

Tab 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) TUESDAY, THE 28TH
)
JUSTICE NEWBOULD) DAY OF AUGUST, 2012

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENTS 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.**

(the "Applicants")

**ORDER
(Interim Distribution to IQ)**

THIS MOTION, made by Timminco Limited and Bécancour Silicon Inc. (BSI and, together with Timminco Limited, the "**Timminco Entities**") for an order authorizing and directing the Monitor to distribute cash in the amount equal to the outstanding amounts owing under the term loan agreement dated July 10, 2009 (the "**Secured Term Loan**") to Investissement Québec ("**IQ**"), less the amount of the Reserves (as defined below) was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Sean Dunphy sworn August 23, 2012, and on hearing the submissions of counsel to the Timminco Entities, FTI Consulting Canada Inc. in its capacity as the monitor of the Timminco Entities (the "**Monitor**"), and IQ,

no one appearing for any other person on the Service List, although properly served as appears from the affidavit of service, filed,

1. **THIS COURT ORDERS** that, unless otherwise indicated, any capitalized terms used but not defined herein shall have the meaning ascribed to such term in the agreement dated August ●, 2012 between BSI, the Monitor and IQ attached hereto as Schedule "A" (the "**Reimbursement Agreement**").

2. **THIS COURT ORDERS** that the terms of the Reimbursement Agreement are hereby approved and authorizes and directs BSI and the Monitor to enter into the Reimbursement Agreement.

Service

3. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record in respect of this Motion is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.

Distribution to IQ

4. **THIS COURT ORDERS** that the Monitor is authorized and directed, without further order of the Court, to immediately distribute to IQ from the proceeds of sale currently being held by the Monitor pursuant to the Orders of the Honourable Mr. Justice Morawetz dated May 22, 2012 and June 1, 2012 (the "**Sale Proceeds**") \$● subject to the Claw Back Procedure described below (the "**Interim Distribution**").

Reserves

5. **THIS COURT ORDERS** that the Monitor is hereby authorized and directed to establish, hold and maintain reserves (the "**Reserves**") from the Sale Proceeds, as follows:

- a) in the sum of \$● to which the Administration Charge (as defined in the Initial Order of the Honourable Mr. Justice Morawetz dated January 3, 2012, as amended (the "**Initial Order**")) shall attach with the same priority provided by the Initial Order; and
- b) in the sum of \$● to which the D&O Charge (as defined in the Initial Order) shall attach with the same priority provided by the Initial Order.

Claw Back Procedure

6. **THIS COURT ORDERS** that any party wishing to assert priority over IQ's security (a "**Priority Claimant**") must deliver notice of same to the Monitor, the CRO and IQ within 7 days from the date of this Order (the "**Claw Back Deadline**") stating the nature of and amount over which priority is claimed and the reasons for such claim.

7. **THIS COURT ORDERS** that on the consent of the Monitor, the CRO and IQ, a Priority Claimant's claim (a "**Reimbursement Claim**") shall be added to Schedule "A" of the Reimbursement Agreement. If such consent cannot be reached, the parties shall apply to the Court for directions.

8. **THIS COURT ORDERS** that the validity of any priority assertion made by a Priority Claimant will be determined pursuant to the process established in the Reimbursement Agreement and that any Reimbursement Claim finally determined to hold valid security in priority to the security of IQ is a Priority Claim.

9. **THIS COURT ORDERS** that IQ shall repay to BSI by payment to the Monitor any portion of the Interim Distribution as may be necessary to satisfy any Priority Claim within seven business days following the date that such Reimbursement Claim has been finally determined to be a Priority Claim.

10. **THIS COURT ORDERS** that the Reimbursement Agreement and the liability of IQ to BSI with respect to any Reimbursement claim shall terminate in accordance with the Reimbursement Agreement.

11. **THIS COURT ORDERS** that each of the CRO, the Monitor, IQ or any Priority Claimant may apply to this Court for directions in respect of any aspect of this Order.

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Monitor, the CRO and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor and to the CRO, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.**

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER
(Interim Distribution to IQ)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E
Tel: (416) 869-5236

Maria Konyukhova LSUC#: 52880V
Tel: (416) 869-5230

Kathryn Esaw LSUC#: 58264F
Tel: (416) 869-6820
Fax: (416) 947-0866

Lawyers for the Applicants

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.

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

Proceeding commenced at Toronto

**MOTION RECORD
(RETURNABLE AUGUST 28, 2012)**

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Ashley John Taylor LSUC#: 39932E

Tel: (416) 869-5236

Maria Konyukhova LSUC#: 52880V

Tel: (416) 869-5230

Kathryn Esaw LSUC#: 58264F

Tel: (416) 869-6820

Fax: (416) 947-0866

Lawyers for the Applicants