

**Court File No. CV-12-9539-00CL**

**Timminco Limited  
Bécancour Silicon Inc.**

**TWENTY-EIGHTH REPORT OF THE MONITOR**

**March 25, 2015**

Court File No. CV-12-9539-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(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  
TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

**TWENTY-EIGHTH REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

**INTRODUCTION**

1. On January 3, 2012, Timminco Limited (“**Timminco**”) and its wholly owned subsidiary, Bécancour Silicon Inc. (“**BSI**”, together with Timminco, the “**Timminco Entities**”) made an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) and an initial order (the “**Initial Order**”) was made by the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), granting, *inter alia*, a stay of proceedings against the Timminco Entities until February 2, 2012, (the “**Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor of the Timminco Entities (the “**Monitor**”). The proceedings commenced by the Timminco Entities under the CCAA will be referred to herein as the “**CCAA Proceedings**”.

2. The Stay Period has been extended a number of times. Pursuant to the Order of the Honourable Mr. Regional Senior Justice Morawetz granted December 22, 2014 (the “**December 22 Order**”) the Stay Period currently expires on March 31, 2015.
3. On June 15, 2012, the Honourable Mr. Justice Morawetz granted an order approving a procedure for the submission, review and adjudication of claims against the Timminco Entities and of claims against the directors and officers of the Timminco Entities (the “**Claims Procedure Order**”). The Claims Bar Date was set at 5:00 p.m. Toronto time on July 23, 2012. The Monitor has reviewed all claims and been in contact with various claimants in order to attempt to resolve a variety of outstanding issues.
4. By Order of the Honourable Mr. Justice Newbould dated August 17, 2012, Russell Hill Advisory Services Inc. (“**Russell Hill**”) was appointed as Chief Restructuring Officer (the “**CRO**”) of the Timminco Entities and the engagement letter dated July 24, 2012, between Russell Hill and the Timminco Entities (the “**CRO Agreement**”) was approved.
5. The CRO Agreement was for an initial term of six months with any extension to be negotiated with the Monitor subject to approval of the Court. The CRO Agreement was extended a number of times pursuant to the terms of the CRO Extension Agreement dated April 25, 2013 approved by the Court on May 14, 2013.
6. The CRO was discharged on December 16, 2013 pursuant to the provisions of the Order of the Honourable Mr. Justice Newbould. On the same date, Mr. Justice Newbould issued an Order (the “**Monitor Powers Order**”) expanding the powers of the Monitor to enable the Monitor to complete the estate in the name of and on behalf of the Timminco Entities.

7. To date, the Monitor has filed twenty-seven reports on various matters relating to the CCAA Proceedings. The purpose of this, the Monitor's Twenty-Eighth Report is to:
  - (a) Update the Court on recent activities of the Monitor and the outstanding matters remaining to be completed in order to finalize the CCAA Proceedings; and
  - (b) Request the granting of an Order extending the Stay Period until June 30, 2015.

#### **TERMS OF REFERENCE**

8. In preparing this report, the Monitor has relied upon unaudited financial information of the Timminco Entities, the Timminco Entities' books and records, certain financial information prepared by the Timminco Entities and discussions with various parties.
9. Except as described in this Report:
  - (a) The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook;
  - (b) The Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Canadian Institute of Chartered Accountants Handbook;

10. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
11. The Monitor has prepared this Report in connection with the motion described in its Notice of Motion dated March 25, 2015. The Report should not be relied on for other purposes.
12. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the previous reports of the Monitor, the Initial Order or other Order of the Court issued in the CCAA Proceedings.

#### **RECENT ACTIVITIES AND MATTERS REMAINING TO BE COMPLETED**

13. The Monitor had been optimistic that the CCAA Proceedings would be complete prior to March 31, 2015. However, significant difficulties and delays have been encountered in dealing with the relevant tax authorities with respect to the collection of approximately \$109,000 in HST refunds from Revenue Canada owing to Timminco (the "**Timminco Refund**") and approximately \$192,000 in tax refunds from Revenu Quebec owing to BSI (the "**BSI Refund**").
14. The Timminco Entities had failed to file certain tax returns, without which the taxation authorities refused to release the tax refunds owing to the Timminco Entities. Consequently, the Monitor caused the Timminco Entities to file those tax returns in November 2014 in order to enable recovery of the tax refunds.

15. Revenue Canada had informed the Monitor that it had issued the cheque for the Timminco Refund but that cheque was not received by the Monitor. On making enquiries with Revenue Canada, it was found that the cheque had been mailed to Timminco's former address, notwithstanding that Revenue Canada had been instructed to use, and had been using, the Monitor's address for all correspondence. Revenue Canada has informed the Monitor that it will redirect or reissue the refund cheque but to date the cheque has not been received.
16. Revenu Quebec would not recognize the Monitor as an authorized representative of BSI for the purposes of communicating with Revenu Quebec and it is only very recently that the Monitor has been successful in obtaining such recognition after many weeks of endeavouring to resolve the situation without the need to seek the assistance of the Court.
17. Revenu Quebec also requested additional information to be filed, all of which has now been provided by the Monitor on behalf of BSI. Revenu Quebec has informed the Monitor that it will likely be several weeks before Revenu Quebec completes its review of the information and issues the BSI Refund.
18. The only known significant activities remaining to be completed prior to the termination of the CCAA Proceedings and the discharge of the Monitor are as follows:
  - (a) The collection of the Timminco Refund and the BSI Refund and matters related thereto;
  - (b) Completing the final distributions of proceeds in accordance with prior Orders of the Court and matters related thereto;
  - (c) Statutory and administrative duties and filings; and
  - (d) Termination of CCAA Proceedings and discharge of Monitor and matters ancillary thereto.

**EXTENSION OF THE STAY PERIOD**

19. The Stay Period currently expires on March 31, 2015. Additional time is required for the Timminco Entities to complete the remaining matters in the CCAA Proceedings as described earlier in this report. Accordingly, the Timminco Entities now seek an extension of the Stay Period to June 30, 2015.
20. As at the date of this report, the Monitor holds cash of approximately \$987,000 on behalf of the Timminco Entities. The Timminco Entities therefore have sufficient funding for the extension of the Stay Period.
21. Based on the information currently available, the Monitor believes that creditors would not be materially prejudiced by an extension of the Stay Period to June 30, 2015.
22. The Monitor also believes that the Timminco Entities have acted, and are acting, in good faith and with due diligence and that circumstances exist that make an extension of the Stay Period appropriate.

The Monitor respectfully submits to the Court this, its Twenty-Eighth Report.

Dated this 25<sup>th</sup> day of March, 2015.

FTI Consulting Canada Inc.  
In its capacity as Monitor of  
Timminco Limited and Bécancour Silicon Inc.



Nigel D. Meakin  
Senior Managing Director

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Applicants

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

Proceeding Commenced at Toronto

**TWENTY-EIGHTH REPORT OF THE MONITOR**  
**DATED MARCH 25, 2015**

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