

CITATION: RE Harte Gold Corp., 2021 ONSC 8307
COURT FILE NO.: CV-21-00673304-00CL
DATE: 20211216

**SUPERIOR COURT OF JUSTICE – ONTARIO
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
HARTE GOLD CORP.**

(Applicant)

BEFORE: L. A. Pattillo J.

COUNSEL: *See attached Appendix "A"*

HEARD by Videoconference: December 16, 2021

ENDORSEMENT

[1] On December 7, 2021, I issued an Initial Order in this application granting the applicant, Harte Gold Corp., protection under the Companies Creditors Arrangement Act (CCAA). The Order provided, among other things, a stay of proceedings for an initial period of 10 days against or in respect of the applicant, its property or business or its directors and officers; appointed FTI Consulting Canada Inc. (FTI) as the Monitor of the applicant; approved a DIP Financing Agreement and borrowing an initial amount thereunder during the initial stay period; and security for the borrowing in the form of a DIP Lenders Charge as well as an Administration Charge and a Directors Charge.

[2] The comeback hearing was set before me for today's date. There were in excess of 40 counsel and observers in attendance. In addition to seeking an Amended and Restated Initial Order, the applicant sought approval for a sale and investment solicitation process (SISP) facilitated by a Stalking Horse Bid from the DIP Lender as well as increasing the amount which may be borrowed by it under the DIP Loan Agreement.

[3] Notwithstanding that the motion has been scheduled for nine days, I did not receive the applicant's material in support of the motion until 4:45 pm and the Monitor's First Report until 10:45 pm yesterday evening. Given the hearings I had yesterday and today, in addition to the application, there was simply not enough time to properly prepare for today's hearing.

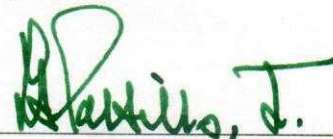
[4] Late filings are a chronic problem on the Commercial List. Not only are they unfair to the court in providing little or no time to prepare, they are unfair to all of the stakeholders for the same

reason. The result is potentially a hearing that may not properly consider all of the relevant issues arising from the granting of the order requested.

[5] The court has repeatedly raised its concerns with late filing with the commercial list bar but the problem continues to persist. While counsel apologize and offer excuses as to why the material is late, that does not correct the problem. In my view, it is only when there are consequences with late filing that the direction will be observed and obeyed.

[6] Accordingly, I adjourned the applicant's come-back motion to December 21, 2021. In addition, I extended the stay to that date and, based on the cash flow projections, provided by the Monitor, increased the applicant's authorization to borrow under the DIP Financing Agreement for an additional \$2.1 million resulting in an aggregate amount of \$2.5 million in order the maintain the business.

[7] I wish to make it clear that late filings will be continued to be accepted in respect of emergency matters. What is not permitted is late filings in respect of applications or motions previously scheduled. In such situation, counsel are forewarned their matter could be adjourned to the next available date which may not coincide with their client's requirements.



L.A. Pattillo J.

Date: December 16, 2021

App. 'A'

Court File No. CV-21-00673304-00CL

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(Applicant)

**COUNSEL SLIP
(DECEMBER 16, 2021)**

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