

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) TUESDAY, THE 4TH
)
JUSTICE MORAWETZ) DAY OF DECEMBER, 2012

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 January 31, 2013)**

THIS MOTION, made by Timminco Limited and Bécancour Silicon Inc. (together, the "**Timminco Entities**"), for an order extending the Stay Period (defined below) until January 31, 2013 and approving the reports of FTI Consulting Canada Inc. in its capacity as the court-appointed monitor of the Timminco Entities (the "**Monitor**") dated November 2, 2012 (the "**Fifteenth Report**") and November 28, 2012 (the "**Sixteenth Report**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Sean Dunphy sworn November 19, 2012, the Fifteenth Report, and the Sixteenth Report, and on hearing the submissions of counsel for the Timminco Entities, Quonta Holdings Ltd. 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 November 26, 2012, 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 (as defined in paragraph 18 of the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012) is hereby extended until and including January 31, 2013.

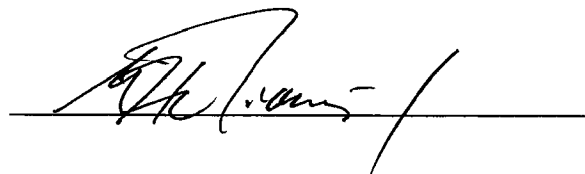
APPROVAL OF MONITOR'S REPORTS

3. **THIS COURT ORDERS** that the Fifteenth Report and the Sixteenth Report, and the activities of the Monitor described therein, are hereby approved.

GENERAL

4. **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, Russell Hill Advisory Services Inc. in its capacity as Chief Restructuring Officer of the Timminco Entities (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.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:



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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.

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

Proceeding commenced at Toronto

**ORDER
(Re Stay Extension to January 31, 2013)**

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Lawyers for the Applicants

**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.**

Applicants

December 4, 2012

D. Murdoch, M. Konyukhova and K. Esaw for Timminco
K.D. Kraft for Chubb
J. Wadden for Quanta Holdings
G. Finlay for J. Walsh
S. Weisz for Monitor
D. Bish, L. Cassey for QSI
J. Harnum for Mercer
J. Orr for St. Clair Pennyfeather

On consent the parties to the Motion relating to the Beauharois Sale Agreement Disclaimer is adjourned to January 25, 2013. 3 hours to be booked.

The Motion for Stay Extension to January 31, 2012 was not opposed, save and except for the position put forth by the Plaintiffs in the Class Action Proceeding, St. Clair Pennyfeather who requested that the Class Action be excluded from the stay so as to permit the Class Action to be dealt with on its merit.

The Timminco Entities request the stay submitting that it is necessary to give the Timminco Entities and the Monitor sufficient time to resolve issues regarding the remaining assets, to negotiate with potential counterparties, to assess the classification and amount of claims filed, and prepare for the determination of the potential Priority Claims.

The Monitor, in its 16th Report, at paragraphs 47-49 supports the request to extend the Stay Period. The Monitor notes that the Timminco Entities appear to have sufficient funding through to January 31, 2013. Having reviewed the Record and hearing submissions, I am satisfied that the Applicants continue to work in good faith and with due diligence in the process such that the request to extend the Stay Period to January 31, 2013 is appropriate. The only outstanding issue is that the contested application of the stay to the Class Action plaintiff. Counsel to the insurer dictated that the position of the Class Action plaintiff only came to the attention of his clients yesterday and they requested an adjournment so that they could file responding

material and prepare for the hearing. This request was supported by counsel to Mr. Walsh.

In the circumstances, a short adjournment is a reasonable request. However, I am mindful that the Class Action plaintiffs have other issues at stake – ie the limitation issue and whether that issue can be addressed through *nunc pro tunc* orders. The uncertainty affecting the class action is an issue that could potentially prejudice the class action plaintiff. As a result the position put forth by the Class Action plaintiff is to be rescheduled on or prior to December 20, 2012 before me.

In the interim the stay applies to the Class Action Plaintiff. The Class Action plaintiff is, at liberty to bring a motion to lift or exclude itself from the stay in the timetable set out above. An order shall issue to give effect to the foregoing. On an unopposed basis the Monitors 15th and 16th Reports are approved.

“Morawetz J.”

The parties have scheduled the motion of the Class Action Plaintiff for December 13, 2012. 1 hour booked.

“Morawetz J.”

Doc 4-12

Dec 4, 2012

*D. Murdoch M. Konyukhova K Esaw for Timminco
K. D. Kraft for Chabts.
J. Wodden for Amato Holdings
B. Friley for J. Wash.
J. Weiss for Tinter.
D. Bittler L. Lessey for QLI
J. Haran for Mercer.
J. Orr for St. Clair Papyrus.*

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

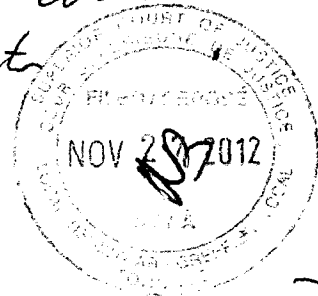
Proceeding commenced at Toronto

MOTION RECORD
(RETURNABLE DECEMBER 4, 2012)
(RE STAY EXTENSION AND
BEAUHARNOIS SALE AGREEMENT
DISCLAIMER)

*On consent the parties to the MRA relating to the
Beauharnois Sale Agreement Disclaimer is adjourned
to January 25, 2013. 3 hours to be devoted.*

*The MRA for Stay Extension to January 31, 2013 was
not opposed, save and except for the position
put forth by the Plaintiff - the Class
Peter Annunzio, D. St. Clair Papyrus
who requested that the Class*

*Not be excluded from the
stay so as to permit the Class
Not to be dealt with in its merits.*



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Lawyers for the Applicants

The Timineo State request the stay, submitting that it is necessary to give the Timineo entities and the Trust sufficient time to resolve issues regarding the remaining assets, to negotiate with potential contributors, to assess the classification and amount of claims filed, and prepare for the determination of other potential Trust Claims.

The Trust, in its 16th Report, at paragraphs 47-49 suggests the request to extend the Stay Period. The

Trust notes that the Timineo Entities agree to have sufficient funds through to January 31, 2013. Having reviewed the plead and hearing submissions I am satisfied that the Applicants continue to work in good faith and with due diligence in the processes such that the request to extend the Stay Period to January 31, 2013 is appropriate. The only outstanding issue is that the Applicant of the Stay to the Class Action plaintiff.

Counsel to the issuer advised that the parties of the Class Action plaintiff only came to the attention of his clients yesterday and they requested an adjournment so that they could file regarding returned and prepare for the hearing. His request was supported by counsel to Mr. Walsh.

In the circumstances, a short adjournment

is a reasonable request. However, I -
mindful that the Class Action plaintiff's
have other issues at stake - i.e. the
burden of proof and whether that issue
can be addressed through more
pre trial orders - The complexity of the
the class action is an issue that could
potentially prejudice the class action
plaintiff. As a result the points put
forth by the class action plaintiff is
to be rescheduled ~~on or~~ ^{on or} prior to

December 20, 2012 before me. ~~The~~
~~order contains~~ In the interim the stay
applies to the Class Action plaintiff.
The Class Action plaintiff is, at
~~that~~ liberty to bring a motion
to lift or exclude itself from the
stay in the timetable set out above.

The order shall issue to give effect to
the foregoing ^{On an expedient basis the}
minutes 15th & 16th reports are
approved.

The parties have scheduled the
trial of the Class Action plaintiff for
December 13, 2012. I have booked.

