

CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

N° : 500-11-048114-157

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

BLOOM LAKE GENERAL PARTNER
LIMITED, QUINTO MINING
CORPORATION, 8568391 CANADA
LIMITED AND CLIFFS QUEBEC IRON
MINING ULC.

Petitioners / Respondants

-and-

THE BLOOM LAKE IRON ORE MINE
LIMITED PARTNERSHIP

-and-

BLOOM LAKE RAILWAY COMPANY
LIMITED

Mises-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

GROUPE UNNU-EBC S.E.N.C

-and

EBC INC.

Creditors / Petitioners

**MOTION TO ALLOW PETITIONERS TO COMMUNICATE
INFORMATION AND/OR DOCUMENTATION WITH CREDITORS WHO
HAVE EXECUTED CONFIDENTIALITY AGREEMENTS**

(Section 11 of the Companies Creditors Arrangement Act)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN
COMMERCIAL DIVISION, IN AND FOR THE DISTRICT OF MONTREAL, THE
PETITIONERS GROUPE UNNU-EBC S.E.N.C. AND EBC INC., RESPECTFULLY SUBMIT
THE FOLLOWING:

I. SCOPE AND PURPOSE

1. The Petitioners herein, Groupe UNNU-EBC s.e.n.c. ("**UNNU**") and EBC Inc. ("**EBC**"), hereby request that Bloom Lake General Partner Limited and The Bloom Lake Iron Ore Mine Limited Partnership (collectively, the "**Insolvent Debtors**"), be ordered by this Honourable Court to allow the Petitioners to communicate information and/or documentation containing Confidential Information (as defined hereinafter) received from the Insolvent Debtors further to the execution by the Petitioners of a Confidentiality Agreement dated September 16, 2015 with other creditors who have executed similar confidentiality agreements.

II. PRESENTATION OF THE PETITIONERS

2. UNNU is a limited partnership engaged in the excavation, transport and handling of mining material, the whole as it appears from the print-out of the Statement of Information (REQ system) issued by the Registrar of Enterprises on October 26, 2015, communicated herewith as **EXHIBIT R-1**;
3. EBC is a corporation engaged in general contracting of construction work, the whole as it appears from the print-out of the Statement of Information (REQ system) issued by the Registrar of Enterprises on October 26, 2015, communicated herewith as **EXHIBIT R-2**;
4. On June 11, 2014, UNNU and the Insolvent Debtor, The Bloom Lake Iron Ore Mine Limited Partnership (acting through its general partner, Bloom Lake General Partner Limited) entered into a construction contract bearing the date of April 1st, 2014 (the "**UNNU Construction Contract**"), in connection with construction work performed by UNNU for the benefit of The Bloom Lake Iron Ore Mine Limited Partnership, the whole as more fully appears from the copy of the UNNU Construction Contract, already filed in the Court records as Exhibit R-3 of the Petitioners' motion to temporarily lift the stay of proceedings presented on February 19th, 2015;
5. Both EBC and UNNU have published legal hypothecs charging the property of The Bloom Lake Iron Ore Mine Limited Partnership, in the Public Register of real and immoveable Mining Rights under numbers 55 903 and 55 904, the whole as appears from copies of said legal hypothecs and proofs of registration thereof, communicated herewith *en liasse* as **EXHIBIT R-3**;
6. EBC and UNNU combined have claims in excess of \$53,000,000, including secured claims in the aggregate amount in excess of \$31,000,000 and are in the process of preparing and filing those claims with the Monitor in accordance with the Claims Process Order rendered by this Court on November 5, 2016;

III. THE STAY

7. An Initial Order was granted on January 27, 2015 (the "Initial Order") in favour of the Insolvent Debtors pursuant the Companies' Creditors Arrangement Act, R.S.C. 1985, C-36 (the "**CCAA**"), as appears from the Court record herein;

8. The Initial Order includes, inter alia, a stay of proceedings in favour of the Insolvent Debtors which reads as follows:

"ORDERS that during the Stay Period, and subject to, inter alia, subsection 11.1 CCAA, all rights and remedies, including, but not limited to modifications of existing rights and events deemed to occur pursuant to any agreement to which any of the CCAA Parties is a party as a result of the insolvency of the CCAA Parties and/or these CCAA proceedings, any events of default or non-performance by the CCAA Parties or any admissions or evidence in these CCAA proceedings, of any individual, natural person, firm, corporation, partnership, limited liability company, trust, joint venture, association, organization, governmental body or agency, or any other entity (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the CCAA Parties, or affecting the Business, the Property or any part thereof are hereby stayed and suspended except with leave of this Court."

9. Following the Initial Order, several orders granting extensions of the Stay Period, as defined in the Initial Order, have been rendered by this Honourable Court, the most recent one having been rendered on November 5, 2015, extending the Stay Period to January 29, 2016, as appears from the Court record herein;

PETITIONERS' EFFORTS TO OBTAIN INFORMATION

10. SISP Orders were rendered on April 17th, and June 9th, 2015 (the "**SISP Orders**"), as appears from the Court record herein;
11. The SISP Orders authorized and directed the Insolvent Debtors, the Monitor and Moelis (the Sale Advisor as defined in the SISP) (collectively the "**SISP Agents**"), to take such steps as they consider necessary or desirable in carrying out the SISP in accordance with its terms;
12. In the context and in application of the SISP, final binding offers (the "**Binding Offers**") were to be received by the SISP Agents by no later than July 16th, 2015 (the "**Binding Offers Due Date**") the whole as appears from the SISP already filed into the Court record herein;
13. As appears from the Petitioners' Motion to Communicate Information and/or Documentation served on the Service List on October 26 2015, and filed in the Court Record, obtaining information from the Insolvent Debtors and the Monitors on the results of the SISP has not been easy and the Insolvent Debtors have not been forthcoming;
14. Since as early as July 24, 2015, Petitioners have been asking from the Insolvent Debtors to obtain information on the result of the SISP and on certain financial data in order to assess their options as significant secured creditors in this CCAA process;
15. To expedite the process and to show their good faith, the Petitioners volunteered to execute a confidentiality agreement the Petitioners to protect the information they would receive from the Insolvent debtors;

16. On September 16, 2015 the Petitioners entered into a confidentiality agreement to protect the confidential information it would receive from the Insolvent Debtors (the "**Confidentiality Agreement**" and the "**Confidential Information**"), as appears from a copy of the Confidentiality Agreement, communicated herewith under confidential seal as **EXHIBIT R-4**;
17. Having executed the Confidentiality Agreement, Petitioners were confident that they would receive the information requested to enable them to evaluate their position towards the offers received by the Insolvent Debtors through the SISP;
18. However the reality was quite different, notwithstanding the execution of the Confidentiality Agreement, the information received from the Insolvent Debtors was incomplete and insufficient for the Petitioners to evaluate their rights, remedies and options as secured creditors with respect to the Mining Rights;
19. The Petitioners were therefore required to serve a Motion to Communicate Information and/or Documentation on October 26, 2015 (the "**Motion**"), in order to get the badly needed information, as appears from the Court record herein;
20. Discussions ensued between the Insolvent Debtors and the Petitioners which did not result in sufficient disclosure and on November 2nd, 2015, the Petitioners received service of the Insolvent Debtors' Notice of Objection to the Motion (the "**Notice of Objection**"), as appears from the Court record herein;
21. On the eve of the hearing scheduled for November 5, 2015, following a last round of negotiation with the help of the Monitor and the Monitor's Counsel, the Insolvent Debtors finally agreed to have representatives of the Monitor, the Insolvent Parties and PWC (the Petitioners' financial advisors) meet to exchange relevant information on the SISP and the cost of "mothballing" the mine as an alternative to a sale of the Mining Rights and other assets of the Insolvent Parties;
22. As a result, the Petitioners withdrew their Motion;
23. Since then, there has been good collaboration from all parties to provide relevant information to PWC to complete its mandate for the Petitioners;

IV. NECESSITY TO EXCHANGE INFORMATION BETWEEN CREDITORS

24. As described above, the Petitioners have a substantial vested interest in the result of the SISP as it relates to the Mining Rights, being the holders of the largest construction legal hypothecs in value published against the Mining Rights, as appears from Exhibit R-3;
25. The undersigned attorneys have recently been advised that the Insolvent Debtors will be filing a Motion to ask this Court to approve the sale of the Mining Rights, which Motion will be presentable on or about January 13, 2016;
26. As this CCAA process has clearly become a "Liquidating CCAA", it is imperative that creditors in general and more specifically that Petitioners be allowed to discuss amongst themselves the alternatives to be considered other than the sale of the

Mining Rights and other assets of the Insolvent Debtors in order to maximize the value for the stakeholders and prepare for the upcoming hearing on the Insolvent Debtors' Motion to approve the sale of the Mining Rights;

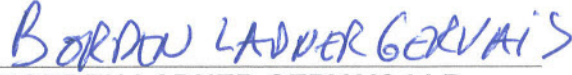
27. The Petitioners undersigned counsels were advised that Quebec North Shore and Labrador Railway ("**QSN&L**"), a major creditor of the Insolvent Parties has executed a confidentiality agreement with the Insolvent Debtors which agreement apparently covers the Confidential Information which the Insolvent Parties have provided to the Petitioners and PWC pursuant to the Confidentiality Agreement;
28. QSN&L and other creditors have asked the Petitioners to share with them the results of the PWC analysis prepared with Confidential Information;
29. The current terms and conditions of the Confidentiality Agreement do not allow the Petitioners to share PWC's findings or analysis (the "**PWC Work Product**") and do not allow the Petitioner to discuss with other creditors issues resulting from Confidential Information received from the Insolvent Parties;
30. In order for the Petitioners and other creditors of the Insolvent Debtors to be able to make a decision on whether or not the sale of assets to be proposed by the Insolvent Debtors is the best solution for the creditors, it is imperative that they be allowed to share the Confidential Information they have received amongst themselves, provided that they execute a confidentiality agreement with the Insolvent Debtors and that such agreement provides language permitting such exchange of information and the communication of the PWC Work Product;
31. On December 9, 2015, the undersigned attorneys wrote to the Insolvent Debtors' counsel with a copy to Monitor's counsel, requesting that the Confidentiality Agreement be amended to allow such discussions and exchanges between creditors that have executed confidentiality agreements with the Insolvent Debtors, the whole as appears from a copy the said letter communicated herewith as **Exhibit R-5**;
32. The letter R-4 included as an attachment an Amended Confidentiality Agreement (the "**Amended Confidentiality Agreement**") that would allow such communication between creditors that have already executed or that will execute confidentiality agreements with the Insolvent Debtors filed under confidential seal, as appears from the said Amended Confidentiality Agreement, in clean and compared versions from the original Confidentiality Agreement, communicated herewith under confidential seal as **EXHIBITS R-6** and **R-7**;
33. In response, Petitioners counsels have been advised by the Insolvent Debtors that, as a condition precedent to considering Petitioners' request for modification of the Confidentiality Agreement, that the PWC Work Product be disclosed to the Insolvent Debtors and the Monitor, and that only once such disclosure has occurred would the Insolvent Debtors and the Monitor decide whether they considered it appropriate to modify the CA and to allow the Petitioners and QSN&L to share the information to which they both have the right under separate confidentiality agreements, the whole as appears from an exchange of emails confirming the telephone conference held on Friday, December 11, 2015, dated December 11 and 12, 2015, communicated herewith as **EXHIBIT R-8**;

34. The Petitioners respectfully submit that the PWC Work Product is protected as it is subject to attorney client privilege and litigation privilege, and if shared with other creditors it will become subject common interest privilege, all of which will be lost if shared with the Insolvent Debtors and the Monitor;
35. The Petitioners moreover respectfully submit that the condition precedent imposed by the Insolvent Debtors and the Monitor is unjustified and inappropriate;
36. UNNU and EBC are therefore entitled to request from the Insolvent Debtors that they be allowed to share Confidential Information and the PWC Work Product with Quebec North Shore and Labrador Railway and any other creditor of the Insolvent Debtors which has or will have entered into a confidentiality agreement with the Insolvent Debtors, and
37. The present Motion is well founded both in facts and in law.

FOR THESE REASONS, MAY IT PLEASE THIS HONOURABLE COURT:

- [1] **GRANT** the present Motion;
- [2] **ORDER** that Groupe UNNU-EBC S.E.N.C. and EBC Inc. are hereby authorized to communicate and provide Confidential Information (as such term is defined in the Confidentiality Agreement, Exhibit R-4) obtained from the Insolvent Debtors as well as the PWC Work Product to Quebec North Shore and Labrador Railway, as well as to any other creditor of the Insolvent Debtors which has or will have entered into a confidentiality agreement with the Insolvent Debtors;
- [3] **ORDER** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever;
- [4] **THE WHOLE** with costs.

Montreal, December 15, 2015


BORDEN LADNER GERVAIS LLP
Attorneys for the Petitioners
GROUPE UNNU-EBC S.E.N.C.
and EBC INC.

C A N A D A

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EBC INC.

Creditors / Petitioners


LIST OF EXHIBITS

EXHIBIT R- 1:

Print-out of the Statement of Information (REQ System) issued by the Registrar of Enterprises on October 26, 2015 with respect to Groupe UNNU-EBC s.e.c.n.c;

- EXHIBIT R- 2:** Print-out of the Statement of Information (REQ System) issued by the Registrar of Enterprises on October 26, 2015 with respect to EBC Inc.;
- EXHIBIT R- 3:** *En liasse*, legal hypothecs and proofs of registration from EBC and UNNU registered under number 55 903 and 55 904;
- EXHIBIT R- 4:** **UNDER CONFIDENTIAL SEAL:** Confidentiality Agreement dated September 16, 2015;
- EXHIBIT R- 5:** Letter from the undersigned attorneys dated December 9, 2015;
- EXHIBIT R- 6:** **UNDER CONFIDENTIAL SEAL:** Amended Confidentiality Agreement in clean version;
- EXHIBIT R- 7:** **UNDER CONFIDENTIAL SEAL:** Amended Confidentiality Agreement in compared version;
- EXHIBIT R- 8:** Exchange of emails confirming the telephone conference, dated December 11 and 12, 2015.

MONTREAL, December 15, 2015


BORDEN LADNER GERVAIS LLP
Attorneys for the Petitioners
GROUPE UNNU-EBC S.E.N.C.
and EBC INC.

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ATTESTATION D'AUTENTICITÉ SELON L'ARTICLE 82.1 C.P.C.

Je, soussigné, **FRANÇOIS D. GAGNON**, avocat, exerçant ma profession au 1000, de la Gauchetière ouest, suite 900, Montréal, Québec, H3B 5H4, district de Montréal, atteste ce qui suit :

1. En date du 15 décembre 2015, à 16h20, j'ai reçu par courriel de Monsieur Martin Houle un affidavit dûment signé par lui;
2. Monsieur Martin Houle m'a transmis ledit affidavit de l'Ancienne-Lorette, Québec, Canada;
3. La copie dudit affidavit jointe à la présente attestation est conforme au courriel ainsi reçu de Monsieur Martin Houle.

Montréal, le 15 décembre 2015

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke, positioned above a horizontal line.

François D. Gagnon
BORDEN LADNER GERVAIS LLP

MTL01: 3525798: v1

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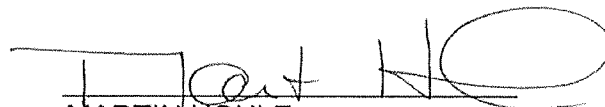
AFFIDAVIT OF MARTIN HOULE

I, the undersigned, **MARTIN HOULE**, Vice-President Finances and Administration, having a place of business at 1095, Valets Street. C.P. 158, in the city of l'Ancienne-Lorette, province of Quebec, G2E 3M3, solemnly declare:


1. I am on the representative of the Creditors / Petitioners GROUPE UNNU-EBC S.E.N.C. and EBC INC. in the present case;

2. I have read the attached *Motion to allow Petitioners to communicate information and/or documentation with creditors who have executed confidentiality agreements* and all the facts set forth in paragraphs 2, 3, 6 and 17 of the present Motion are true.

AND I HAVE SIGNED:


MARTIN HOULE

Solemnly declared before me in
L'Ancienne-Lorette, this 15th day of December 2015


Commissioner for oaths for Québec

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-and-

EBC INC.


Creditors / Petitioners

AFFIDAVIT OF FRANCOIS D. GAGNON


I, the undersigned, **FRANÇOIS D. GAGNON**, lawyer, having a place of business at 1000, de la Gauchetière Ouest, Bureau 900, in the city of Montreal, province of Quebec, H3B 5H4, solemnly declare:

1. I am one the attorneys for the Creditors / Petitioners GROUPE UNNU-EBC S.E.N.C. and EBC INC. in the present case;
2. I have read the attached *Motion to allow Petitioners to communicate information and/or documentation with creditors who have executed confidentiality agreements* and all the facts set forth in paragraphs 14, 15, 18 to 23, 25, 27, 28 and 33 of the present Motion are true.

AND I HAVE SIGNED:


FRANÇOIS D. GAGNON

Solemnly declared before me in
Montréal, this 15th day of December 2015


Commissioner for oaths for Québec



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GROUPE UNNU-EBC S.E.N.C

-and-

EBC INC.

Creditors / Petitioners

NOTICE OF PRESENTATION

TO: Me Bernard Boucher (bernard.boucher@blakes.com)
BLAKE, CASSELS & GRAYDON S.E.N.C.R.L.
600 boulevard de Maisonneuve Ouest
Bureau 2200
Montréal QC H3A 3J2

Attorneys for : Petitioners / Respondents

TO : Me Sylvain Rigaud (sylvain.rigaud@nortonrosefulbright.com)
NORTON ROSE FULBRIGHT CANADA S.E.N.C.R.L.,S.R.L.
1 Place Ville Marie
Bureau 2500
Montréal QC H3B 1R1

Attorneys for: Monitor

TO: SERVICE LIST

TAKE NOTICE that the present *Motion to allow Petitioners to communicate information and/or documentation with creditors who have executed confidentiality agreements* will be presented for adjudication before the Honourable Stephen W. Hamilton, j.s.c., or another of the Honourable judges of the Superior Court of Québec, Commercial Division, sitting in and for the district of Montreal, at the Montreal Courthouse located at 1, Notre-Dame Street East, Montreal, Quebec, at a time and in a room to be determined.

Montréal, December 15, 2015



BORDEN LADNER GERVAIS LLP
Attorneys for the Petitioners
GROUPE UNNU-EBC S.E.N.C.
and EBC INC.