

SUPERIOR COURT
(Commercial Division)

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N^o: 500-11-048114-157

DATE: September 23, 2016

PRESIDING: THE HONOURABLE STEPHEN W. HAMILTON J.S.C.

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

THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP

-and-

WABUSH IRON CO. LIMITED

and-

WABUSH RESOURCES INC.

Petitioners

and-

RITCHIE BROS AUCTIONEERS (CANADA) LTD.

Mise-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

APPROVAL AND VESTING ORDER

[1] **ON READING** the Petitioners' *Motion for the Issuance of an Approval and Vesting Order with respect to the sale of certain assets* (the "**Motion**"), the affidavit and the

exhibits in support thereof, as well as the 23rd Report of the Monitor dated September 16, 2016, (the "**Report**");

- [2] **SEEING** the service of the Motion;
- [3] **SEEING** the *De Bene Esse* Notice of Objection of Quebec Iron Ore Inc. to the Motion for the issuance of an Approval and Vesting Order with respect to the Sale of Certain Assets of the Petitioners dated September 9, 2016 (the "**Objection**");
- [4] **SEEING** the submissions of the Petitioner's and the Monitor's attorneys;
- [5] **SEEING** that, in light of the Objection and to allow that an hearing be held in connection with the latter, it is appropriate at this point in time to issue an order approving the transaction only with respect to the Scully Mine Equipment, and excluding the Bloom Lake Mine Equipment, (the "**Transaction**"), contemplated by the agreement entitled Amended and Restated Asset Purchase Agreement (the "**Purchase Agreement**") dated as of September 22, 2016 by and between The Bloom Lake Iron Ore Mine Limited Partnership, Wabush Resources Inc., and Wabush Iron Co. Limited as vendors (the "**Vendors**") and Ritchie Bros Auctioneers (Canada) Ltd., as purchaser (the "**Purchaser**"), a redacted copy of which was filed as Exhibit R-7^{At} to the Motion, and vesting in the Purchaser all of Vendors' right, title and interest in and to the Scully Mine Equipment.

FOR THESE REASONS, THE COURT HEREBY:

- [6] **GRANTS** in part the Motion.
- [7] **ORDERS** that all capitalized terms in this Order shall have the meaning given to them in the Purchase Agreement unless otherwise indicated herein.

SERVICE

- [8] **ORDERS** that any prior time period for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
- [9] **PERMITS** service of this Order at any time and place and by any means whatsoever.

SALE APPROVAL

- [10] **ORDERS AND DECLARES** that the Transaction is hereby approved with respect to the Scully Mine Equipment, and the execution of the Purchase Agreement by the Vendors is hereby authorized and approved, *nunc pro tunc*.
- [11] **AUTHORIZES AND DIRECTS** the Monitor to hold the Deposit, *nunc pro tunc*, and to apply, disburse and/or deliver the Deposit or the applicable portions thereof in accordance with the provisions of the Purchase Agreement and this Order.

AUTHORIZATION

- [12] **ORDERS AND DECLARES** that this Order shall constitute the only authorization required by the Vendors to proceed with the Transaction and that no other approval or authorization, including any board or shareholder approval, shall be required in connection therewith.

EXECUTION OF DOCUMENTATION

- [13] **AUTHORIZES AND DIRECTS** the Vendors, Purchaser and the Monitor to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in or contemplated by the Purchase Agreement, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Monitor, and any other ancillary document which could be required or useful to give full and complete effect thereto.

VESTING OF THE SCULLY MINE EQUIPMENT

- [14] **ORDERS AND DECLARES** that upon the issuance of a Monitor's Scully certificate substantially in the form appended as **Schedule "A"** hereto (the "**Certificate**"), all rights, title and interest in and to the Scully Mine Equipment shall vest free and clear, absolutely and exclusively in and with the Purchaser, from any and all rights, titles, 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, and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Scully Mine Equipment, be expunged and discharged as against the Scully Mine Equipment, in each case effective as of the applicable time and date of the Certificate.
- [15] **ORDERS** the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Certificate, to reduce the scope of the registrations carrying the following numbers in connection with the Scully Mine Equipment (as detailed in Schedule "B" hereto) in order to allow the transfer to the Purchaser of the Scully Mine Equipment free and clear of such registrations:
- a) Rights of ownership of the lessor number 06-0584733-0001;
 - b) Conventional hypothec without delivery number 15-0142340-0003;
 - c) Conventional hypothec without delivery number 15-0474115-0003;
 - d) Conventional hypothec without delivery number 15-0142340-0002;
 - e) Conventional hypothec without delivery number 15-0474115-0004.

- [16] **ORDERS AND DIRECTS** the Monitor, upon receipt of (i) payment in full of the Scully Purchase Price, Transfer Taxes (if any are payable) for remittance to the applicable taxation authorities in accordance with Applicable Law, in the amounts set out in the Scully Conditions Certificates, and (ii) of each of the Scully Conditions Certificates, to (a) issue forthwith its Certificate concurrently to the Vendors and the Purchaser; and (b) file forthwith after issuance thereof a copy of the Certificate with the Court.
- [17] **DECLARES** that the Monitor shall be at liberty to rely exclusively on the Scully Conditions Certificates in issuing the Certificate, without any obligation to independently confirm or verify the waiver or satisfaction of the applicable conditions.
- [18] **AUTHORIZES AND DIRECTS** the Monitor to receive and hold the Scully Purchase Price and to remit the Scully Purchase Price in accordance with the provisions of this Order.

NET PROCEEDS

- [19] **ORDERS** that any amounts payable to the Vendors at the Scully Mine Closing in accordance with the Purchase Agreement (the "**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.
- [20] **AUTHORIZES AND DIRECTS** the Monitor, as soon as practicable after the Scully Closing, to remit to the applicable taxing authorities in accordance with Applicable Law, the Transfer Taxes (if any are payable) received by the Monitor from the Purchaser on Scully Closing as set out in the Scully Conditions Certificates, at the direction of, and on behalf of the Vendors.
- [21] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the balance of the Proceeds remaining following deduction for the Transfer Taxes (if any are payable) that are remitted by the Monitor pursuant to Paragraph 18 of this Order (the "**Net Proceeds**") shall stand in the place and stead of the Scully Mine Equipment, and that upon the issuance of the Certificate, all Encumbrances shall attach to the Net Proceeds with the same priority as they had with respect to the Scully Mine Equipment immediately prior to the Scully Closing, as if the Scully Mine Equipment had not been sold and remained in the possession or control of the Person having that possession or control immediately prior to the Scully Closing.
- [22] **ORDERS** that, following the issuance of the Certificate, the Purchaser shall have no recourse or claim of any kind against the Net Proceeds.

VALIDITY OF THE TRANSACTION

- [23] **ORDERS** that notwithstanding:
- a) the pendency of the proceedings under the CCAA;
 - b) any assignment in bankruptcy or any petition for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), and any order issued pursuant to any such petition;
 - c) any application for a receivership order; or
 - d) the provisions of any federal or provincial legislation;

the vesting of the Scully Mine Equipment contemplated in this Order, as well as the execution of the Purchase Agreement pursuant to this Order, are to be binding on any trustee in bankruptcy or receiver that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Vendors, the Purchaser or the Monitor, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

LIMITATION OF LIABILITY

- [24] **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Monitor to take control, or to otherwise manage all or any part of the Scully Mine Equipment. The Monitor shall not, as a result of this Order, be deemed to be in possession of any of the Scully Mine Equipment within the meaning of environmental legislation, the whole pursuant to the terms of the CCAA.
- [25] **DECLARES** that no Action lies against the Monitor by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Monitor or belonging to the same group as the Monitor shall benefit from the protection arising under the present paragraph.

GENERAL

- [26] **DECLARES** that the Vendors and the Purchaser shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.
- [27] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.
- [28] **DECLARES** that this Order is rendered without prejudice to the rights of Cliffs Mining Company ("**CMC**") asserted in the *De Bene Esse Application to Lift the Stay of Proceedings*, served to the Service List on September 21, 2016.
- [29] **DECLARES** that the Monitor shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.
- [30] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
- [31] **ORDERS** the provisional execution of this Order, including without limiting the general application of the foregoing, notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

THE WHOLE WITHOUT COSTS, ~~save-in-case-of-contestation-~~ *and*



STEPHEN W. HAMILTON J.S.C.

M^{re} Bernard Boucher
(Blake, Cassels & Graydon LLP)
Attorneys for the Petitioner

COPIE CERTIFIÉE CONFORME
AU DOCUMENT DÉTENU PAR LA COUR

 23/09/2016
Personne désignée par le greffier

Hearing date: September 23 , 2016

SCHEDULE "A" TO APPROVAL AND VESTING ORDER

FORM OF CERTIFICATE OF THE MONITOR

SUPERIOR COURT
(Commercial Division)

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

File: No: 500-11-048114-157

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

THE BLOOM LAKE IRON ORE MINE LIMITED PARTNERSHIP

-and-

WABUSH IRON CO. LIMITED

and-

WABUSH RESOURCES INC.

Petitioners

and-

RITCHIE BROS AUCTIONEERS (CANADA) LTD.

Mise-en-cause

-and-

FTI CONSULTING CANADA INC.

Monitor

CERTIFICATE OF THE MONITOR

RECITALS

- A. Pursuant to an initial order rendered by the Honourable Mr. Justice Martin Castonguay, J.S.C., of the Superior Court of Québec, Commercial Division (the "**Court**") on January 27, 2015 and amended on February 20, 2015, FTI Consulting Canada Inc. (the "**Monitor**") was appointed to monitor the business and financial affairs of Cliffs Québec Iron Mining ULC, Quinto Mining Corporation, 8568391 Canada Limited, Bloom Lake General Partner Limited, the Bloom Lake Railway Company Limited and The Bloom Lake Iron Ore Mine Limited Partnership (collectively, the "**Bloom Lake CCAA Parties**").
- B. Pursuant to an Order of the Court granted by the Court on May 20, 2015, the Monitor was appointed to monitor the business and financial affairs of Wabush Iron Co. Limited, Wabush Resources Inc., Arnaud Railway Company, Wabush Lake Railway Company Limited and Wabush Mines (collectively, the "**Wabush CCAA Parties**"). The Wabush CCAA Parties and the Bloom Lake CCAA Parties are referred to herein collectively as the "**CCAA Parties**".
- C. Pursuant to an order (the "**Approval and Vesting Order**") rendered by the Court on •, 2016, the transaction contemplated by the Amended and Restated Asset Purchase Agreement dated as of September _____, 2016 (the "**Purchase Agreement**") by and between The Bloom Lake Iron Ore Mine Limited Partnership, Wabush Resources Inc., and Wabush Iron Co. Limited as vendors (the "**Vendors**") and Ritchie Bros Auctioneers (Canada) Ltd., as purchaser (the "**Purchaser**"), was authorized and approved only with respect to the Scully Mine Equipment, with a view, *inter alia*, to vest in and to the Purchaser, all of the Vendors' right, title and interest in and to the Scully Mine Equipment (as defined in the Purchase Agreement).
- D. Each capitalized term used and not defined herein has the meaning given to such term in the Purchase Agreement.
- E. The Approval and Vesting Order provides for the vesting of all of the Vendors' right, title and interest in and to the Scully Mine Equipment in the Purchaser, in accordance with the terms of the Approval and Vesting Order and upon the delivery of a certificate (the "**Certificate**") issued by the Monitor confirming that the Vendors and the Purchaser have each delivered Scully Conditions Certificates to the Monitor.
- F. In accordance with the Approval and Vesting Order, the Monitor has the power to authorize, execute and deliver this Certificate.
- G. The Approval and Vesting Order also directed the Monitor to file with the Court, a copy of this Certificate forthwith after issuance thereof.

THEREFORE, IN RELIANCE UPON THE SCULLY CONDITIONS CERTIFICATES ADDRESSED AND DELIVERED TO THE MONITOR BY EACH OF THE VENDORS AND THE PURCHASER, THE MONITOR CERTIFIES THE FOLLOWING:

1. The Monitor has received (i) payment in full of the Scully Purchase Price, and (ii) payment in full of the Transfer Taxes (if any are payable) payable by the Purchaser on Scully Closing in the amounts set out in the Scully Conditions Certificates, all in accordance with the Purchase Agreement.

2. The Vendors and the Purchaser have each delivered to the Monitor the Scully Conditions Certificates evidencing that all applicable conditions under the Purchase Agreement have been satisfied and/or waived, as applicable.

3. The Scully Closing Time is deemed to have occurred on at <TIME> on <*>, 2016.

THIS CERTIFICATE was issued by the Monitor at <TIME> on <*>, 2016.

FTI Consulting Canada Inc., in its capacity as Monitor of the CCAA Parties, and not in its personal or corporate capacity.

By: _____

Name: Nigel Meakin

SCHEDULE "B" TO APPROVAL AND VESTING ORDER

SCULLY MINE EQUIPMENT

Description	Year	Serial Number
Komatsu 830E Haul Truck	2006	KMTHD039N61A30022
Komatsu 830E Haul Truck	2011	KMTHD039N61A30533
Komatsu 830E Haul Truck	2011	KMTHD039N61A30534
Komatsu 830E Haul Truck	2011	KMTHD039N61A30589
Komatsu 830E Haul Truck	2012	KMTHD039N61A30761
Komatsu 830E Haul Truck	2013	KMTHD039N61A40882
Komatsu 830E Haul Truck	2013	KMTHD039N61A40883
Komatsu 830E Haul Truck	2013	KMTHD039N61A40889
Komatsu 830E Haul Truck	2013	KMTHD039N61A40893
Engine and auxiliary parts located next to Truck A30533	N/A	