

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

**Timminco Limited
Bécancour Silicon Inc.**

TWENTY-SECOND REPORT OF THE MONITOR

September 9, 2013

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

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

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

INTRODUCTION

1. On January 3, 2012, Timminco Limited (“**Timminco**”) and its wholly owned subsidiary, Bécancour Silicon Inc. (“**BSI**”, together with Timminco, the “**Timminco Entities**”) made an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) and an initial order (the “**Initial Order**”) was made by the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), granting, *inter alia*, a stay of proceedings against the Timminco Entities until February 2, 2012, (the “**Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor of the Timminco Entities (the “**Monitor**”). The proceedings commenced by the Timminco Entities under the CCAA will be referred to herein as the “**CCAA Proceedings**”.
2. The Stay Period has been extended a number of times. Pursuant to the Order of the Honourable Mr. Justice Morawetz granted June 19, 2013 the Stay Period currently expires on September 16, 2013.

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

8. The CRO Agreement was for an initial term of six months with any extension to be negotiated with the Monitor subject to approval of the Court. The CRO Agreement has been extended a number of times pursuant to the terms of the CRO Extension Agreement dated April 25, 2013 approved by the Court on May 14, 2013 and currently expires on October 15, 2013.
9. On August 28, 2012, the Honourable Mr. Justice Newbould granted an Order authorizing and directing an interim distribution to be made by the Monitor to Investissement Quebec (“**IQ**”), a secured creditor of BSI (the “**Interim Distribution Order**”). The Interim Distribution Order authorized an initial distribution of \$25,393,057.43. In accordance with the endorsement of the Honourable Justice Newbould dated August 31, 2012, the Monitor made a subsequent distribution to IQ of \$1,213,000. A final distribution in the amount of \$1,714,879,90 was made on January 31, 2013 following completion of the Working Capital Settlement Agreement as defined and described in the Monitor’s Eighteenth Report.
10. The Interim Distribution Order also provided for a process for other parties that had filed a secured claim against BSI in accordance with the Claims Procedure Order to assert priority over IQ and approved a reimbursement agreement dated August 28, 2012 between BSI, the Monitor and IQ (the “**Reimbursement Agreement**”) pursuant to which IQ is obliged to reimburse any portion of the Interim Distribution necessary to satisfy any Reimbursement Claim (as defined in the Reimbursement Agreement) that is proven to have priority over IQ’s security.
11. Pursuant to an Order of the Honourable Mr. Justice Morawetz granted October 18, 2012, the Priority Claim Adjudication Protocol was approved and two claims were designated as Reimbursement Claims, being:

- (a) A claim on behalf of Mercer Canada (“**Mercer**”), as administrator of the Haley Pension Plan, and on behalf of the beneficiaries of that plan (the “**Mercer Reimbursement Claim**”), which claim was supported by The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (“**USW**”); and
 - (b) A claim by Le Comité de retraite du Régime de rentes pour les employés nonsyndiqués de Silicium Bécancour Inc. and a claim by Le Comité de retraite du Régime de rentes pour les employés syndiqués de Silicium Bécancour Inc. (collectively, the “**BSI Pension Committees**”) (the “**BSI Pension Reimbursement Claims**”).
12. On October 24, 2012, both Mercer and the USW informed the Monitor and IQ that they would not be pursuing the Mercer Reimbursement Claim.
13. Pursuant to the Priority Claim Adjudication Protocol, the adjudication of whether the BSI Pension Reimbursement Claims constitute Priority Claims (as defined in the Interim Distribution Order) is to be determined exclusively by the Superior Court of Québec (Commercial Division). The matter was heard on May 27 and 28, 2013, with Mr. Justice Mongeon reserving his decision.
14. On March 5, 2013 the Honourable Mr. Justice Morawetz granted an Order for the transfer of the Haley Property and the Silica Fumes Property to subsidiaries of Timminco and for those subsidiaries to be assigned into bankruptcy.
15. To date, the Monitor has filed twenty-one reports on various matters relating to the CCAA Proceedings. The purpose of this, the Monitor’s Twenty-Second Report, is to inform the Court on the Timminco Entities request for:
- (a) An order authorizing the abandonment of the Silica Fumes Property;
and
 - (b) An Order extending the Stay Period until December 16, 2013;

and to provide the Monitor's recommendations on the foregoing.

TERMS OF REFERENCE

16. In preparing this report, the Monitor has relied upon unaudited financial information of the Timminco Entities, the Timminco Entities' books and records, certain financial information prepared by the Timminco Entities and discussions with the Timminco Entities' management and others.
17. Except as described in this Report:
 - (a) The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook;
 - (b) The Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Canadian Institute of Chartered Accountants Handbook;
18. 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.
19. The Monitor has prepared this Report in connection with the motion described in the Timminco Entities' Notice of Motion dated September 6, 2013, returnable September 13, 2013 (the "**September 13 Motion**"). The Report should not be relied on for other purposes.

20. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the previous reports of the Monitor, the Initial Order, the Interim Distribution Order or the Claims Procedure Order.

ABANDONMENT OF THE SILICA FUMES PROPERTY

21. As set out in the affidavit of Sean Dunphy sworn September 5, 2013 filed in support of the September 13 Motion, the condition necessary for the Timminco Entities to complete the transfer of the Silica Fumes Property and bankrupt the subsidiary have not yet been satisfied, namely, the approval of the Commission de Protection du Territoire Agricole du Québec to transfer the Silica Fumes property from BSI to a BSI subsidiary, remains outstanding and the Timminco Entities have no indication of when such approval will be granted, if at all. Accordingly, the Timminco Entities now seek authorization to abandon the Silica Fumes Property pursuant to the provisions of the Civil Code of Quebec.
22. Based on the information available to the Monitor, it appears that the Silica Fumes Property has no realizable valuable and that the ongoing costs of ownership will reduce the amounts available for distribution to creditors generally. The Monitor is therefore of the view that the abandonment of the Silica Fumes Property is in the best interest of the estate.
23. Accordingly, the Monitor respectfully recommends that the Timminco Entities' request for an Order authorizing the abandonment of the Silica Fumes Property be granted.

EXTENSION OF THE STAY PERIOD

24. The Stay Period currently expires on September 16, 2013. Additional time is required for the Timminco Entities to complete the remaining matters in the CCAA Proceedings as described in previous reports of the Monitor and make distributions to creditors. Accordingly, the Timminco Entities now seek an extension of the Stay Period to December 16, 2013.
25. As at the date of this report, the Timminco Entities have cash on hand, including amounts held by the Monitor, of approximately \$2.7 million. The Timminco Entities have informed the Monitor that on-going expenses are estimated to be in the range of approximately \$50,000 to \$75,000 per month during the proposed extension of the Stay Period. Accordingly, the Timminco Entities appear to have sufficient funding for the extension of the Stay Period.
26. The Monitor continues to believe it to be in the interests of stakeholders for the outstanding matters to be brought to a satisfactory conclusion as quickly as possible. However, some additional time is required to achieve that result. Based on the information currently available, the Monitor believes that creditors would not be materially prejudiced by an extension of the Stay Period to December 16, 2013.
27. The Monitor also believes that the Timminco Entities have acted, and are acting, in good faith and with due diligence and that circumstances exist that make an extension of the Stay Period appropriate.

The Monitor respectfully submits to the Court this, its Twenty-Second Report.

Dated this 9th day of September, 2013.

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



Nigel D. Meakin
Senior Managing Director



Toni Vanderlaan
Senior Managing Director