

**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 OF ARRANGEMENT OF
TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.**

Applicants

**MOTION RECORD
(Extending Stay Period to March 31, 2015)**

December 18, 2014

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Barristers and Solicitors
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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,

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

(Applicants)

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**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 OF ARRANGEMENT OF
TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.**

Applicants

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TAB 1

**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 OF ARRANGEMENT OF
TIMMINCO LIMITED AND BÉCANCOUR SILICON INC.**

Applicants

NOTICE OF MOTION

(Extending Stay Period to March 31, 2015)

FTI Consulting Canada Inc. in its capacity as Court-appointed monitor (the "**Monitor**") of Timminco Limited and its wholly owned subsidiary, Bécancour Silicon Inc. ("**BSI**", and together with Timminco Limited, the "**Timminco Entities**"), will make a motion to a judge presiding over the Commercial List on December 22, 2014, at 9:30 a.m., or as soon after that time as the motion can be heard, at 330 University Avenue, 8th Floor, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR an Order substantially in the form of the draft Order included in the Motion Record:

- (a) abridging the time for service of the Notice of Motion and the Motion Record, such that this motion is properly returnable on December 22, 2014;
- (b) extending the Stay Period (as defined below) until March 31, 2015; and

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- (c) such further and other relief as counsel may request and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- (d) On January 3, 2012, 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**");
- (e) Pursuant to the Initial Order, the Honourable Mr. Justice Morawetz granted a stay of proceedings against the Timminco Entities until February 2, 2012 (the "**Stay Period**");
- (f) The Stay Period has been extended a number of times and currently expires on December 31, 2014;
- (g) On June 15, 2014, the Honourable Mr. Justice Morawetz granted an order *inter alia* (a) 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, and (b) setting a claims bar date at 5:00 p.m. Toronto Time on July 23, 2012.
- (h) The Monitor has reviewed all claims and been in contact with the various claimants in order to attempt to resolve a variety of outstanding issues.

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- (i) On December 16, 2013, the Honourable Mr. Justice Newbould issued an 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;
- (j) As of the date of the Twenty-Seventh Report of the Monitor dated December 18, 2014, filed (the “**Twenty-Seventh Report**”), the Monitor holds approximately \$994,000 on behalf of the Timminco Entities;
- (k) The Monitor has caused the Timminco Entities to file missing tax returns without which taxation authorities were refusing to release certain tax refunds owing to the Timminco Entities.
- (l) The only known steps to finalize the CCAA proceedings are (a) the collection of certain tax refunds and completion of ancillary matters related thereto, (b) completing the final distributions of proceeds in accordance with prior Orders of the Court and matters related thereto, (c) completing statutory and administrative duties and filings, and (d) terminating the CCAA proceedings and discharging the Monitor;
- (m) Additional time is required to finalize the CCAA proceedings and the Timminco Entities appear to have sufficient funding for the extension of the Stay Period until March 31, 2015;
- (n) The Monitor believes that creditors would not be materially prejudiced by an extension of the Stay Period to March 31, 2015;

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- (o) The Monitor believes that the Timminco Entities have acted, and are acting in good faith and with due diligence;
- (p) Rules 1.04 and 2.03 of the *Rules of Civil Procedure*; and
- (q) Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (i) The Twenty-Seventh Report, filed; and
- (ii) Such further and other material as counsel may submit and this Honourable Court may permit.

December 18, 2014

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Inc.

TO: SERVICE LIST ATTACHED TO THE MOTION RECORD

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 OF ARRANGEMENT OF TIMMINCO LIMITED
AND BÉCANCOUR SILICON INC.

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

Proceeding Commenced at Toronto

**NOTICE OF MOTION
(Extending Stay Period to March 31, 2015)**

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Inc.

TAB 2

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

**Timminco Limited
Bécancour Silicon Inc.**

TWENTY-SEVENTH REPORT OF THE MONITOR

December 18, 2014

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-SEVENTH 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 September 29, 2014 (the “**September 29 Order**”) the Stay Period currently expires on December 31, 2014.
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 December 16 Order. 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-six reports on various matters relating to the CCAA Proceedings. The purpose of this, the Monitor's Twenty-Seventh Report is to:
 - (a) Update the Court on the 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 March 31, 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 December 18, 2014. 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.

MATTERS REMAINING TO BE COMPLETED

13. The Monitor has now caused the Timminco Entities to file the missing tax returns without which taxation authorities were refusing to release certain tax refunds owing to the Timminco Entities. Accordingly, 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 certain tax refunds 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

14. The Stay Period currently expires on December 31, 2014. 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 March 31, 2015. While it is unable to control the timing of the payment of refunds by the taxation authorities, the Monitor is optimistic that the remaining matters can be completed by that date.
15. As at the date of this report, the Monitor holds cash of approximately \$994,000 on behalf of the Timminco Entities. The Timminco Entities therefore have sufficient funding for the extension of the Stay Period.
16. Based on the information currently available, the Monitor believes that creditors would not be materially prejudiced by an extension of the Stay Period to March 31, 2015.
17. 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-Seventh Report.

Dated this 18th day of December, 2014.

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



Nigel D. Meakin
Senior Managing Director

TAB 3

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR. REGIONAL)	MONDAY, THE 22 nd DAY
)	
SENIOR JUSTICE MORAWETZ)	OF DECEMBER 2014

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.

Applicants

ORDER

(Extending Stay Period to March 31, 2015)

THIS MOTION, made by FTI Consulting Canada Inc. in its capacity as Court-appointed monitor (the "**Monitor**") of Timminco Limited and its wholly owned subsidiary, Bécancour Silicon Inc. ("**BSI**", and together with Timminco Limited, the "**Timminco Entities**") for an order extending the Stay Period (as defined in the Initial Order) until March 31, 2015 was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Twenty-Seventh Report of the Monitor dated December 18, 2014, filed (the "**Twenty-Seventh Report**"), and on hearing the submissions of counsel for the Monitor and [●], 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 the time for service of the Notice of Motion and the Motion Record is abridged, such that this motion is properly returnable today.

 2. **THIS COURT ORDERS** that the Stay Period (as defined in the Initial Order) be and is hereby extended to March 31, 2015.
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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 OF ARRANGEMENT OF TIMMINCO LIMITED
AND BÉCANCOUR SILICON INC.

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

Proceeding Commenced at Toronto

ORDER

**(EXTENDING STAY PERIOD TO MARCH 15,
2015)**

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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 OF ARRANGEMENT OF TIMMINCO LIMITED
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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding Commenced at Toronto

MOTION RECORD
(Extending Stay Period to March 31, 2015)
Returnable December 22, 2014

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