

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No: 500-11-048114-157

“Commercial Division”

SUPERIOR COURT

**IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:**

**BLOOM LAKE GENERAL PARTNER
LIMITED**

-and-

QUINTO MINING CORPORATION

-and-

8568391 CANADA LIMITED

-and-

CLIFFS QUEBEC IRON MINING ULC

-and-

WABUSH IRON CO. LIMITED

-and-

WABUSH RESOURCES INC.

-and-

**THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP**

-and-

**BLOOM LAKE RAILWAY COMPANY
LIMITED**

-and-

WABUSH MINES

-and-

ARNAUD RAILWAY COMPANY

-and-

**WABUSH LAKE RAILWAY COMPANY
LIMITED**

Debtors

-and-

**ADMINISTRATION PORTUAIRE DE SEPT-
ÎLES/SEPT-ÎLES PORT AUTHORITY,**

Petitioner

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

THE CITY OF SEPT-ÎLES, municipal body
having its registered address at 546, De Quen
avenue, Sept-Îles, Québec, G4R 2R4

Mise-en-cause

MOTION SEEKING DECLARATORY RELIEFS
(Paragraph 56 of the Initial Order issued on May 20, 2015)

TO THE HONOURABLE STEPHEN W. HAMILTON, S.C.J., OR TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN AND FOR THE DISTRICT OF MONTREAL, THE OBJECTING PARTY RESPECTFULLY SUBMITS AS FOLLOWS:

I- PURPOSE OF THE MOTION

1. Pursuant to the present *Motion seeking Declaratory Reliefs* (hereinafter the “**Motion**”), for the reasons set forth hereinafter, Petitioner *Administration Portuaire de Sept-Îles/Sept-Îles Port Authority* (hereinafter the “**SIPA**”) will seek from this Honourable Court the issuance of an Order:
 - a) Declaring that the Outstanding Pre-Closing Property Taxes (as defined hereinafter) in respect to the Block Z Property (as defined hereinafter) may not be set up against SIPA and/or the Block Z Property (as defined hereinafter);
 - b) Declaring that the claim of the City of Sept-Îles (hereinafter the “**City**”) for Outstanding Pre-Closing Property Taxes (as defined hereinafter) qualifies as an “*Encumbrance*” pursuant to the Block Z Vesting Order (as defined hereinafter);
 - c) Declaring that the Block Z Property (as defined hereinafter) was sold to SIPA free and clear of the City’s claim for Outstanding Pre-Closing Property Taxes (as defined hereinafter);
 - d) Declaring that the City’s claim for Outstanding Pre-Closing Property Taxes (as defined hereinafter) has been transferred and is limited to the net proceeds held by

the Monitor and resulting from the Block Z Transaction (as defined hereinafter) and the Pointe-Noire transaction; and

e) Declaring that as a result of the Block Z Vesting Order, the City's claim for Outstanding Pre-Closing Property Taxes (as defined hereinafter) was discharged as against the Block Z Property and SIPA upon the issuance of the Monitor's Certificate - Block Z Transaction (as defined hereinafter);

2. In support of this Motion, SIPA submits a draft Order as **EXHIBIT R-1** (hereinafter the "**Draft Order**");

II- CONTEXT AND PARTIES

3. SIPA is one of the eighteen (**18**) federal organizations created in 1998 pursuant to the *Canada Marine Act*, S.C. (1998) ch. 10 to manage and operate major ports in Canada which were deemed vital to Canada's domestic and international trade and business;

4. SIPA owns, operates and manages the port of the Bay of Sept-Îles (hereinafter the "**Port**"), acting as agent and on behalf of the Government of Canada;

5. The Port was identified as one of the nineteen (**19**) major ports of Canada, deemed vital to Canada's domestic and international trade;

6. SIPA's mission is to remain an important development agent by maintaining a partnership approach to offer functional installations and deliver efficient services that maximize the natural advantages provided by the Bay of Sept-Îles, the whole with a view to promote and facilitate the trade and business transiting from and to the Port;

7. On January 27, 2015, an Initial Order was issued in favour of *Bloom Lake General Partner Limited*, *Quinto Mining Corporation*, *8568391 Canada Limited* and *Cliffs Quebec Iron Mining ULC* (hereinafter collectively the "**Bloom Lake CCAA Parties**") in accordance with the CCAA, as appears from the Court record herein (the "**Bloom Lake Parties Initial Order**");

8. On May 20, 2015, this Honourable Court issued, on an *ex parte* basis, an Initial Order pursuant to the CCAA in favour of *Wabush Iron Co.* and WRI (hereinafter collectively the "**Wabush CCAA Parties**"), as appears from the Court record herein (hereinafter the "**Wabush Initial Order**");

9. As appears from the Court record herein, SIPA filed a Notice of Objection against both the Bloom Lake Initial Order and the Wabush Initial Order, with a view, notably, to preserve its rights and interests in respect to an immovable property better known as "Block Z". A full description of the "Block Z" property is communicated herewith as **EXHIBIT R-2** (hereinafter the "**Block Z Property**");

10. On February 1, 2016, this Honourable Court issued:

- a) A vesting order authorizing the Wabush CCAA Parties to sell the Block Z Property to SIPA. For ease of reference, a copy of the vesting order is communicated herewith as **EXHIBIT R-3** (hereinafter the “**Block Z Vesting Order**”); and
 - b) A vesting order authorizing the Bloom Lake CCAA Parties to sell an immovable property adjacent to the Block Z Property and better known as the Pointe-Noire property (hereinafter the “**Pointe-Noire Property**”) to *Société Ferroviaire et Portuaire de Pointe-Noire S.E.C.* (hereinafter “**SFPP**”). For ease of reference, a copy of the vesting order is communicated herewith as **EXHIBIT R-4** (hereinafter the “**Pointe-Noire Vesting Order**”);
11. On March 10, 2016, the Monitor issued a certificate confirming that the sale of the Block Z Property to SIPA (hereinafter the “**Block Z Transaction**”) had been completed, giving full effect to the Block Z Vesting Order. For ease of reference a copy of the Monitor’s certificate is communicated herewith as **EXHIBIT R-5** (hereinafter the “**Monitor’s Certificate – Block Z Transaction**”);
 12. The purchase price payable by SIPA pursuant to the Block Z Transaction was paid to the Monitor, in accordance with paragraph [16] of the Block Z Vesting Order:

“[16] AUTHORIZES and DIRECTS the Monitor to receive and hold the Purchase Price and to remit the Purchase Price in accordance with the provisions of this Order”

[Emphasis added]
 13. As at closing of the Block Z Transaction, outstanding municipal and school taxes in respect to both the Pointe-Noire Property and the Block Z Property total approximately **\$2,2M**, as appears from a copy of an excerpt of the City’s Property Tax Roll in respect to the Block Z Property, communicated herewith as **EXHIBIT R-6** (hereinafter collectively the “**Outstanding Pre-Closing Property Taxes**”);
 14. Pursuant to the Block Z Property Transaction, such Outstanding Pre-Closing Property Taxes was not to be assumed by SIPA;
 15. Shortly after the issuance of the Block Z Vesting Order, SIPA retained the services of *Groupe Cadoret, Arpenteur-Géomètres Inc.* (hereinafter the “**Land Surveyor**”) to proceed with the cadastral amendment of the Block Z Property;
 16. On March 17, 2016, the Land Surveyor submitted to the City a cadastral permit (“*permis de lotissement*”) in respect to the Block Z Property;
 17. On March 23, 2016, the City informed the Land Surveyor that it could not proceed with the cadastral amendments of the Block Z Property given that there was outstanding municipal taxes owed in respect to the Block Z Property, as appears from a copy of a letter from the City of Sept-Îles in this regard communicated herewith as **EXHIBIT R-7**:

“Par ailleurs, nous attirons votre attention sur l’article 2.2.5 du Règlement de lotissement de la municipalité, lequel prévoit sous le titre « Paiement des taxes municipales » :

« Tout propriétaire doit, comme condition préalable à l'approbation d'un plan-projet de lotissement, payer les taxes municipales qui sont exigibles et impayées à l'égard des immeubles compris dans le plan ».

Compte tenu de ce qui précède, les arrérages de taxes dues sur les immeubles compris dans le plan cadastral concerné devront être acquittés avant l'émission du permis de lotissement.

[Emphasis added]

18. On April 20, 2016, in response to the City's letter, SIPA informed the City that:
- a) The Block Z Property had been transferred to SIPA in accordance with the Block Z Vesting Order;
 - b) The Pointe-Noire Property had been transferred to SFPP in accordance with the Pointe-Noire Vesting Order; and that
 - c) The Outstanding Pre-Closing Property Taxes were to be paid out of the sales proceeds resulting from the Block Z Transaction and the Pointe-Noire transaction,
- as appears from a copy of a letter from the undersigned attorneys communicated herewith as **EXHIBIT R-8**;
19. On April 25, 2016, the City responded to SIPA's letter by insisting that it was entitled to stay the cadastral amendments process given the Outstanding Pre-Closing Property Taxes, as appears from a copy of the letter sent by the City's attorneys communicated herewith as **EXHIBIT R-9**:

“Bien que conscient des éléments que vous énonciez à votre missive, il n'en reste pas moins que les arriérages de taxes dus à notre cliente bénéficie d'un droit de suite dans l'immeuble.

C'est ce qui explique les différentes dispositions de la réglementation municipale exigeant le paiement des taxes municipales avant que certaines opérations soient effectuées.

Bien que conscient des représentations qui nous ont été faites par le contrôleur à l'effet que les taxes seraient assumées à même le produit de la transaction, force est d'admettre que lesdites taxes ne sont toujours pas payées et qu'il peut planer un doute, quel qu'en soit l'étendue, quant à la capacité financière que le contrôleur aura de défrayer l'ensemble des taxes compte tenu des réclamations jouissant d'un super privilège, lesquelles sont toujours pendantes en date de ce jour.”

[Emphasis added]

20. On September 21, 2016, the Monitor served and filed a Motion seeking directions with respect to pension plan related claims, as appears from the Court record herein (hereinafter the **“Motion for Direction”**);
21. Essentially, pursuant to the Motion for Directions, the Monitor is seeking proper instructions from this Honourable Court as to the distribution of the sales proceeds

resulting from the sale of the core assets of the Bloom Lake CCAA Parties and the Wabush CCAA Parties, largely comprised of the sales proceeds resulting from the sale of the Block Z Property and the Pointe-Noire Property, in light of the various pension claims and the union's contention to such claims having a secured status;

III- THE CITY HAS NO RIGHTS AGAINST THE BLOCK Z PROPERTY AND/OR SIPA IN RELATION TO THE OUTSTANDING PRE-CLOSING TAXES

22. The City's contention that it can stay the cadastral amendment process based on the fact that the Outstanding Pre-Closing Taxes are unpaid, is unfounded;
23. Paragraph [13] of the Block Z Vesting Order, reads as follows:

"VESTING OF THE PURCHASED ASSETS

*[13] ORDERS and DECLARES that upon the issuance of a Monitor's certificate substantially in the form appended as **Schedule "A"** hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest free and clear, absolutely and exclusively in and with the Purchaser, from any and all right, title, benefits, priorities, claims (including claims provable in bankruptcy in the event that the Vendors should be adjudged bankrupt), liabilities (direct, indirect, absolute or contingent), obligations, interests, prior claims, security interests (whether contractual, statutory or otherwise), liens, charges, hypothecs, mortgages, pledges, trusts, deemed trusts (whether contractual, statutory, or otherwise), assignments, judgments, executions, writs of seizure or execution, notices of sale, options, agreements, rights of distress, legal, equitable or contractual setoff, adverse claims, levies, taxes, disputes, debts, charges, options to purchase, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges, security interests or charges evidenced by registration, publication or filing pursuant to the Civil Code of Québec, or any other applicable legislation providing for a security interest in personal or movable property, excluding however, the permitted encumbrances, easements and restrictive covenants listed on **Schedule "B"** hereto (the "**Permitted Encumbrances**") and, for greater certainty, **ORDERS that all of the Encumbrances affecting or relating to the Purchased Assets, other than the Permitted Encumbrances, be expunged and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.**"*

[Emphasis added]

24. It is clear from the Block Z Vesting Order that:
 - a) Any claim of the City in respect to the Outstanding Pre-Closing Property Taxes qualifies as an "*Encumbrance*"; and that
 - b) The Block Z Property was transferred to SIPA free and clear of, namely, any Outstanding Pre-Closing Property Taxes owed to the City;

25. In any event, any right the City claims to have against the Block Z Property as a result of the Outstanding Pre-Closing Property Taxes was transferred onto the net proceeds resulting from the Block Z Transaction:

“NET PROCEEDS

[18] **ORDERS** that the Purchase Price payable to the Vendors in accordance with the Purchase Agreement (the “**Net Proceeds**”) shall be remitted to the Monitor and shall, subject to the provisions of this Order, be held by the Monitor on behalf of the Vendors pending further order of the Court.

[19] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the Net Proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that upon issuance of the Certificate, all Encumbrances except for the Permitted Encumbrances shall attach to the Net Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the Closing, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the Closing.”

[Emphasis added]

26. As a result, the City has no rights, recourses or claims against SIPA and/or the Block Z Property in respect to the Outstanding Pre-Closing Property Taxes, any such rights/recourses/claims having been transferred onto the net proceeds resulting from the Block Z Transaction, held by the Monitor;
27. It should also be noted that the City has been aware of the Block Z Vesting order at least since March 11, 2016, i.e. date at which the Monitor served the Monitor’s Certificate – Block Z Transaction to the members of the service list, including the City’s attorneys;
28. Therefore, more than six (6) months have elapsed since the City has had full knowledge of the Block Z Vesting Order and never during that period did the City even hint at challenging the Block Z Vesting Order;

IV- CONCLUSIONS SOUGHT

29. SIPA respectfully submits to this Honourable Court that in accordance with the clear terms of the Block Z Vesting Order:
- a) SIPA acquired the Block Z Property free and clear of, notably, the Outstanding Pre-Closing Property Taxes;
 - b) The City has no rights/recourses/claims to assert as against SIPA in connection with the Outstanding Pre-Closing Property Taxes;
 - c) The City has no rights, recourses or claims to assert as against the Block Z Property in connection with the Outstanding Pre-Closing Property Taxes; and
 - d) The City cannot challenge the Block Z Vesting Order;

30. The issuance of an Order taking the form of the Draft Order would not only allow SIPA to complete its cadastral amendments process, but more importantly it would avoid SIPA having to unduly carry a potential liability pending the resolution or adjudication of the Motion for Directions;
31. Given the clear terms of the Block Z Vesting Order, SIPA respectfully submits to this Honourable Court that it should not be unduly dragged into the debate raised by the Motion for Directions and that the present Motion would allow a clear and definitive resolution in regards to this issue;
32. As such, SIPA respectfully submits to this Honourable Court that it should issue an Order taking the form of the Draft Order;
33. The present Motion is well founded both in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THIS COURT TO:

- [1] **ISSUE** an order taking the form of the Draft Order (**R-1**);
- [2] **THE WHOLE** without cost, save and except in case of contestation, and then with costs solidarily against any contesting party.

Montréal, this 3rd day of October, 2016


Fasken Martineau DuMoulin LLP
Attorneys for the *Administration Portuaire de
Sept-Îles/Sept-Îles Port Authority*

AFFIDAVIT

I, the undersigned, Pierre Gagnon, having my professional address at 1, Monseigneur-Blanche Street, Sept-Îles, Quebec, G4R 5P3, do solemnly declare the following:

1. I am the President and a duly authorized representative of the trustee *Administration Portuaire de Sept-Îles/Sept-Îles Port Authority* in the present case;
2. All the facts alleged in the present Motion are true.

AND I HAVE SIGNED:



Pierre Gagnon

SOLEMNLy SWORN before me in *Sept-Îles* on
October *03*, 2016

Pauline Bayard
Commissioner of Oaths




NOTICE OF PRESENTATION

TO : Service List
The CCAA Parties
ArcelorMittal Dofasco Inc.
Transport Canada
Iron Ore Company of Canada
Churchill Falls (Labrador) Corporation Limited
Minerals Corporation Limited of Wuhan Iron and Steel (Group)
Wugang Canada Resources Investment Limited
ArcelorMittal Mining Canada G.P.
8109796 Canada Inc.

TAKE NOTICE that the present *Motion Seeking Declaratory Relief* 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 Montreal, in the Montreal Courthouse located at 1, Notre-Dame Street East, Montreal, Quebec, on **October 12, 2016 at 9:00 a.m.**, in a room to be determined.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, this 3rd day of October, 2016


Fasken Martineau DuMoulin LLP
Attorneys for the *Administration Portuaire de
Sept-Îles/Sept-Îles Port Authority*

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No: 500-11-048114-157

“Commercial Division”

SUPERIOR COURT

**IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:**

**BLOOM LAKE GENERAL PARTNER
LIMITED**

-and-

QUINTO MINING CORPORATION

-and-

8568391 CANADA LIMITED

-and-

CLIFFS QUEBEC IRON MINING ULC

-and-

WABUSH IRON CO. LIMITED

-and-

WABUSH RESOURCES INC.

-and-

**THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP**

-and-

**BLOOM LAKE RAILWAY COMPANY
LIMITED**

-and-

WABUSH MINES

-and-

ARNAUD RAILWAY COMPANY

-and-

**WABUSH LAKE RAILWAY COMPANY
LIMITED**

Debtors

-and-

**ADMINISTRATION PORTUAIRE DE SEPT-
ÎLES/SEPT-ÎLES PORT AUTHORITY,**

Petitioner

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-


THE CITY OF SEPT-ÎLES, municipal body
having its registered address at 546, De Quen
avenue, Sept-Îles, Québec, G4R 2R4

Mise-en-cause

LIST OF EXHIBITS
(Motion Seeking Declaratory Relief)

- EXHIBIT R-1 :** Draft Order.
- EXHIBIT R-2 :** Full description of the “Block Z” Property.
- EXHIBIT R-3 :** Vesting Order issued on February 1, 2016 authorizing the Wabush CCAA Parties to sell the Block Z Property to SIPA
- EXHIBIT R-4 :** Vesting Order issued on February 1, 2016 authorizing the Bloom Lake CCAA Parties to sell the Pointe-Noire Property to SFPP.
- EXHIBIT R-5 :** Monitor’s Certificate – Block Z Transaction.
- EXHIBIT R-6 :** Excerpt of the City’s Property Tax Roll in respect to the Block Z Property
- EXHIBIT R-7 :** Letter from the City dated March 23, 2016.
- EXHIBIT R-8 :** Letter from the undersigned attorneys dated April 20, 2016, in response to the City’s letter.
- EXHIBIT R-9 :** Letter from the City dated April 25, 2016

Montréal, this 3rd day of October, 2016


Fasken Martineau DuMoulin LLP
Attorneys for the *Administration Portuaire de*
Sept-Îles/Sept-Îles Port Authority

N° : 500-11-048114-157

PROVINCE OF QUÉBEC
SUPERIOR COURT (Commercial Division)
DISTRICT OF MONTRÉAL

**IN THE MATTER OF THE PLAN OF COMPROMISE
OR ARRANGEMENT OF:**

**BLOOM LAKE GENERAL PARTNER LIMITED et al
Debtors**

-and-

**ADMINISTRATION PORTUAIRE DE SEPT-
ÎLES/SEPT-ÎLES PORT AUTHORITY,
Petitioner**

and-

FTI CONSULTING CANADA INC.

Monitor

-and-

**THE CITY OF SEPT-ÎLES, municipal body having
its registered address at 546, De Quen avenue,
Sept-Îles, Québec, G4R 2R4**

Mise-en-cause

16809/302521.00001

BF1339

MOTION SEEKING DECLARATORY
RELIEFS, AFFIDAVIT, NOTICE OF
PRESENTATION, LIST OF EXHIBITS AND
EXHIBITS R-1 TO R-9

ORIGINAL

Fasken Martineau DuMoulin LLP

Stock Exchange Tower
800 Victoria Square, Suite 3700
P.O. Box 242
Montréal, Quebec H4Z 1E9

Me Luc Morin
lmorin@fasken.com

Tél. +1 514 397 5121
Fax. +1 514 397 7600