



No. S-224444
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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 AND ARRANGEMENT OF CANADIAN DEHUA
INTERNATIONAL MINES GROUP INC., WAPITI COKING COAL MINES CORP., AND CANADIAN
BULLMOOSE MINES CO., LTD.

PETITIONERS

APPLICATION RESPONSE

Application response of: Qu Bo Liu (the "Application Respondent")

THIS IS A RESPONSE TO the notice of application of West Moberly First Nations ("West Moberly") filed on 07/JAN/2025.

The Application Respondent estimates that the application will take 2 DAYS.

Part 1: ORDERS CONSENTED TO

The Application Respondent consents to the granting of the orders set out in the following paragraphs of Part 1 of the notice of application: **n/a**.

Part 2: ORDERS OPPOSED

The Application Respondent opposes the granting of the orders set out in the following paragraphs of Part 1 of the notice of application: **1 (a) and (b)**.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Application Respondent takes no position on the granting of the orders set out in the following paragraphs of Part 1 of the notice of application: **n/a**.

Part 4: FACTUAL BASIS

1. The Application Respondent adopts the facts set out in Part 2 – Factual Basis of the Notice of Application of the Application Respondent filed on December 31, 2024.
2. On this application, West Moberly attempts to explain what it has done and why it took these actions in these proceedings. However, it continues to conceal important information from the court and its explanations are simply not credible.

3. West Moberly says that the reason for bidding through TaneMahuta for the Wapiti and Bullmoose Assets is that it thought the letter sent by Chief Willson to the Monitor dated September 30, 2023, would not have been well received by CDI. In this letter, Chief Willson advised the Monitor that West Moberly was opposed to resource development.

Affidavit #1 of Roland Willson made on January 7, 2025 (“**Willson #1**”) at ¶16 (a)

4. Chief Willson’s letter was attached to the 11th Monitor’s Report, which noted that the letter was forwarded by the Monitor to CDI’s legal counsel.

11th Monitor Report at ¶55-58

5. In Mr. Amanat’s letter to the Monitor dated August 26, 2024, he explained TaneMahuta’s position that “the coal tenures cannot be developed in light of environmental and First Nations concerns”, referencing Chief Willson’s letter:

... In a letter dated September 30, 2023 (which you filed as Appendix B to your Eleventh Report of the Monitor dated March 14, 2024) the Chief of West Moberly First Nations wrote to you to indicate that West Moberly is opposed to the development of the Company’s coal assets.

6. It is apparent from the evidence given by Mr. Amanat on his cross-examination that Chief Willson’s letter was an attempt by West Moberly to persuade the Monitor that the Wapiti and Bullmoose Assets had very little value because of First Nation opposition to resource development and was part of a strategy to acquire the Wapiti and Bullmoose Assets for nominal value.
7. Mr. Amanat, purporting to represent TaneMahuta and concealing the fact that he was actually acting for West Moberly, in his letters in July and August, 2024, continued to try to persuade the Monitor that the Wapiti and Bullmoose Assets had minimal value by reason, among other matters, of First Nation opposition to resource development. It does not make sense that West Moberly felt that it would not be well received by CDI if it made an offer to purchase by reason of Chief Willson’s letter.
8. There had to be another reason, namely, if West Moberly had revealed it was interested in acquiring the Wapiti and Bullmoose Assets, it likely would have emerged that West Moberly was interested in acquiring those Assets for resource development when it was claiming the opposite. If West Moberly had communicated to the Monitor to make an offer to purchase, it would have been asked about its intentions and the false position taken in Chief Willson’s letter would have emerged.
9. During the cross-examination of Mr. Amanat, he provides evidence that he had been following, as West Moberly’s lawyer, developments with respect to coal mining since the start

of his employment in 2019 and, when CDI obtained a stay in 2022, followed the information posted by the Monitor:

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24 Q: [Referring to Affidavit #1 of Mr. Amanat] And it says:

TaneCap involvement in the sale process --

Well, let me go back earlier to paragraph number 1. Paragraph 1 says:

...

For several years I've been following developments with respect to coal mining in northeastern British Columbia. I became aware in mid 2022 that CDI had entered CCAA protection on June 3rd, 2022, and as such, I began to track the related proceedings and documents.

And then you go on to describe reading the first, second, third, and further reports -- fourth reports of the monitor. So you were reading these reports as they were published on the monitor's website; correct?

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8 A: **Yes, I believe so. There was no other place to see them.**

10 Q: All right. And so you were monitoring the website, and as reports would come out, you would read them see what new information was being provided?

14 A: **I would say it was occasional.**

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40 Q: Mr. Amanat, when did you first start acting as lawyer for West Moberly First Nations?

42 A: **I believe it was in 2019.**

10. It follows that West Moberly had been interested for years despite what Chief Willson said in his letter, as there was no other reason for Mr. Amanat to have been following developments with respect to coal mining.
11. Chief Willson admits the true reason for concealing West Moberly's involvement when he says at ¶16 of his affidavit that West Moberly wanted to avoid "premature public disclosure of West Moberly's involvement" as that could interfere with negotiations between West Moberly and others in relation to conservation issues and coal development in its territory.
12. West Moberly's strategy is obvious – have offers to purchase made in the name of TaneMahuta at a minimal price on the basis that the Wapiti and Bullmoose Assets have no value because of First Nation opposition. In fact, West Moberly wanted to acquire the Wapiti and Bullmoose Assets for coal development, and was worried, if this became known, it would raise the cost of acquiring the Assets and affect its ability to negotiate agreements with other parties.

13. West Moberly has been dishonest with the court and tried to steal the Wapiti and Bullmoose Assets at a minimal price on the basis it was opposed to resource development.
14. West Moberly is now concealing the names of the parties who have provided the \$2 million which Ms. Fellowes, K.C. said she was holding in trust. When asked about the source of these funds Mr. Amanat declined to answer on the basis of privilege:

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27 Q: When we appeared in court in the third week of October of this year, your lawyer Ms. Fellowes, KC, said she had enough funds in her trust account for TaneMahuta to make a bid of \$2 million. So did you bring any documents showing that she had \$2 million or enough to make a bid for \$2 million in her trust account?

34 A: **I do not have such documents in my possession.**

...

37 Q: And did she, in fact, have more money in her trust account than the \$937,276.69 shown in Exhibit 3?

39 A: **Yes.**

40 Q: So how much money did she have in her trust account?

42 A: **That is privileged information.**

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7 Q: -- lawyer truthfully say -- just listen to my question -- truthfully advise the court that she had enough money in her trust account to make a bid of \$2 million?

11 A: **I have answered the question.**

14 Q: Did she have it or not?

15 A: **Yes.**

16 Q: Okay. Well, how much in total did she have in her trust account?

18 A: **That is privileged information. I am a lawyer for West Moberly First Nations. And the information that they have provided that relates to this case -- that is privileged and subject to solicitor-client privilege. I am unable to disclose.**

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20 Q: So why was that arrangement made? What -- what was the -- why wasn't West Moberly making its own bid in its own name for the Wapiti and Bullmoose assets?

24 A: **West Moberly preferred to remain anonymous in the bidding and did not want its activity in the bidding to be known.**

27 Q: And what was the reason? Why did it prefer to be anonymous?

29 A: **That is a question you'll have to ask West Moberly.**

31 Q: And so in all the time you're acting for them, taking advice, making these arrangements, you never bothered to ask them why they wanted to remain anonymous?

25 A: **I'm aware, but that's privileged information.**

15. Chief Willson also refuses to pull back the curtain on West Moberly's plans and business associates. In particular, he says there is a Band Council Resolution and a Decision Note that provides authority to purchase the Assets but declines to produce them on the basis they contain confidential information.

Willson #1, ¶20 and 21

16. He also declines to provide the source of the funds to be used for the purchase of the Wapiti and Bullmoose Assets, other than to say they come from a "wholly" Canadian source. What this means is not obvious, for example, as they are Canadian Companies, Zhonghe and China Shougang could be regarded as Canadian sources.

Willson #1, ¶22

17. Consequently, West Moberly, having previously used Mr. Amanat and TaneMahuta to conceal its involvement, is now concealing the names of those who are actually providing the funds for a purchase in its name. This is sham piled on sham.

Part 5: LEGAL BASIS

18. The Application Respondent adopts the legal basis set out in Part 3 – Legal Basis of the Notice of Application of the Application Respondent filed on December 31, 2024.
19. CCAA proceedings need to be based on transparency and good faith. In *Re Angiulli*, [2024 ONSC 6244](#), the court discusses bad faith conduct in insolvency proceedings:

[410] In interpreting the identically worded s.18.6 of the CCAA, Romaine, J. in *Bellatrix Exploration Ltd (Re)* 2020 CarswellAlta 2545, [2020 ABQB 809](#), [2020] A.J. No. 1453, [2021] A.W.L.D. 478, [2021] A.W.L.D. 481, [2021] A.W.L.D. 483, [2021] A.W.L.D. 568, 327 A.C.W.S.(3d) 166, 86 C.B.R. (6th) 191 ("*Bellatrix*") states:

"105 As noted by Dr. Janis Sarra in "La bonne foi est une considération de base — Requiring Nothing Less than Good Faith in Insolvency Law Proceedings", Annual Review of Insolvency Law, eds Janis Sarra & Barbara Romaine, Toronto: Thomson Reuters Canada, 2014:

The court will find bad faith conduct where a debtor, creditor or their professionals fail to meet the requirements to act candidly,

honestly, forthrightly and reasonably in their dealings with one another and the court; where parties act capriciously and arbitrarily; or where they lie or otherwise knowingly mislead each other about matters relating to the insolvency proceedings.” (emphasis added)

20. In *U.S. Steel Canada Inc. et al. v. The United Steel Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union et al.*, [2022 ONSC 6993](#), the court noted

[44] I pause here to note that a dispute arose at the motion concerning the applicability of [s. 18.6](#) of the [CCAA](#) should it apply. Section 18.6 was added to the CCAA in June 2019 pursuant to [s. 50](#) of the [Budget Implementation Act, 2019, No. 1](#), S.C. 2019, c. 29. Section 50 provided that amendments to the CCAA (including s. 18.6) “apply only in respect of proceedings that are commenced under the Act on [June 21, 2019] or after.” Section 18.6 is relevant to the motion since it imposes a duty of good faith and allows the court to make any order that it considers appropriate if it is satisfied that an interested person has failed to act in good faith.

...

[47] The courts, on repeated occasions, have recognized the duty of good faith as one of the “baseline considerations” that a court should always bear in mind when exercising CCAA authority: see *Century Services Inc. v. Canada (Attorney General)*, [2010 SCC 60](#), [2010] 3 S.C.R. 379, at para. [70](#).

[48] Last, as the Supreme Court of Canada recently noted in *9354-9186 Québec inc. v. Callidus Capital Corp.*, [2020 SCC 10](#), 444 D.L.R. (4th) 373, at para. [50](#), the well-established requirement that parties must act in good faith in insolvency proceedings has recently been made express in [s. 18.6](#) of the [CCAA](#). This comment demonstrates that ongoing good faith obligations predate s. 18.6. (emphasis added)

21. West Moberly is not acting in good faith. It has caused Mrs. Liu, CDI and the Monitor to incur substantial expenses and can be presumed to have instructed its lawyers, Ms. Fellowes, K.C. and Mr. Amanat, to make false allegations of serious misconduct against CDI, the Monitor and Mrs. Liu, all in an effort to persuade the court it should be allowed to make a further bid.
22. It has concealed its identity to further its own financial interests and continues to conceal those who are funding it now, and on whose behalf West Moberly is now acting.
23. Throughout this proceeding, West Moberly, through its agent TaneMahuta and Mr. Amanat, and its former counsel, has failed to meet the obligation to act candidly, honestly, and forthrightly in their dealings with other parties and the court.

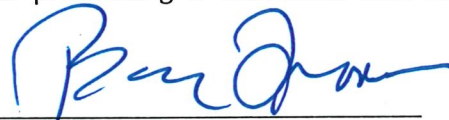
24. The court should not permit West Moberly to benefit from the chaos and expense it has caused. Its application should be dismissed, and the sale of the Wapiti and Bullmoose Assets to Mrs. Liu should be approved with the orders for costs sought in Mrs. Liu's Notice of Application dated December 30, 2024.

Part 6: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Xiao (Helen) Liu made October 15, 2024.
2. Affidavit #2 of Xiao (Helen) Liu made November 15, 2024
3. Affidavit #3 of Xiao (Helen) Liu made November 28, 2024.
4. Affidavit #1 of Elyssa Boongaling made November 29, 2024.
5. Affidavit #2 of Elyssa Boongaling made December 23, 2024.
6. Affidavit #1 of Roland Willson made January 7, 2024.
7. The pleadings and proceedings herein.
8. Such further and other materials as counsel may advise and the court may permit.

The Application Respondent has filed in this proceeding a document that contains the Application Respondent's address for service.

Date: 09/JAN/2025



Signature of Lawyer for the Application
Respondent

Lawyer: R. Barry Fraser

This APPLICATION RESPONSE is prepared by R. Barry Fraser of the firm of **Fraser Litigation Group** whose place of business is 1100-570 Granville Street, Vancouver, British Columbia, V6C 1P3 (Direct #:604.343.3101, Fax #: 604.343.3119, Email: bfraser@fraserlitigation.com) (File #: 60913-001).