in connection herewith;
 - d) approving the form and manner of notice of the Claims Procedure Order;
 - e) granting such other relief as this Court deems just and proper.

the whole as it appears from a copy of the Amended Claims Procedure Order, a copy of which is communicated herewith as **Exhibit R-1**;

2. The CCAA Parties herein seek an Order establishing a post-filing claims procedure (the “**Post-Filing Claims Procedure**”) with respect to post-filing claims, if any, against the CCAA Parties and their officers and directors, in form and substance in accordance with the draft Post-Filing Claims Procedure Order, a copy of which is communicated herewith as **Exhibit R-2**, the whole for the reasons set-out more fully in Section 3 below;

2. SUMMARY OF THE CLAIMS PROCEDURE

2.1 Filing of Post-Filing Claims and Post-Filing Claims Bar Dates

3. The proposed Post-Filing Claims Procedure would *inter alia* provide:
 - a) provide for a claims bar date of 5:00 p.m. (prevailing Eastern time) on May 21, 2018, for the filing with the Monitor of (i) Post-Filing Creditors’ Proof of Post-Filing Claims in respect of Post-Filing Claims (as defined below) against the CCAA

1. Except as otherwise provided for herein, all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in draft Post Filing Claims Procedure Order (R-2).

Parties (the “**Post-Filing Claim Bar Date**”) and (ii) Post-Filing Creditors’ Proof of D&O Post-filing Claims (as defined below) against the CCAA Parties’ directors and officers, as set out therein (the “**D&O Post-Filing Claims Bar Date**”); and

- b) set April 30, 2018, as the determination date for the purpose of establishing the existence of any Post-Filing Claims against any of the CCAA Parties or their directors and officers (the “**Post-Filing Determination Date**”);
4. For the purpose of the proposed Post-Filing Claims Procedure, Post-Filing Claims and D&O Post-Filing Claims would be defined as follows:

Post-Filing Claims

- a) any right or claim that may be asserted or made against the CCAA Parties (or any one of them) in respect of any indebtedness, liability or obligation of any kind whatsoever that arose after the Determination Date (as defined in the Amended Claims Procedure Order) (and which does not constitute a Claim subject to the Claims Procedure Order) and remains unpaid as at the Post-Filing Determination Date; including any Post-Filing Tax Claims, but excluding; (i) the Monitor’s fees and disbursements (including of its legal counsel and other consultants and advisors) in connection with the performance of its duties in the CCAA Proceedings; (ii) fees and disbursements of the Participating CCAA Parties’ legal counsel, consultants and other advisors in connection with these CCAA Proceedings; (iii) the fees and disbursements of Representatives’ Counsel as approved by Court Order; and (iv) the fees and disbursements of any Claims Officer appointed under the Claims Procedure Order or this Post-Filing Claim Procedure Order (the “**Post-Filing Claims**”);

D&O Post-Filing Claims

- b) any right or claim that may be asserted or made against one or more of the Directors and/or Officers of any of the CCAA Parties, for which the Directors and/or Officers, or any of them, are by statute liable to pay in their capacity as Directors and/or Officers or which are secured by way of the Directors’ Charges, which in any event arose after the D&O Claims Bar Date and remains unpaid as of the Post-Filing Claims Determination Date (each, a “**D&O Post-Filing Claim**”);

2.2 Notice

5. The Post-Filing Claims Procedure provides that the Monitor shall cause, within ten (10) Business Days from the issuance of the Post-Filing Claims Procedure Order sought hereby, a claims document package (the “**Post-Filing Creditors’ Instructions**”) to be sent to (a) each Person on the Potential Post-Filing Creditors List to the address of such Person as set out in the Monitor’s records, (b) the Representatives’ Counsel, and (c) the USW Counsel.
6. The Post-Filing Creditors’ Instructions will include English and French versions of:
- a) a Post-Filing Instruction Letter (in the form of **Schedule “D”** to the draft Post-Filing Claims Procedure Order);

- b) a blank Proof of Post-Filing Claim form (**Schedule “H”** to the draft Post-Filing Claims Procedure Order);
 - c) a blank D&O Proof of Post-Filing Claim form (**Schedule “A”** to the draft Post-Filing Claims Procedure Order);
 - d) a copy of the Post-Filing Claims Procedure Order; and
 - e) such other materials as the Monitor, in consultation with the CCAA Parties and D&O Counsel, considers necessary or appropriate.
7. The mailing of the Post-Filing Creditors’ Instructions as described in the foregoing paragraph will be supplemented by the placement in La Presse, The Telegram and the Globe and Mail (National Edition) of a notice to creditors (in the form of **Schedule “E”** to the draft Post-Filing Claims Procedure Order), as well as by the posting of the Post-Filing Creditors’ Instructions on the Monitor’s website at www.cfcanada.fticonsulting.com/bloomlake;

2.3 Review, Determination, Adjudication or Compromise of Post-Filing Claims and of D&O Post-Filing Claims

8. The Post-Filing Claims Procedure provides for the procedure for a streamlined review, determination, adjudication or compromise of Post-Filing Claims. This procedure can be summarized as follows:
- a) The Monitor, in consultation with the CCAA Parties, shall review all Proofs of Post-Filing Claim received on or before the Post-Filing Claims Bar Date, and shall accept, revise or disallow each Post-Filing Claim;
 - b) If the Monitor, in consultation with the CCAA Parties, determines it necessary to revise or disallow a Post-Filing Claim, the Monitor shall send such creditor a Post-Filing Notice of Revision or Disallowance advising that, and to what extent, the Post-Filing Claim as set out in its Proof of Post-Filing Claim has been revised or disallowed, and stating the reasons therefor;
 - c) Any person who fails to file a Proof of Post-Filing Claim in respect of a Post-Filing Claim in the manner provided for in the Post-Filing Claims Procedure Order on or before the Post-Filing Claims Bar Date, shall: (i) be forever barred, estopped and enjoined from asserting or enforcing any Post-Filing Claim against any of the CCAA Parties and all such Post-Filing Claims shall be forever extinguished and (ii) not be entitled to receive further notice in respect of the Post-Filing Claims Procedure or these CCAA Proceedings generally, in relation to such Post-Filing Claim(s);
 - d) Any Post-Filing Creditor who is sent a Post-Filing Notice of Revision or Disallowance and wishes to dispute such Post-Filing Notice of Revision or Disallowance shall deliver a completed Post-Filing Notice of Dispute to the Monitor by no later than 5:00 p.m. on the day which is fourteen (14) days after the date of the applicable Post-Filing Notice of Revision or Disallowance or such other date as may be ordered by the Court. If a Post-Filing Claimant fails to deliver a Post-Filing Notice of Dispute by such date, the Post-Filing Claim set out

in the applicable Post-Filing Notice of Revision or Disallowance, if any, shall be an Allowed Post-Filing Claim and be paid by the applicable CCAA Party;

- e) Upon receipt of a Post-Filing Notice of Dispute, the Monitor, in consultation with the CCAA Parties, may: (i) request additional information from the Post-Filing Creditor; (ii) consensually resolve the disputed Post-Filing Claim with the Post-Filing Claimant; (iii) deliver a Post-Filing Dispute Post-Filing Claim Package to a Claims Officer appointed in accordance with the Post-Filing Claims Procedure Order for such disputed Post-Filing Claim to be adjudicated by the Claims Officer; or (iv) bring a motion before the Court in these CCAA Proceedings to adjudicate the disputed Post-Filing Claim; and
 - f) The CCAA Parties may appeal any determination of a Post-Filing Claim by the Monitor to a Claims Officer or the Court on notice to the Monitor and the Post-Filing Creditor whose Post-Filing Claim is being appealed.
9. The Post-Filing Claims Procedure also provides for the procedure for the review, determination, adjudication or compromise of Post-Filing D&O Claims. This procedure can be summarized as follows:
- a) The Monitor, in consultation with D&O Counsel, shall review all D&O Proofs of Post-Filing Claim received on or before the D&O Post-Filing Claims Bar Date and shall accept, revise or disallow each D&O Post-Filing Claim;
 - b) If the Monitor, in consultation with D&O Counsel, determines it necessary to revise or disallow a D&O Post-Filing Claim, the Monitor shall send such D&O Post-Filing Claimant a D&O Post-Filing Notice of Revision or Disallowance advising that, and to what extent, the D&O Post-Filing Claim as set out in its D&O Proof of Post-Filing Claim has been revised or disallowed, and stating the reasons therefor;
 - c) Any person who fails to file a D&O Proof of Post-Filing Claim in respect of a D&O Post-Filing Claim in the manner provided for in the Post-Filing Claims Procedure Order on or before the D&O Post-Filing Claims Bar Date shall be forever barred, estopped and enjoined from asserting or enforcing any D&O Post-Filing Claim against any of the Directors and/or Officers, and all such D&O Post-Filing Claims shall be forever extinguished;
 - d) Any D&O Post-Filing Claimant who is sent a D&O Post-Filing Notice of Revision or Disallowance and wishes to dispute such D&O Post-Filing Notice of Revision or Disallowance shall deliver a completed D&O Post-Filing Notice of Dispute to the Monitor by no later than 5:00 p.m. on the day which is fourteen (14) days after the date of the applicable D&O Post-Filing Notice of Revision or Disallowance, or such other date as may be ordered by the Court. If a D&O Post-Filing Claimant fails to deliver a D&O Post-Filing Notice of Dispute by such date, the D&O Post-Filing Claim set out in the applicable D&O Notice of Revision or Disallowance, if any, shall be an Allowed D&O Post-Filing Claim;
 - e) Upon receipt of a D&O Post-Filing Notice of Dispute, the Monitor, in consultation with the D&O Counsel, may: (i) request additional information from the D&O Post-Filing Claimant; (ii) consensually resolve the disputed D&O Post-Filing

Claim with the D&O Post-Filing Claimant; (iii) deliver a D&O Dispute Post-Filing Claim Package to a Claims Officer appointed in accordance with the Post-Filing Claims Procedure Order for such disputed Post-Filing D&O Claim to be adjudicated by the Claims Officer; or (iv) bring a motion before the Court in these CCAA Proceedings to adjudicate the disputed D&O Post-Filing Claim;

- f) Notwithstanding the foregoing, or any other provision of the Post-Filing Claims Procedure Order, the Monitor may agree with D&O Counsel that any D&O Post-Filing Claim may be adjudicated by way of an alternative process and not in accordance with the adjudication procedures set out in the Post-Filing Claims Procedure Order. In such case, the Monitor shall notify the D&O Post-Filing Claimant of the decision to exclude the adjudication of the D&O Post-Filing Claim from the procedures set out in the Post-Filing Claims Procedure Order;
 - g) The Directors and Officers may appeal any determination of a Post-Filing D&O Claim by the Monitor to a Claims Officer or the Court on notice to the Monitor and the D&O Post-Filing Claimant whose D&O Post-Filing Claim is being appealed.
10. The Representatives shall have the right to file, for and on behalf of any represented employee, one or more collective or individual Proofs of Post-Filing Claim for Post-Filing Claims or D&O Proofs of Post-Filing Claim for D&O Post-Filing Claims;

3. REASONS FOR THE ORDER SOUGHT²

11. The Post-Filing Claims Procedure is made necessary in the context of and in support of the proposed Joint Plan of Compromise and Arrangement filed by the Participating CCAA Parties (as defined in the proposed Plan) dated March 19, 2018 (as may be amended, supplemented and restated from time to time, the proposed "**Plan**"), the authorization for the filing of which is to be sought pursuant to the CCAA Parties' Motion for the Issuance of a Plan Filing and Meetings Order (the "**Plan Filing and Meetings Order Motion**") to be presented concurrently with the present Motion;
12. The Petitioners, 8568391 Canada Limited ("**8568391**") and Bloom Lake Railway Company Limited ("**BLRC**") (which are non-Participating CCAA Parties) have no Proven Claims or Unresolved Claims filed against them in accordance with the Amended Claim Procedure Order. The CCAA Parties are not aware of any Post-Filing Claims against 8568391 or BLRC.
13. As stated in the Plan Filing and Meetings Order Motion, if no Allowed Post-Filing Claim or Allowed D&O Post-Filing Claim is filed against 8568391 and BLRC pursuant to the Post-Filing Claims Process, or in the case of BLRC, an allowed Post-Filing Claim is filed against BLRC and BLRC has sufficient cash to pay such allowed Post-Filing Claim, the CCAA Parties intend to seek the Court's authorization to wind-up and dissolve 8568391 and BLRC and upon such dissolution seek that 8568391 and BLRC be declared to no longer benefit from or be subject to the Bloom Lake Initial Order, all as part of the relief being sought in the sanction order to approve the proposed Plan;

2. Defined terms used in this Section, which are not otherwise specifically defined, shall have the meaning ascribed thereto in the proposed Plan.

14. In addition, in order *inter alia*, to establish the proper Reserves under the proposed Plan (a copy of which is filed in support of the Plan Filing and Meetings Order Motion), it will be necessary for the Participating CCAA Parties and the Monitor to determine the amount of any Post-Filing Claims and to provide a mechanism to adjudicate same;
15. The proposed Plan provides that the Monitor shall establish and maintain for each of the Participating CCAA Parties an Administrative Reserve, an Unresolved Claim Reserve, and a Directors' Charge Reserve from the Available Cash, the whole as set out more fully in Article 6 of the proposed Plan;
16. In order to properly establish certain of the Reserves under the Plan and to calculate the net Available Cash that will be available for the Unsecured Creditor Cash Pools under the Plan for the purposes of Plan Distributions, it is necessary to determine whether there are any Post-Filing Claims that will impact that assessment;
17. Therefore, the CCAA Parties request that this Court establish the Post-Filing Claims Procedure in accordance with the terms and the conditions set out in the draft Post-Filing Claims Procedure Order (Exhibit R-2);
18. The Monitor has informed the CCAA Parties that it supports this Motion and will file a report with respect to the Motion in due course;

4. PROCEDURAL MATTERS

19. The CCAA Parties submit that the notices given of the presentation of the present Motion are proper and sufficient;
20. Pursuant to paragraph 54 of the Bloom Lake Initial Order and paragraph 56 of the Wabush Initial Order, all motions in these CCAA Proceedings are to be brought on not less than ten (10) calendar days' notice to all Persons on the service list. Each motion must specify a date (the "**Initial Return Date**") and time for the hearing;
21. The service of the present Motion serves as notice pursuant to paragraphs 47 and 54 of the Bloom Lake Initial Order and paragraphs 47 and 56 of the Wabush Initial Order.
22. Paragraph 55 of the Bloom Lake Initial Order and paragraph 57 of the Wabush Initial Order require that any Person wishing to object to the relief sought on a motion in the CCAA Proceedings must serve responding motion materials or a notice stating the objection to the motion and grounds for such objection (a "**Notice of Objection**") in writing to the moving party and the Monitor, with a copy to all persons on the service list, no later than 5 p.m. Montréal time on the date that is four (4) calendar days prior to the Initial Return Date (the "**Objection Deadline**"). Accordingly, any parties wishing to object to the relief sought on this Motion must serve responding motion materials or a Notice of Objection by no later than 5 p.m. Montréal time on March 22, 2018;
23. Paragraph 56 of the Bloom Lake Initial Order and paragraph 58 of the Wabush Initial Order further provide that if no Notice of Objection is served by the Objection Deadline, the Judge having carriage of the motion may determine whether a hearing is necessary, whether such hearing will be in person, by telephone or in writing and the parties from whom submissions are required (collectively, the "**Hearing Details**");

24. Paragraph 57 of the Bloom Lake Initial Order and paragraph 59 of the Wabush Initial Order provide that the Monitor shall communicate with the Judge and the service list with respect to the Hearing Details;

5. CONCLUSIONS

25. It is in the best interests of the CCAA Parties and their stakeholders that the present Motion be granted in accordance with its conclusions and that the Court issue an Order in substantially in the form of the draft Post-Filing Claims Procedure Order (Exhibit R-2);
26. The Petitioners also seek declarations that any prior delay for the presentation of this Motion is abridged and validated so that this Motion is properly returnable on March 26, 2018, with a dispensation from further service thereof
27. The present Motion is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present Motion;

DECLARE that any delay for presentation of this Motion is hereby abridged in order that this Motion is properly returnable on March 26, 2018, with a dispensation from further service thereof;

ISSUE an order in the form of the draft Post-Filing Claims Procedure Order communicated in support hereof as Exhibit R-2;

WITHOUT COSTS, save and except in case of contestation.

Montréal, March 19, 2018


BLAKE, CASSELS & GRAYDON LLP
Attorneys for the CCAA Parties

AFFIDAVIT

I, the undersigned, **CLIFFORD T. SMITH**, the Executive Vice-President and a director of Bloom Lake General Partner Limited and Cliffs Québec Iron Mining ULC, the President and a director of Bloom Lake Railway Company Limited and 8568391 Canada Limited, the President of Wabush Resources Inc., the President and a director of Wabush Iron Co. Limited, the Vice-President and a director of Arnaud Railway Company Limited and Wabush Lake Railway Company Limited, and a director of Quinto Mining Corporation, each having a place of business at 1 Place Ville Marie, Bureau 3000, Montréal, Québec, H3B 4N8, solemnly affirm that all the facts alleged in the present *Motion for the Issuance of a Post-Filing Claims Procedure Order* are true.

AND I HAVE SIGNED:



CLIFFORD T. SMITH

SOLEMNLY DECLARED before me at
Cleveland, Ohio
this 19th day of March, 2018



Notary Public

ANNETTE ANTHONY
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Cuyahoga County
My Comm. Exp. 11/12/2022

NOTICE OF PRESENTATION

TO: Service List

TAKE NOTICE that the present *Motion for the Issuance of a Post-Filing Claims Procedure Order* 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 **March 26, 2018** at a time and in a room to be determined.

DO GOVERN YOURSELF ACCORDINGLY.

Montréal, March 19, 2018



BLAKE, CASSELS & GRAYDON LLP
Attorneys for the CCAA Parties

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT

Commercial Division

(Sitting as a court designated pursuant to the *Companies'*
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Mises-en-cause

and
FTI CONSULTING CANADA INC.

Monitor

LIST OF EXHIBITS

(In support of the *Motion for the Issuance of a Post-Filing Claims Procedure Order*)

-
- R-1 Amended Claims Procedure Order dated November 16, 2015;
R-2 Draft Post-Filing Claims Procedure Order;

Montréal, March 19, 2018



BLAKE, CASSELS & GRAYDON LLP
Attorneys for the CCAA Parties