

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF **MONTREAL**

N<sup>o</sup>: **500-11-048114-157**

**SUPERIOR COURT**

Commercial Division

(Sitting as a court designated pursuant to the *Companies' Creditors Arrangement Act*, R.S.C., c. 36, as amended)

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

**BLOOM LAKE GENERAL PARTNER LIMITED**

**QUINTO MINING CORPORATION**

**CLIFFS QUÉBEC IRON MINING ULC**

**WABUSH IRON CO. LIMITED**

**WABUSH RESOURCES INC.**

Petitioners

-and-

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

**WABUSH MINES**

**ARNAUD RAILWAY COMPANY**

Mises-en-cause

-and-

**FTI CONSULTING CANADA INC.**

Monitor

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**MOTION FOR THE ISSUANCE OF AN ORDER EXTENDING THE STAY PERIOD AND  
AUTHORIZATION TO DESTROY RECORDS<sup>1</sup>**

(Section 11 of the *Companies' Creditors Arrangement Act*)

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**TO THE HONOURABLE MICHEL A. PINSONNAULT, J.S.C. OR ONE OF THE HONOURABLE  
JUDGES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN AND FOR  
THE DISTRICT OF MONTREAL, THE PETITIONERS AND THE MISES-EN-CAUSE SUBMIT:**

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<sup>1</sup> Except as otherwise provided for herein, all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Bloom Lake Initial Order (as defined herein) and the Wabush Initial Order (as defined herein).

## 1. BACKGROUND

1. On January 27, 2015, Mr. Justice Martin Castonguay, J.S.C., issued an Initial Order (as subsequently amended, rectified and/or restated, the “**Bloom Lake Initial Order**”) commencing these proceedings (the “**CCAA Proceedings**”) pursuant to the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) in respect of the Petitioners Bloom Lake General Partner Limited, Quinto Mining Corporation (“**Quinto**”), 8568391 Canada Limited (“**8568391**”) and Cliffs Québec Iron Mining ULC (“**CQIM**”) and the Mises-en-cause The Bloom Lake Iron Ore Mine Limited Partnership (“**BLLP**”) and Bloom Lake Railway Company Limited (“**BLRC**”, together with all such other parties (other than 8568391 from and after November 21, 2019 when 8568391 ceased to be a CCAA Party upon its wind-up and dissolution and BLRC from and after June 7, 2022 when BLRC ceased to be a CCAA Party upon its wind-up and dissolution), the “**Bloom Lake CCAA Parties**”), as appears from the Initial Order dated January 27, 2015, which forms part of the Court record.
2. Pursuant to the Bloom Lake Initial Order, *inter alia*, FTI Consulting Canada Inc. was appointed as monitor to the businesses and financial affairs of the Bloom Lake CCAA Parties (the “**Monitor**”) and a stay of proceedings was ordered in respect of the Bloom Lake CCAA Parties until February 26, 2015 (the “**Bloom Lake Stay Period**”).
3. The Bloom Lake Stay Period was extended by order of the Court from time-to-time, as appears from the Court record.
4. On April 17, 2015, Mr. Justice Stephen W. Hamilton, J.S.C., issued, *inter alia*, the following orders:
  - a) an Order (the “**Sale Advisor Order**”), *inter alia*, authorizing the engagement of Moelis & Company LLC as the Bloom Lake CCAA Parties’ mergers and acquisitions financial advisor, as appears from a copy of the Sale Advisor Order, which forms part of the Court record; and
  - b) an Order (the “**SISP Order**”), *inter alia*, approving sale and investor solicitation procedures (the “**Initial SISP**”) in respect of the Bloom Lake CCAA Parties, as appears from a copy of the SISP Order, which forms part of the Court record.
5. On May 20, 2015, Mr. Justice Hamilton issued an Initial Order (as subsequently amended, rectified and/or restated the “**Wabush Initial Order**”) extending the scope of the CCAA Proceedings to the Petitioners Wabush Iron Co. Limited (“**Wabush Iron**”) and Wabush Resources Inc. (“**Wabush Resources**”) and the Mises-en-cause Wabush Mines, Wabush Lake Railway Company Limited (“**Wabush Railway**”), and Arnaud Railway Company (“**Arnaud**”, and collectively (other than Wabush Railway from and after June 7, 2022 when Wabush Railway ceased to be a CCAA Party upon its wind-up and dissolution, the “**Wabush CCAA Parties**”; the Wabush CCAA Parties, together with the Bloom Lake CCAA Parties, the “**CCAA Parties**”), the whole as appears from the Court record.
6. Pursuant to the Wabush Initial Order, *inter alia*, the Monitor was appointed as the monitor to the businesses and financial affairs of the Wabush CCAA Parties and a stay of proceedings was granted until June 19, 2015 (the “**Wabush Stay Period**”; collectively with the Bloom Lake Stay Period, the “**Stay Period**”).

7. On June 9, 2015, Mr. Justice Hamilton, issued an order (the “**Wabush Comeback Order**”), *inter alia*:
- a) extending the Wabush Stay Period to July 31, 2015;
  - b) approving the Initial SISP as it relates to the Wabush CCAA Parties, *nunc pro tunc* to the date of the Wabush Initial Order, authorizing the amendment and restatement of the Initial SISP, and approving the amended and restated sale and investor solicitation procedures; and
  - c) approving the engagement of the Sale Advisor as it relates to the Wabush CCAA Parties, *nunc pro tunc* to the date of the Wabush Initial Order,

the whole as appears from a copy of the Wabush Comeback Order, which forms part of the Court record.

8. On November 5, 2015, Mr. Justice Hamilton issued an order (as amended by an order of the Court issued on November 16, 2015, and as further amended from time to time, the “**Amended Claims Procedure Order**”), *inter alia*:
- a) approving a procedure for the submission, evaluation and adjudication of claims against the CCAA Parties and their current and former directors and officers; and
  - b) ordering the extinguishment of all Claims, D&O Claims and Restructuring Claims (as each such term is defined in the Amended Claims Procedure Order) not filed in accordance with the applicable deadlines set out in the Amended Claims Procedure Order,

the whole as appears from a copy of the Amended Claims Procedure Order, which forms part of the Court record.

9. On March 26, 2018, Mr. Justice Hamilton issued an order (the “**Post-Filing Claims Procedure Order**”), *inter alia*,
- a) approving a procedure for the submission, evaluation and adjudication of post-filing claims, if any, against the CCAA Parties and their current and former directors and officers; and
  - b) ordering the extinguishment of all Post-Filing Claims and Post-Filing D&O Claims (each as defined in the Post-Filing Claims Procedure Order) not filed in accordance with the applicable deadlines set out in the Post-Filing Claims Procedure Order.

10. On April 20, 2018, Mr. Justice Hamilton issued an order (as rectified on April 25, 2018), *inter alia*, accepting the filing of a Joint Plan of Compromise and Arrangement dated April 16, 2018 (the “**Original Plan**”) by the Participating CCAA Parties, authorizing the Participating CCAA Parties (as defined therein) to hold Meetings of the Unsecured Creditor Classes (as defined therein) to consider and vote on a resolution to approve the Original Plan, and permitting amendments to the Original Plan without further order of the Court only until May 18, 2018.

11. On May 18, 2018, Mr. Justice Hamilton issued an order (the “**Amended Meetings Order**”), which, *inter alia*, accepted the filing of the Amended and Restated Joint Plan of Compromise and Arrangement in respect of the Participating CCAA Parties (as defined therein), dated May 16, 2018 (as it may be further amended, restated or supplemented from time to time, the “**Plan**”), authorizing the Participating CCAA Parties to convene meetings of Unsecured Creditor Classes (as defined therein) of the Participating CCAA Parties (the “**Meetings**”) to consider and vote on a resolution to approve the Plan.
12. The Plan effected comprehensive settlements reached in respect of Pension Claims (as defined therein), claims in respect of other post-retirement employee benefit, Other Employee Claims (as defined therein) and the Non-Filed Affiliate Employee Actions (as defined therein).
13. In particular, the Plan settled claims arising from any failure of the Wabush CCAA Parties to make certain normal course payments or special payments under the Wabush CCAA Parties' pension plans and for the wind-up deficit under the Wabush CCAA Parties' defined benefit pension plans pursuant to the *Pension Benefits Act* (Newfoundland and Labrador), the *Pension Benefits Standards Act (Canada)* and the *Supplemental Pension Plans Act (Québec)*. In connection with implementation of the Plan, Notices of Discontinuances have since been filed with the Québec Court of Appeal, the Supreme Court of Canada and the Newfoundland and Labrador Supreme Court Trial Division (General) in connection with the proceedings commenced before such courts related to such claims.
14. On June 18, 2018, the Meetings were held in accordance with the Plan and the Amended Meetings Order, and the Plan was approved by the Classes of Affected Unsecured Creditors (as defined therein), the whole as appears from the Court record.
15. On June 29, 2018, Mr. Justice Hamilton issued the Sanction Order dated June 29, 2018 (the “**Plan Sanction Order**”), the whole as appears from the Court record.
16. On July 30, 2018, Mr. Justice Hamilton issued the Plan Modification Order dated July 30, 2018, pursuant to which minor modifications were made to the Plan in order to avoid unanticipated tax consequences, the whole as appears from the Court record.
17. On July 31, 2018, the Monitor issued the Plan Implementation Date Certificate, confirming the implementation of the Plan on July 31, 2018, the whole as appears from the Court record.
18. On or about August 10, 2018, the Monitor commenced interim distributions to non-employee Affected Creditors holding Proven Claims (as defined therein) under the Plan.
19. The Monitor has informed the CCAA Parties that all Affected Creditors with secured claims that have been finally determined or resolved have been paid their payment commencing on or about August 24, 2018.
20. On or about September 5, 2018, after confirming the amount of applicable withholdings with the applicable taxing authorities, the Monitor commenced interim distributions to employee Affected Creditors holding Proven Claims under the Plan. The Monitor has informed the CCAA Parties that all employee Affected Creditors holding Proven Claims have been paid their interim distributions (these distributions, together with the interim

distributions paid to non-employee Affected Creditors holding Proven Claims described earlier in this Motion, the “**Initial Interim Distribution**”).

21. On November 21, 2019, a Certificate of Dissolution was issued in respect of 8568391 and the Monitor filed a Dissolution Confirmation Certificate with respect thereto. Pursuant to paragraph 49 of the Plan Sanction Order, the CCAA Proceedings were terminated in respect of 8568391 and 8568391 is no longer a CCAA Party in these CCAA Proceedings, effective the date of the Certificate of Dissolution.
22. On December 3, 2019, the Court approved further modifications to the Plan in connection with the Court’s approval of certain late claims.
23. On June 7, 2022, Certificates of Dissolution dated June 7, 2022 with effect as at May 27, 2022 were issued in respect of BLRC and Wabush Railway and the Monitor filed a Dissolution Confirmation Certificate with respect thereto. Pursuant to paragraph 49 of the Plan Sanction Order, the CCAA Proceedings were terminated in respect of BLRC and Wabush Railway and BLRC and Wabush Railway are no longer CCAA Parties in these CCAA Proceedings, effective the date of the Certificates of Dissolution.
24. The Stay Period has been extended by order of the Court from time to time, most recently on November 26, 2021 and currently expires on June 30, 2022, as appears from the Court record.

## 2. ORDER SOUGHT

25. On this Motion, the CCAA Parties hereby seek the issuance of an Order which (i) provides for the extension of the Stay Period in respect of the CCAA Parties until November 30<sup>th</sup>, 2023, and (ii) authorizes the CCAA Parties and the Monitor to destroy certain Records (defined below), the whole as provided by the Stay Extension and Destruction of Records Order communicated herewith as **Exhibit R-1** and as described in greater detail below.

## 3. OVERVIEW OF LIMITED OUTSTANDING MATTERS

### 3.1 Twin Falls Corporation

26. As previously reported to this Court, the CCAA Parties, with the assistance of the Monitor, and Twin Falls Power Corporation (“**Twinco**”) and Churchill Falls (Labrador) Corporation (“**CFLCo**”) finalized the terms and conditions of a settlement (the “**Twinco Settlement**”) that resolved the matters in dispute in the *Motion for the Winding up and Dissolution, Distribution of Assets, Reimbursement of Monies and Additional Relief* (the “**CBCA Motion**”), *Motion for Expansion of the Monitor’s Powers* (“**Monitor’s Expansion of Powers Motion**”), the motion to dismiss the CBCA Motion filed by Twinco and contestation filed by CFLCo, applications for leave to appeal the Court’s decisions in the CBCA Motion and the Monitor’s Expansion of Power’s Motion filed by CFLCo (the “**Twin Falls Leave Applications**”) and CFLCo’s originating application for a court-supervised liquidation and dissolution of Twinco (the “**Twinco Liquidation Application**”). The Twinco Settlement was approved by this Court and closed on January 25, 2022. Pursuant to the Twinco Settlement, Wabush Iron and Wabush Resources sold their equity interests in Twinco to CFLCo. The CBCA Motion and Twin Falls Leave Applications were discontinued as part of the Twinco Settlement and Wabush Resources and Wabush Iron were removed as parties to the Twinco Liquidation Application.

## **3.2 Tax Updates**

### **3.2.1 Income Taxes**

27. As previously reported to the Court, on June 9, 2021, the CCAA Parties received a letter from the Canada Revenue Agency (“**CRA**”) confirming that all audits for the 2010-2015 period (and for Arnaud, the 2017-2018 period) are now closed.
28. All material income tax audit matters known to the CCAA Parties have been resolved without any resulting cash tax liabilities.
29. The CCAA Parties are not aware of any other ongoing CRA income tax audits for the 2015-2018 period, and the CRA had confirmed to the CCAA Parties’ advisors on May 5, 2021 that no such audits are currently open. The CCAA Parties are also not aware of any CRA income tax audits for the 2019 or 2020 taxation years at this time.

### **3.2.2 Sales Taxes**

30. Resolution of outstanding sales tax matters with the CRA and Revenu Québec have continued to experience slow progress. Covid-19 has exacerbated the delays. Updates on the material outstanding sales tax matters are summarized below.

#### **3.2.2.1 Disputed Sales Taxes Owing**

31. In March 2021, Revenu Québec informed the Monitor that the outstanding GST and QST sales tax audits for various post-filing taxation periods in respect of CQIM, Wabush Resources and BLLP have been completed and that notices of assessment had been issued reflecting the results of these audits and were mailed to the CCAA Parties.
32. The CCAA Parties have been informed by the Monitor that it will provide an update on these sales tax matters in the Monitor’s report to be filed in connection with this Motion.

#### **3.2.2.2 Sales Tax Refunds for Initial Interim Distribution of Disclaimer Damage Claims**

33. The Monitor has informed the CCAA Parties that in March 2021 Revenu Québec informed the Monitor that the audits for QST in respect of QST paid on the Initial Interim Distribution in respect of damage claims from the disclaimer of contracts for the November 2018 taxation period have been completed for Wabush Resources, BLLP and Arnaud and that final notices of assessment had been issued reflecting such audits and mailed to the CCAA Parties.
34. The CCAA Parties have received the notices of assessment for: (i) Wabush Resources, dated March 12, 2021, confirming a refund of \$337,117.37 for QST for November 2018 (the “**Wabush 2018 QST Refund**”), and (ii) BLLP, dated March 3, 2021, confirming a refund of \$544,051.75 for QST for November 2018 (the “**BLLP 2018 QST Refund**”).
35. Wabush Resources received the Wabush 2018 QST Refund, together with accrued interest, in late August 2021. The Monitor has informed the CCAA Parties that in mid-July 2021, BLLP received \$497,715.45 of the BLLP 2018 QST Refund. \$64,782 of the BLLP 2018 QST Refund was applied by way of offset against the BLLP 2018 QST Refund

owing. The CCAA Parties have been informed by the Monitor that, despite multiple attempts to do so, it has not yet been able to confirm the nature or other details of the offset with Revenu Québec.

### **3.2.2.3 Wabush Mines QST Refunds**

36. Notwithstanding continuing efforts of the CCAA Parties and the Monitor to resolve the dispute with Revenu Québec, the payment of QST refunds owing to Wabush Mines in the amount of approximately \$728,000.00 remains outstanding since a notice of objection was filed in April 2018 (the “**Wabush Mines QST Refund**”).
37. In February 2021, the Monitor received a formal ruling from Revenu Québec rejecting the CCAA Parties’ objection.
38. On March 19, 2021, Wabush Mines, through their tax consultant, filed an administrative complaint with the Revenu Québec Ombudsman Office.
39. The CCAA Parties have been informed by the Monitor that on or about April 16, 2021, the tax consultant informed the Monitor that the complaint to the Revenu Québec Ombudsman Office was unsuccessful in resolving the dispute.
40. On May 5, 2021, a Judicial Application Originating a Proceeding for an Appeal of a Tax Assessment with respect to the Wabush Mines QST Refund (the “**Wabush Mines QST Refunds Appeal**”) was filed with the Court of Québec.
41. On June 21, 2021, a case protocol was agreed to setting out various key dates before the court hearing to adjudicate the Wabush Mines QST Refunds Appeal.
42. On November 10, 2021, responses to certain written examination questions provided by Revenu Québec were served on Revenu Québec.
43. The deadline to file a request to set the Wabush Mines QST Refunds Appeal down for trial and judgment was extended from January 12, 2022 to April 11, 2022.
44. On March 18, 2022, Revenu Québec filed its statement of defence which was subsequently amended on April 26, 2022.
45. On April 11, 2022, the CCAA Parties filed an application for setting down for trial. A response was filed by Revenu Québec on April 26, 2022.
46. The parties are now waiting for the Court of Québec to set the Wabush Mines QST Refunds Appeal down for trial.

### **3.2.2.4 The Setoff Motion**

47. On or about October 2, 2020, the Monitor issued a notice to Revenu Québec allowing its claim for an aggregate amount of \$13,392,752.86 with respect to unpaid QST and GST on outstanding pre-filing amounts owing by CQIM to its suppliers pursuant to a notice of allowance dated October 2, 2020 (the “**Pre-Filing Sales Tax Claim**”).

48. In late 2020, the CCAA Parties were informed by the Monitor that Revenu Québec had informed the Monitor that it would set off the Pre-Filing Sales Tax Claim against the QST and GST input tax credit refund (“**ITC**”) amounts owing to CQIM in the aggregate amount of \$7,459,257.85 in respect of the Initial Interim Distribution paid to suppliers in respect of contract disclaimer damage claims (the “**CQIM ITC Refund**”).
49. On January 18, 2021, the Monitor filed a motion in this Court for advice and directions with respect to the ability of Revenu Québec, acting on behalf of itself and the CRA, to set-off the Pre-Filing Sales Tax Claim against the CQIM ITC Refund, on the basis that both claims are pre-filing claims that can be set-off in accordance with section 21 of the CCAA (the “**Setoff Motion**”). The Monitor and the CCAA Parties take the position that the proposed set-off is not permitted as the CQIM ITC Refund is a post-filing claim because, among other reasons, CQIM’s right to claim the CQIM ITC Refund only arose and became payable upon actual payment made by CQIM to the applicable suppliers under the Plan pursuant to the clear and unambiguous wording of the relevant provisions of the *Excise Tax Act* and *Québec Sales Tax Act*.
50. On March 19, 2021, this Court postponed the hearing of the Monitor’s Setoff Motion to allow Revenu Québec to finalize and file its audit verification report on or before April 15, 2021, and its Contestation and supporting affidavit(s) to be filed on or before May 14, 2021.
51. On May 14, 2021, Revenu Québec filed its Contestation asserting additional set off claims against three supplier invoices totalling \$422,940.05 (the “**Additional Setoff Claims**”) for the period subsequent to the issuance of the Initial Order. Revenu Québec has taken the position in its Contestation that set off applies to all of the Additional Setoff Claims which they have asserted are broken down between \$188,185.19 relating to invoices for the pre-filing period and the balance (\$234,755.16) relating to invoices for the post-filing period.
52. Revenu Québec’s position is that the CQIM ITC Refund claims relate to contracts entered into before the CCAA filing and therefore are, in essence, pre-filing claims which are capable of being subject to set off. According to Revenu Québec, the “supply” for which the “registrant” is deemed to have paid the Restructuring Claim (as defined in the Plan) is an “accessory” to the underlying contractual obligation “for the making of a taxable supply” and that, even if the CQIM ITC Refund claim “crystallized” post-filing, it nevertheless relates to and is sourced in pre-filing obligations and contracts, making the related ITCs pre-filing obligations.
53. The Monitor and the CCAA Parties maintain the position that the CQIM ITC Refund claims, including the ITC refunds relating to the Additional Setoff Claims in respect of post-filing invoices, are properly characterized as post-filing claims.
54. On November 8, 2021, Mr. Justice Pinsonnault released a decision granting the Setoff Motion, declaring that the CQIM ITC Refund claims and \$234,755.16 of the Additional Setoff Claims, constitute post-filing claims which cannot be offset by any of Revenu Québec’s Pre-Filing Sales Tax Claims (the “**RQ Setoff Decision**”).
55. Leave to appeal the RQ Setoff Decision was heard on December 17, 2021 and leave granted. The appeal of the RQ Setoff Decision will be heard on September 12, 2022.



### **3.2.3 Second Interim Distribution Tax Matters**

56. As previously reported to this Court, a second interim distribution under the Plan (the “**Second Interim Distribution**”) was put on hold pending the resolution of the 2015-2018 income tax audits and the late issuance of notices of assessment by the CRA, which were later resolved to the satisfaction of the CCAA Parties.
57. With the satisfactory resolution of the income tax audits as noted above, the process to effect the Second Interim Distribution was re-commenced and the Monitor has informed the CCAA Parties that the Second Interim Distribution was made on or around May 17, 2021.
58. The Monitor has informed the CCAA Parties that Revenu Québec has now audited the GST and QST returns made in respect to the Second Interim Distribution including with respect to GST and QST paid on the Second Interim Distribution in respect of damage claims from the disclaimer of contracts. Although the RQ Setoff Decision deals only with refunds owed to CQIM in respect of disclaimer damages paid on the Initial Interim Distribution, the same issues apply to refunds owed in respect of disclaimer damage claims paid by other CCAA Parties and by CQIM on the Second Interim Distribution.
59. The CCAA Parties are informed by the Monitor that it is in agreement with the audits with respect to the Second Interim Distribution and the Monitor awaits receipt, on behalf of the CCAA Parties and their creditors, of refunds owing to BLLP in the approximate amount of \$1,152,378.87 in respect of disclaimer damage claims paid on the Second Interim Distribution. The Monitor is also awaiting receipt, on behalf of the CCAA Parties and their creditors, of refunds owing to CQIM in the approximate amount of \$9,485,367.95 in respect of disclaimer damage claims paid on the Initial Interim Distribution and Second Interim Distribution, pending a final resolution of the appeal of the RQ Setoff Decision. The RQ Setoff Decision also extends to the refunds owing to Arnaud in respect of disclaimer damage claims paid on the Initial Interim Distribution and Second Interim Distribution in the aggregate amount of \$10,199.74.

### **3.3 Other Tax Matters**

60. The CCAA Parties are informed by the Monitor that further details on the other remaining sales tax audits will be provided in the Monitor’s report to be filed in connection with this Motion.

### **3.4 Dissolutions of BLRC and Wabush Railway**

61. Paragraphs 46 and 47 of the Plan Sanction Order permit the CCAA Parties to wind-up and dissolve BLRC and Wabush Railway as soon as practicable following the issuance of the Plan Sanction Order.
62. Out of an abundance of caution, the CCAA Parties had previously deferred pursuit the dissolutions of BLRC and Wabush Railway pending satisfactory resolution of the outstanding income tax audit issues. As those issues have been resolved, the CCAA Parties moved to dissolve BLRC and Wabush Railway which were formally dissolved effective May 27, 2022 by certificates of dissolution each dated June 7, 2022. As noted above, Confirmation of Dissolution Certificates for each of BLRC and Wabush Railway

were filed with the Court on June 9, 2022 and, as a result, pursuant to the Plan Sanction Order, BLRC and Wabush Railway are no longer CCAA Parties.

### 3.5 Representative Counsel Fee Approval

63. Pursuant to an Order of this Court dated January 22, 2015, as revised by the Order issued on December 21, 2017 (the "**Representation Order**"), Michael Keeper, Terence Watt, Damien Lebel and Neil Johnson were appointed as representatives (the "**Representatives**") of all Salaried/Non-union employees and retirees of the Wabush CCAA Parties (the "**Salaried Members**") and the firms of Koskie Minsky LLP ("**KM**") and Fishman Flanz Meland Paquin LLP ("**FFMP**", together with KM "**Salaried Rep Counsel**") of Montreal were appointed as Representative Counsel of all Salaried Members.
64. Pursuant to orders of the Court issued from time to time, the legal costs of the Representatives incurred from the inception of the CCAA Proceedings were ordered to be paid by the Wabush CCAA Parties subject to "fee caps" as set out in those orders.
65. In certain cases, the amount of the "fee cap" in a previous cost order was exceeded and payment of these "excess fees" were then subsequently authorized by the Court from time to time.
66. On September 23, 2019, Mr. Justice Pinsonnault ordered that the Wabush CCAA Parties pay the excess legal costs of the Representatives for the period June 30, 2018 to August 31, 2019, and imposed an aggregate fee cap of \$75,000 for the period from September 1, 2019 to the earlier of the discharge of Representative Counsel or the termination of the CCAA Proceedings (the "**Eighth Order for Legal Costs**").
67. At the time the fee cap in the Eighth Order for Legal Costs was determined, it was largely based on the expectation of Representative Counsel that the CCAA Proceedings would be substantially completed by around February 28, 2020.
68. On January 20, 2022, the Monitor received a letter from Salaried Rep Counsel indicating that the fee cap granted by this Court in the Eighth Order for Legal Costs had been exceeded and indicating that it would be seeking a motion to obtain the Court's approval for payment of these excess fees, together with additional fees to the end of the CCAA Proceedings.
69. On June 8, 2022, Salaried Rep Counsel served its *Motion for an Order for Legal Costs of Salaried/Non-Union Employees and Retirees* (the "**Ninth Motion for Legal Costs**") seeking the Court's approval of payment in the aggregate amount of CDN\$39,557.50, plus disbursements and taxes, for fees and costs of Salaried Rep Counsel representing additional fees and costs exceeding the fee cap in the Eighth Order for Legal Costs from September 1, 2019 to May 31, 2022 and approving a further fee cap in the amount of CDN\$75,000, plus disbursements and applicable taxes, from June 1, 2022 to discharge of Salaried Rep Counsel or termination of the CCAA Proceedings.
70. The CCAA Parties understand that Salaried Rep Counsel is seeking to have the Ninth Motion for Legal Costs heard concurrently with this Motion. The CCAA Parties take no position on the relief being requested in the Ninth Motion for Legal Costs.

#### 4. REQUESTED DESTRUCTION OF BOOKS AND RECORDS

71. As reported to the Court at the last stay extension motion, the CCAA Parties understand that there are approximately 500 boxes of documents (the “**Records**”) that are stored with a third-party storage provider and that may possibly contain books and records acquired by Buyers (defined below) as part of the Court-approved transactions completed in the CCAA Proceedings. Based on the list of the Records that has been obtained by the CCAA Parties (the “**Records List**”), a majority of the Records were delivered into storage prior to the commencement of the CCAA Proceedings. The balance of the Records came from the CCAA Parties’ head office in Montreal that were initially delivered to the CCAA Parties’ counsel’s office when the head office lease was disclaimed on December 13, 2015 (the “**Head Office Records**”). The Head Office Records were then subsequently delivered into third-party storage on February 2, 2016.
72. The CCAA Parties are not aware of any requirement that could apply to the Records that would require them to retain the Records beyond a maximum of seven (7) years.
73. Based on the dates the Records were put into storage as set out in the Records List, approximately 70 percent of the Records have been in storage for over seven (7) years and just over half of the Records relate to the period between 2005 and 2013, at least eight (8) years ago.
74. Based on the Records List, the Head Office Records will have been in storage for over seven (7) years as of February 2, 2023.
75. Based the Records List, the Records also appear to be commingled amongst the various CCAA Parties, and some of the Records appear to be related to non-filed affiliates of the CCAA Parties. In addition, most of the Records are not specifically labelled and therefore the contents of those Records are not easily identifiable without having to review the contents of each of the 500 boxes. The CCAA Parties do not believe that the Records contain any corporate minute books or corporate registers.
76. As previously reported to the Court, the CCAA Parties had reviewed all the purchase agreements entered into by the CCAA Parties and identified 3 purchasers who purchased books and records of the CCAA Parties under their purchase agreements which may be included in the Records (each a “**Buyer**”). The CCAA Parties provided the Buyers with specific written notice of the CCAA Parties’ intention to dispose of the Records and an opportunity to object to the destruction of the Records within 30 days of the notice (the “**Objection Deadline**”).
77. The CCAA Parties received one objection from a Buyer, Québec Iron Ore Inc. and Champion Iron Ore Limited (collectively “**QIO**”), the purchaser of the Bloom Lake Mine. QIO requested access to a subset of the Records comprised of 48 boxes (the “**Requested Records**”) to determine whether such Records constitute Purchased Assets under the Asset Purchase Agreement dated December 11, 2015 among CQIM, Quinto, BLLP and QIO (the “**Bloom APA**”).
78. The CCAA Parties conducted a preliminary review of 11 of the Requested Records to determine whether such boxes may contain Excluded Assets (as defined in the Bloom APA). Based on the review, the CCAA Parties determined that, but for certain documents

which constitute Excluded Assets, the 11 boxes appeared to mostly contain Purchased Assets that could be released to QIO.

79. On July 28, 2021, the CCAA Parties and QIO executed a non-disclosure agreement (the "**NDA**"). Pursuant to the protocol set out in the NDA (the "**Records Protocol**"), the CCAA Parties sent a notice to QIO disclosing the nature of the documents proposed to be excluded from the 11 boxes prior to their transfer to QIO (the "**Excluded Records**") of the remaining records in those boxes. QIO did not dispute the exclusion of the Excluded Records and the 11 boxes, less the Excluded Records, were then delivered to QIO in September 2021.
80. With respect to the remaining 37 boxes of Requested Records, all of which appeared to relate to Quinto, the CCAA Parties sent those boxes directly to QIO on October 15, 2021 subject to the terms and conditions of the NDA, including the Records Protocol.
81. Pursuant to the Records Protocol, QIO was required to review the contents of the boxes within a reasonable amount of time not exceeding three (3) months from receipt of the boxes (the "**Review Deadline**"), being January 15, 2022, and to attest to the contents of such boxes being Purchased Assets. Under the Protocol, QIO was required to disclose to the CCAA Parties and Monitor if any of the Records contained in the boxes constitute Excluded Assets.
82. Given the continuing Covid-19 pandemic restrictions, the CCAA Parties and the Monitor subsequently agreed to extend the Review Deadline to April 15, 2022.
83. On March 15, 2022, QIO confirmed that, following their review of the 37 boxes of Requested Records, they determined that none of them constituted Purchased Assets under the Bloom APA.
84. Pursuant to the Records Protocol, at the option of the CCAA Parties in writing, such Excluded Assets must either be: (i) returned to the CCAA Parties, or (ii) certified by QIO to have been destroyed, in each case at QIO's sole cost and expense.
85. The CCAA Parties seek authorization of the Court to destroy the Records, including those determined by QIO to be Excluded Records, as follows:
  - a) all Records (with the exception of the Head Office Records) to be destroyed as soon as practicable after the requested Order authorizing such destruction is issued; and
  - b) all Head Office Records to be destroyed as soon as practicable after February 2, 2023.
86. The CCAA Parties believe it is appropriate to seek destruction of the Records and cease incurring costs for retaining such Records for the following reasons:
  - a) the Records are dated; as noted above, the Records are at least approximately six (6) years old and a majority appear to mostly relate to periods prior to the CCAA filing;

- b) all of the assets of the CCAA Parties have been sold and the purchasers thereof who had purchased books and records had been notified of the CCAA Parties' intention to destroy the Records and only QIO had advised that they may require such Records. As noted above, QIO has received those Records which they have determined to be Purchased Assets under the Bloom APA;
- c) the non-filed affiliates have been informed of the proposed Records destruction and have informed the CCAA Parties that they do not object to the proposed destruction;
- d) the CCAA Parties have not had any employees since July 2017, all registered pension plans were terminated and the CCAA Parties replaced as administrator thereof in 2016 and all registered and unregistered pension plans have now been wound up;
- e) all pre-filing claims against the CCAA Parties have been finally determined (subject to those claims that are the subject matter of the RQ Setoff Decision under appeal) or have been finally released pursuant to the Plan and Sanction Order;
- f) there are no income tax audits outstanding and all outstanding sales tax audits relate to periods outside of when the Records relate to;
- g) during the course of the CCAA Proceedings, neither the CCAA Parties nor the Monitor have accessed any of the Records except as noted above in connection with QIO's request for disclosure of certain of those documents to confirm whether they constituted Purchased Assets under the Bloom APA;
- h) the Monitor has informed the CCAA Parties that it does not require access to any of the Records; and
- i) the CCAA Parties do not believe that any of the Records constitute records that must be retained in accordance with any provincial and federal laws (subject only to the Head Office Records which may possibly have to be retained until no later than February 2, 2023).

## **5. THE EXTENSION OF THE STAY PERIOD IS APPROPRIATE**

- 87. Since the issuance of the Bloom Lake Initial Order and the Wabush Initial Order, the CCAA Parties have acted and continue to act in good faith and with due diligence.
- 88. Since the Stay Period was last extended to June 30, 2022, the CCAA Parties or their counsel have, with the assistance of and in consultation with the Monitor, *inter alia*:
  - a) communicated regularly with the Monitor and provided the Monitor with full cooperation and complete access to the CCAA Parties' Property and books and records;
  - b) worked to resolve various outstanding tax assessments and audits of the CCAA Parties;

- c) responded to numerous information requests in respect of various outstanding tax audits and queries related to the CCAA Parties' sales tax returns;
  - d) assisted the Monitor in filing for and pursuing federal and Québec sales tax refunds;
  - e) made representations with respect to leave to appeal the RQ Setoff Decision;
  - f) prepared and filed legal argument for the appeal of the RQ Setoff Decision;
  - g) advanced the Wabush Mines QST Refunds Appeal;
  - h) negotiated and finalized the Twinco Settlement and sought and obtained Court approval of same;
  - i) communicated with the claims administrator with respect to proofs of claim filed by certain of the CCAA Parties in respect of settlement of U.S. class actions involving foreign exchange instruments (the "**U.S. FX Class Actions Claims**");
  - j) communicated with the claims administrator with respect to proofs of claim filed by certain of the CCAA Parties in respect of settlement of the Canadian class actions involving foreign exchange instruments and providing such additional documents as requested by the claims administrator from time to time (the "**CDN FX Class Actions**");
  - k) communicated with QIO and the Monitor regarding the Records and implementation of the Records Protocol;
  - l) communicated with the Monitor regarding the proposed motion by the Representatives for further fee approvals for Salaried Rep Counsel; and
  - m) communicated with the Monitor regarding the proposed destruction of the Records.
89. It is respectfully submitted that the extension of the Stay Period until November 30<sup>th</sup>, 2023 is required to provide all CCAA Parties with sufficient time to, *inter alia*:
- a) work with the Monitor to resolve outstanding issues related to the federal and Québec sales tax filings of the CCAA Parties and to obtain all sales tax refunds due to the CCAA Parties in respect thereof;
  - b) continue to advance the Wabush Mines QST Refunds Appeal;
  - c) make representations with respect to the appeal of the RQ Setoff Decision;
  - d) receive any amounts recoverable from the U.S. FX Class Actions Claims, which amounts are expected to be de minimis;
  - e) receive any amounts recoverable from the CDN FX Class Actions, which amounts are expected to be de minimis;
  - f) assist the Monitor with the destruction of the Records;

- g) assist the Monitor with the final distributions contemplated under the Plan; and
  - h) complete the dissolution of the remaining CCAA Parties and their subsidiaries as contemplated under the Plan.
90. It is anticipated that the requested extension of the Stay Period until November 30<sup>th</sup>, 2023 will afford the CCAA Parties additional time that is needed to progress and complete all of the foregoing.
91. During the Stay Period, the CCAA Parties will continue to diligently pursue the final determination or resolution of these matters as soon as practicable. However, the timing to finally determine or resolve these outstanding matters is largely outside of the CCAA Parties' control as the outstanding matters are litigation and the resolution of sales tax audits and assessments with Revenu Québec.
92. The CCAA Parties are hopeful that the full requested Stay Period will ultimately not be needed. However, extending the Stay Period until November 30<sup>th</sup>, 2023 will reduce the cost of multiple stay extensions to the CCAA Parties' estates while the CCAA Parties pursue final determination or resolution of the final matters.
93. The Monitor has advised the CCAA Parties that it supports the present Motion and the extension of the Stay Period and proposed destruction of the Records. The CCAA Parties understand that the Monitor will file a report regarding the proposed extension of the Stay Period and the proposed destruction of the Records.
94. In addition, given the length of the requested stay, the Monitor has agreed to provide status updates to creditors on the Monitor's website in connection with the CCAA Proceedings on a quarterly basis, no later than the last day of each quarter (i.e., March 31, June 30, September 30 and December 31) during the Stay Period. Given the limited number and nature of the outstanding matters remaining in the CCAA Proceedings, the CCAA Parties are informed by the Monitor that other than in connection with this Motion and any other motion coming before the Court, unless the Monitor deems it necessary or appropriate, the Monitor does not intend to file any formal reports during the proposed Stay Period.
95. Considering that all the CCAA Parties' assets have been sold in the context of these CCAA Proceedings, and that the ongoing expenses consist of professional fees, the CCAA Parties believe that there is sufficient liquidity to fund the estimated ongoing costs and expenses of the CCAA Parties and any obligations incurred by them until November 30, 2023. The CCAA Parties have acted and are acting with good faith and due diligence, circumstances exist that make the extension of the Stay Period appropriate, and no stakeholder will be materially prejudiced by the extension of the Stay Period.
96. In light of the foregoing, the CCAA Parties respectfully ask this Court to extend the Stay Period until November 30, 2023, the whole subject to all other terms of the Bloom Lake Initial Order and the Wabush Initial Order.

**6. PROCEDURAL MATTERS**

97. The Petitioners submit that the notices given of the presentation of the present Motion are proper and sufficient.
98. Pursuant to paragraph 54 of the Bloom Lake Initial Order and to paragraph 56 of the Wabush Initial Order, all motions in these CCAA Proceedings are to be brought on not less than ten (10) calendar days' notice to all Persons on the service list. Each motion must specify a date (the "**Initial Return Date**") and time for the hearing.
99. The service of the present Motion serves as notice pursuant to paragraph 54 of the Bloom Lake Initial Order and paragraphs 47 and 56 of the Wabush Initial Order.
100. Paragraph 55 of the Bloom Lake Initial Order and paragraph 57 of the Wabush Initial Order require that any Person wishing to object to the relief sought on a motion in the CCAA Proceedings must serve responding motion materials or a notice stating the objection to the motion and grounds for such objection (a "**Notice of Objection**") in writing to the moving party and the Monitor, with a copy to all persons on the service list, no later than 5 p.m. Montréal time on the date that is four (4) calendar days prior to the Initial Return Date (the "**Objection Deadline**"). Accordingly, any parties wishing to object to the relief sought on this Motion must serve responding motion materials or a Notice of Objection by no later than 5 p.m. Montréal time on June 17, 2022.
101. Paragraph 56 of the Bloom Lake Initial Order and paragraph 58 of the Wabush Initial Order further provide that if no Notice of Objection is served by the Objection Deadline, the Judge having carriage of the motion may determine whether a hearing is necessary, whether such hearing will be in person, by telephone or in writing and the parties from whom submissions are required (collectively, the "**Hearing Details**").
102. Paragraph 57 of the Bloom Lake Initial Order and paragraph 59 of the Wabush Initial Order provide that the Monitor shall communicate with the Judge and the service list with respect to the Hearing Details.

**7. CONCLUSIONS**

103. In light of the foregoing, the Petitioners hereby respectfully seek the issuance of an order substantially in the form of the Draft Stay Extension and Authorization to Destroy Records Order communicated herewith as **Exhibit R-1**.
104. The present Motion is well founded in fact and in law.

**FOR THESE REASONS, MAY IT PLEASE THE COURT TO:**

**GRANT** the present Motion;

**ISSUE** an order substantially in the form of the Draft Stay Extension and Authorization to Destroy Records Order (Exhibit R-1) communicated in support hereof;



**WITHOUT COSTS**, save and except in case of contestation.

Montréal, June 10, 2022

*Blake, Cassels & Graydon L.L.P.*

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**BLAKE, CASSELS & GRAYDON LLP**

Attorneys for the Petitioners and the Mises-en-cause  
(Court Code: BB-8098)

1 Place Ville-Marie, Suite 3000

Montréal, Québec H3B 4N8

**M<sup>re</sup> Bernard Boucher**

[bernard.boucher@blakes.com](mailto:bernard.boucher@blakes.com)

Telephone: 514-982-4006

Fax: (514) 982-4099

Our reference: 11573-375


**AFFIDAVIT**

I, the undersigned, James Graham, the General Counsel & Secretary of Bloom Lake General Partner Limited, Cliffs Québec Iron Mining ULC, Quinto Mining Corporation, Wabush Resources Inc., Wabush Iron Co. Limited, and the Secretary of Arnaud Railway Company, having a place of business at 200 Public Square, Cleveland, Ohio, solemnly affirm that all the facts alleged in the present *Motion for the Issuance of an Order Extending the Stay Period and Authorization to Destroy Records* are true.

AND I HAVE SIGNED:

  
James Graham

SOLEMNLY DECLARED before me at  
Cuyahoga Ohio, on this  
10<sup>th</sup> day of June, 2022

  
Notary Public

**Irene Sisamis  
Notary Public  
State of Ohio  
My Commission Expires  
September 14, 2024**

## **NOTICE OF PRESENTATION**

**TO: Service List**

**AND: Supplemental Notification List**

**TAKE NOTICE** that the present *Motion for the Issuance of an Order Extending the Stay Period and Authorization to Destroy Records* will be virtually presented for adjudication before the Honourable Michel A. Pinsonnault, J.S.C., or another of the honourable judges of the Superior Court, Commercial Division, sitting in and for the district of Montréal, in the Montréal Courthouse located at 1, Notre-Dame Street East, Montréal, Québec, on **June 21, 2022, at 9:00 a.m.**

The coordinates to join the virtual hearing are the following:

### Microsoft Teams

Join the virtual meeting:

[Click here](#)

**By telephone**

+1 581-319-2194, 607974525# Canada, Quebec  
(833) 450-1741, 607974525# Canada (Toll Free Number)  
Conference Telephone ID: 607 974 525#

**DO GOVERN YOURSELF ACCORDINGLY.**

Montréal, June 10, 2022

*Blake, Cassels & Graydon L.L.P.*

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#### **BLAKE, CASSELS & GRAYDON LLP**

Attorneys for the Petitioners and the Mises-en-cause  
(Court Code: BB-8098)

1 Place Ville-Marie, Suite 3000  
Montréal, Québec H3B 4N8

**M<sup>re</sup> Bernard Boucher**

[bernard.boucher@blakes.com](mailto:bernard.boucher@blakes.com)

Telephone: 514-982-4006

Fax: (514) 982-4099

Our reference: 11573-375

CANADA

PROVINCE OF QUÉBEC  
DISTRICT OF **MONTREAL**

**SUPERIOR COURT**

Commercial Division

(Sitting as a court designated pursuant to the *Companies' Creditors Arrangement Act*, R.S.C., c. 36, as amended)

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N<sup>o</sup>: 500-11-048114-157

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

**BLOOM LAKE GENERAL PARTNER LIMITED  
QUINTO MINING CORPORATION  
CLIFFS QUÉBEC IRON MINING ULC  
WABUSH IRON CO. LIMITED  
WABUSH RESOURCES INC.**

Petitioners

-and-

**THE BLOOM LAKE IRON ORE MINE LIMITED  
PARTNERSHIP  
WABUSH MINES  
ARNAUD RAILWAY COMPANY**

Mises-en-cause

-and-

**FTI CONSULTING CANADA INC.**

Monitor

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**LIST OF EXHIBITS**

(In support of the *Motion for the Issuance of an Order Extending the Stay Period and  
Authorization to Destroy Records*)

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**R-1** Draft Stay Extension and Authorization to Destroy Records Order

Montréal, June 10, 2022

*Blake, Cassels & Graydon L.L.P.*

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**BLAKE, CASSELS & GRAYDON LLP**

Attorneys for the Petitioners and the Mises-en-cause

(Court Code: BB-8098)

1 Place Ville-Marie, Suite 3000

Montréal, Québec H3B 4N8

**M<sup>re</sup> Bernard Boucher**

[bernard.boucher@blakes.com](mailto:bernard.boucher@blakes.com)

Telephone: 514-982-4006

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Our reference: 11573-375

N°: 500-11-048114-157

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**SUPERIOR COURT  
DISTRICT OF MONTREAL  
(Commercial Division)**

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

**BLOOM LAKE GENERAL PARTNER LIMITED & AL.**  
Petitioners

-and-

**THE BLOOM LAKE IRON ORE MINE LIMITED  
PARTNERSHIP & AL.**  
Mises-en-cause

-and-

**FTI CONSULTING CANADA INC.**  
Monitor

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**MOTION FOR THE ISSUANCE OF AN ORDER  
EXTENDING THE STAY PERIOD AND  
AUTHORIZATION TO DESTROY RECORDS,  
AFFIDAVIT, NOTICE OF PRESENTATION AND  
EXHIBIT R-1 (Section 11 CCAA)**

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**ORIGINAL**

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The logo for the law firm Blakes, featuring the word "Blakes" in a stylized, cursive script font.

**M<sup>re</sup> Bernard Boucher**  
**BLAKE, CASSELS & GRAYDON LLP**  
Barristers & Solicitors  
1 Place Ville Marie, Suite 3000  
Montréal, Québec H3B 4N8  
Telephone: 514-982-4006  
Fax: 514-982-4099  
Email: [bernard.boucher@blakes.com](mailto:bernard.boucher@blakes.com)

**BB-8098**

Our File: 11573-375