

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) MONDAY, THE 16TH DAY
JUSTICE NEWBOULD) OF DECEMBER, 2013

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

Applicants

ORDER

**(Re Stay Extension to June 16, 2014, Approval of CRO's Execution of Documents,
Approval of Cost Allocation, Monitor's Fee Approval & Discharge of CRO and
Approval of Activities)**

THIS MOTION, made by Timminco Limited ("**Timminco**") and Bécancour Silicon Inc. ("**BSI**" and, together, the "**Timminco Entities**"), for an order (a) extending the Stay Period (as defined in paragraph 18 of the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012) until June 16, 2014; (b) authorizing the CRO (as defined below) to execute certain documents in relation to the Memphis Property (as defined below); (c) approving the Proposed Cost Allocation Methodology (as defined below); (d) approving the fees and disbursements of FTI Consulting Canada Inc. in its capacity as the court appointed monitor of the Timminco Entities (the "**Monitor**") and its counsel; (e) approving the Twenty-First, Twenty-Second and Twenty-Third Reports (as these terms are defined

below) of the Monitor; and (f) discharging Russell Hill Advisory Services Inc. (“**Russell Hill**”) as Chief Restructuring Officer (“**CRO**”) of the Timminco Entities and approving the activities of the Russell Hill undertaken in its capacity as CRO of the Timminco Entities, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Sean Dunphy sworn December 5, 2013 (the “**Dunphy Affidavit**”), and the Twenty-Third Report of the Monitor dated December 6, 2013 (the “**Twenty-Third Report**”), and on hearing the submissions of counsel for the Timminco Entities and the Monitor, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Kathryn Esaw sworn December 6, 2013, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

STAY EXTENSION

2. **THIS COURT ORDERS** that the Stay Period is hereby extended until and including June 16, 2014.

APPROVAL OF EXECUTION OF DOCUMENTS BY THE CRO

3. **THIS COURT ORDERS AND DECLARES** that the execution of the following documents by the CRO or Mr. Dunphy, as the case may be, relating to the sale of the Memphis Property (as defined and described in the Dunphy Affidavit) is hereby approved, *nunc pro tunc*:

- (a) Tennessee Department of Revenue Franchise, Excise Tax Return (2012) for Timminco Properties Inc.;

- (b) US Corporation Income Tax Return (Form 1120) for Timminco Properties Inc. (2012);
- (c) Resolution that Timminco Properties Inc. ("TPI") pay to Timminco Holdings Corporation ("THC") a dividend in the approximate amount of US\$175,000;
- (d) Resolution that THC repay certain intercompany indebtedness to Timminco in the approximate amount of US\$175,000; and
- (e) Declaration of amendment of the charters of THC or TPI as needed to authorize Sean Dunphy to execute the documents necessary to effect the transfer of the sale proceeds from the Memphis Property Sale.

APPROVAL OF PROPOSED COST ALLOCATION METHODOLOGY

4. **THIS COURT ORDERS** that the Proposed Cost Allocation Methodology (as defined and described in the Twenty-Third Report) is hereby approved.

APPROVAL OF FEES AND DISBURSEMENTS

5. **THIS COURT ORDERS** that the fees and disbursements of the Monitor for the period from September 10, 2012 to October 31, 2013, inclusive, all as set out or described in the affidavit of Nigel Meakin sworn December 3, 2013 and the Twenty-Third Report, are approved.

6. **THIS COURT ORDERS** that the fees and disbursements of the Monitor's counsel, Blake, Cassels and Graydon LLP, for the period from September 1, 2012 to October 31, 2013, inclusive, all as set out or described in the affidavit of Linc Rogers sworn December 3, 2013 and the Twenty-Third Report, are approved.

APPROVAL OF THE MONITOR'S REPORTS

7. **THIS COURT ORDERS** that the Twenty-First Report of the Monitor dated June 17, 2013 (the “**Twenty-First Report**”), the Twenty-Second Report of the Monitor dated September 9, 2013 (the “**Twenty-Second Report**”) the Twenty-Third Report, and the activities of the Monitor described therein are hereby approved.

DISCHARGE OF CRO AND APPROVAL OF ACTIVITIES OF THE CRO

8. **THIS COURT ORDERS AND DECLARES** that the activities undertaken by Russell Hill in its capacity as CRO of the Timminco Entities are hereby approved.

9. **THIS COURT ORDERS** that Russell Hill and its affiliates and legal counsel, and their respective officers, directors, partners, employees and agents (collectively, the “**Released Parties**”) are hereby released and discharged from any and all claims that any person may have or be entitled to assert against them, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the date of this Order in any way relating to, arising out of or in respect of these CCAA proceedings or Russell Hill acting in its capacity as CRO in these CCAA proceedings (collectively, the “**Released Claims**”), and any such Released Claims are hereby released, stayed, extinguished and forever barred and the Released Parties shall have no liability in respect thereof; provided that the Released Claims shall not include any claim or liability arising out of any gross negligence or willful misconduct on the part of the Released Parties.

10. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against Russell Hill in any way arising from or related to its capacity or conduct as CRO, except with prior leave of this Court on at least seven days’ prior written notice to Russell Hill, and upon further order securing, as security for costs, the solicitor and client costs of the CRO in connection with any proposed action or proceeding.

11. **THIS COURT ORDERS** that, notwithstanding any provision of this Order, nothing contained in this Order shall affect, vary, derogate from or amend any of the protections in favour of the CRO as set out in the Order of the Honourable Mr. Justice Newbould dated August 17, 2012, the Order of the Honourable Mr. Justice Morawetz dated November 5, 2012 and any other Order of this Court in the Timminco Entities' CCAA proceedings.

12. **THIS COURT ORDERS** that Russell Hill shall be discharged and relieved from any further obligations, liabilities, responsibilities or duties in its capacity as CRO pursuant to the CRO Appointment Order and any other Orders of this Court in these CCAA proceedings effective as of the signing of this Order.

GENERAL

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Monitor, the CRO, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor and to the CRO, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

FILED
CLERK OF THE COURT
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DEC 16 2013



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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**ORDER
(Re Stay Extension to December 16, 2013)**

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