



NO. S-226670
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,
S.B.C. 2002, c. 57, AS AMENDED AND THE *BUSINESS CORPORATIONS ACT*,
S.N.B. 1981, c. B-9.1, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF TREVALI
MINING CORPORATION AND TREVALI MINING (NEW BRUNSWICK) LTD.

PETITIONERS

REQUISITION – GENERAL

Filed by: FTI Consulting Canada Inc., in its capacity as court-appointed monitor of Trevali Mining Corporation and Trevali Mining (New Brunswick) Ltd. (in that capacity, the "Monitor")

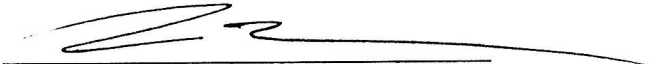
Required:

1. To file the Sixth Report of the Monitor dated December 19, 2022 (the "Sixth Report").

This Requisition is supported by the following:

1. The Sixth Report will be provided to Madam Justice Fitzpatrick, who is seized of this matter, however, it must still be filed with the Court.
2. The Monitor is required to provide a filed copy of the Sixth Report to the parties in this proceeding and to post a filed copy on the Monitor's website.

Date: 19/DEC/2022


Signature of lawyer for filing party
Eamonn Watson

THIS REQUISITION – GENERAL is prepared and filed by the law firm, Dentons Canada LLP, 20th Floor, 250 Howe Street, Vancouver, B.C. V6C 3R8, Attention: John Sandrelli / Valerie Cross (Telephone number: 604-687-4460) | Email: john.sandrelli@dentons.com

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SIXTH REPORT OF THE MONITOR

DECEMBER 19, 2022

SIXTH REPORT OF THE MONITOR

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INTRODUCTION

1. On August 19, 2022 (the “**Filing Date**”), Trevali Mining Corporation (“**Trevali Corp.**”) and Trevali Mining (New Brunswick) Ltd. (“**Trevali NB**” and collectively, “**Trevali**” or the “**Applicants**”) commenced proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to an order granted by this Honourable Court which was subsequently amended and restated on August 29, 2022 (the “**ARIO**”).
2. The ARIO appointed FTI Consulting Canada Inc. as Monitor in the CCAA Proceedings (the “**Monitor**”) and established a stay of proceedings (the “**Stay of Proceedings**”) in favour of the Applicants until October 6, 2022. The Stay of Proceedings has since been extended until and including January 27, 2023 (with respect to Trevali Corp.), and January 10, 2023 (with respect to Trevali NB).
3. On September 14, 2022, this Honourable Court granted the following orders:
 - a. an order (the “**SISP Order**”) approving procedures for a sales and investment solicitation process (the “**SISP**”) and a sales agent agreement between Trevali Corp. and National Bank Financial Inc. (the “**Sales Agent**”) and granting a charge to secure the Sales Agent’s fees (the “**Sales Agent Charge**”); and
 - b. an order approving a key employee retention plan (the “**KERP**”) and granting a charge over the Applicants’ property in favour of the KERP employees as security for the amounts payable under the KERP in the amount of \$800,000.
4. On October 12, 2022, this Honourable Court granted the following orders:
 - a. an order authorizing and empowering Trevali Corp. to obtain and borrow an interim financing tranche (the “**Interim Financing Tranche**”) agreed amongst Trevali Corp., the RCF Lenders, as defined in the First Report of the Monitor, dated August 26, 2022, and the administrative agent for the RCF Lenders, The

Bank of Nova Scotia (the “**RCF Administrative Agent**”) and granting a charge in favour of the RCF Administrative Agent, on behalf of the RCF Lenders, to secure obligations in connection with the Interim Financing Tranche; and

- b. an order authorizing and approving a settlement agreement between the Applicants, the RCF Lenders and Glencore AG and its affiliates (collectively, “**Glencore**”) resolving the issues which arose in response to Glencore declining to advise whether they will assert a purported right of set-off against amounts owing by them for delivery under off-take agreements with the Applicants and certain affiliated entities.
5. On December 15, 2022, Trevali Corp. entered into a share and asset purchase agreement (the “**Appian SPA**”) with Appian Natural Resources Fund III LP and Appian Natural Resources (UST) Fund III LP (“**Appian**” or the “**Purchasers**”) pursuant to which Trevali Corp. will:
- a. sell the shares (the “**GLCR Shares**”) of GLCR Limited (“**GLCR**”), a corporation existing under the laws of England and Wales and a wholly-owned subsidiary of Trevali Corp., to the Purchasers;
 - b. assign, to the Purchasers, a loan (the “**Trevali Capital Loan**”) from Trevali Corp. to Rosh Pinah Zinc Corporation (Proprietary) Ltd. (“**RPZC**”); and
 - c. cause Trevali Holdings (Bermuda) Ltd. (“**Trevali Bermuda**”) to assign, to Trevali Corp., a loan (the “**Trevali Bermuda Capital Loan**” and together with the Trevali Capital Loan, the “**Capital Loans**”) from Trevali Bermuda to Wilru Investments One Hundred Thirty-Four (Pty) Ltd. (“**Wilru**”). Trevali Corp. will then assign the Trevali Bermuda Capital Loan to the Purchasers (collectively, the “**Appian Transaction**”).
6. On December 16, 2022, the Applicants filed a Notice of Application for an order (the “**AVO**”) approving the Appian Transaction.

PURPOSE

7. The purpose of this Sixth Report is to provide this Honourable Court and the Applicants' stakeholders with information with respect to:
 - a. an update on the SISP;
 - b. the Appian SPA; and
 - c. Trevali's application for the AVO.

TERMS OF REFERENCE

8. In preparing this report, the Monitor has relied upon certain information (the "**Information**") including Trevali's unaudited financial information, books and records and discussions with senior management ("**Management**").
9. Except as described in this report, 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 Chartered Professional Accountants of Canada Handbook.
10. 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 Chartered Professional Accountants of Canada Handbook.
11. Future-oriented financial information reported to be 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.
12. Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars to be consistent with the Applicants' primary reporting currency.

13. Capitalized terms not otherwise defined herein are as defined in the First Report of the Monitor in these CCAA Proceedings dated August 26, 2022 or within the Appian SPA.

UPDATE ON THE SISP

14. The Applicants, in conjunction with the Sales Agent and in consultation with the Monitor, have been marketing the Applicants' interests in the Rosh Pinah mine and the Caribou mine in accordance with the SISP. The detailed timelines and procedures of the SISP are described in the Second Report of the Monitor dated September 12, 2022, and are not repeated herein.

15. Highlights of the SISP are as follows:

- a. the Sales Agent contacted 130 potentially interested parties, including 103 strategic and 27 private equity or other investors;
- b. 29 potential purchasers executed non-disclosure agreements and were provided with access to an electronic data room;
- c. as detailed in the Fifth Report of the Monitor dated December 12, 2022, no bids were submitted for the Applicants' interest in Trevali NB by the Caribou bid deadline of October 7, 2022. Accordingly, the Applicants did not invite any potential purchasers to participate in Phase II of the SISP with respect to the Caribou mine;
- d. 14 non-binding letters of intent ("LOIs") for the Applicants' interests in the Rosh Pinah mine were received by the Sales Agent and the Monitor on or before the Phase I bid deadline in respect of Rosh Pinah of October 21, 2022. Following consultation with the Monitor, the RCF Administrative Agent and Glencore, six potential purchasers that had submitted LOIs were invited to participate in Phase II of the SISP;

- e. Phase II due diligence included site visits to the mine site in Namibia, management presentations, additional documentation and financial information on the data site and telephone calls with various technical groups; and
- f. following site visits and other due diligence, four binding bids were received by the Sales Agent and the Monitor on or before the Phase II bid deadline of November 21, 2022, for binding bids with respect to the Rosh Pinah mine.

16. Trevali, in conjunction with the Sales Agent, evaluated the bids with consideration to, among other things:

- a. the proposed purchase price;
- b. compliance with the SISP terms and standard form of share purchase agreement;
- c. conditionality of the bids, including any financing requirements;
- d. the timeline to closing of the bids, including the target and outside closing dates;
- e. identity, circumstances and ability of the proponents involved in the bid to successfully close a transaction;
- f. closing risk and price risk including any remaining due diligence or other conditionality;
- g. the overall expected recoveries from the bids after taking into consideration the costs associated with the bids and their consummation; and
- h. the views of the RCF Administrative Agent, on behalf of the RCF Lenders, and Glencore as primary economic stakeholders in respect of the Rosh Pinah mine.

17. Ultimately, Trevali selected the offer from Appian as the preferred offer and negotiated the Appian SPA, which is described below.

APPIAN SPA

18. The Monitor is of the view that the purchase price and certain commercial terms of the Appian SPA are commercially sensitive and may be detrimental to the realization process in the event that Trevali is unable to successfully complete the Appian Transaction. Accordingly, the Monitor has prepared a Confidential Supplemental Report to the Sixth Report to disclose the full financial terms of the Appian SPA. An unredacted copy of the Appian SPA is attached to the Confidential Affidavit #10 of Brendan Creaney dated December 16, 2022 in these proceedings.

19. The key commercial terms of the Appian SPA are as follows:

- a. Trevali shall sell, assign and transfer the GLCR Shares and shall assign or cause to be assigned the Capital Loans to the Purchasers, in each case free and clear of all encumbrances;
- b. the aggregate consideration payable by the Purchasers (the “**Purchase Price**”) for the GLCR Shares and the Capital Loans will be an amount in cash calculated as follows:
 - i. the Base Purchase Price;
 - ii. plus or minus, as applicable, the Estimated Working Capital Amount;
 - iii. minus the Estimated Group Indebtedness;
 - iv. minus the Deposit.
- c. at closing, the Purchasers shall deliver or cause to be delivered to Trevali not less than one business day prior to the Closing Date, an amount equal to the Purchase Price minus an amount equal to the Working Capital Escrow Amount and an amount equal to the Indemnity Escrow Amount to be held by a mutually agreed to

escrow agent or by Computershare Trust Company of Canada or if such firm is unable to act, TSX Trust Company (the “**Indemnity Escrow Agent**”);

- d. the Working Capital Escrow Amount is to be held by the Monitor until the Final Working Capital Amount is agreed upon or is determined by the independent referee, as applicable;
- e. the Indemnity Escrow Amount is to be held by the Indemnity Escrow Agent for a period of 18 months;
- f. Trevali will in good faith prepare and deliver to the Purchasers not later than three days prior to the closing date, a written statement setting forth estimates of:
 - i. Working Capital; and
 - ii. Group Indebtedness, excluding any debts repaid at closing;
- g. as promptly as practicable, but in any event within 45 days after the Closing Date, the Purchasers will in good faith provide to Trevali a consolidated balance sheet as of closing setting forth the Purchasers’ proposed determinations of Working Capital and Group Indebtedness consistent with the illustrative calculation of Working Capital set out in Exhibit “A” to the Appian SPA;
- h. the Closing Balance Sheet and Closing Statement will be final, conclusive and binding on the parties unless Trevali provides a written dispute notice to the Purchasers within 45 days of receipt by Trevali;
- i. Appian and Trevali will attempt to resolve disputed items in good faith during the 20 day period following delivery of a dispute notice. If the Purchasers and Trevali are unable to resolve the disputed items, written notice may be provided that either party is submitting the disputed items for resolution to an independent

referee. The independent referee will review the final calculations and render a final determination of all disputed items in accordance with the Appian SPA;

- j. as promptly as possible, but in any event no later than the fifth business day following the final determination, the parties shall calculate the Adjusted Purchase Price as follows:
 - i. the Base Purchase Price;
 - ii. plus or minus, as applicable, the Final Working Capital Amount;
 - iii. minus the Final Group Indebtedness;
 - iv. minus the deposit;
- k. any reductions to the Purchase Price as a result of any adjustments in the final determination will be paid to the Purchasers from the Working Capital Escrow Account while any increases to the Purchase Price as a result of any adjustments in the final determination will be paid from the Purchasers to Trevali as promptly as possible but in any event no later than the sixth business day following the final determination, and the Working Capital Escrow Amount shall be paid to Trevali in accordance with the terms of the Working Capital Escrow Agreement;
- l. the GLCR Shares and the Capital Loans shall be sold and delivered to the Purchasers subject only to the representations and warranties and indemnifications contained in the Appian SPA;
- m. the representations, warranties, covenants and obligations of the Purchasers and Trevali will survive closing and continue in full force for a period of 18 months, excluding certain indemnification obligations relating to, among other things, failure to perform covenants and legal proceedings, which will survive closing and continue in full force for a period of six years, and certain indemnification

obligations that will survive closing and continue in full force for 30 days after relevant Government Authorities are no longer entitled to assess or reassess the Purchased Corporations in respect of taxes;

- n. Trevali will not have any liability or obligations with respect to any single claim for indemnification unless the amount of damages with respect to any such claim is above a certain threshold;
- o. the target closing date shall be February 28, 2023;
- p. the Parties' obligations to complete the transactions contemplated by the Appian SPA are conditional upon, among other things, the granting of the AVO and the Namibia Competition Law Approval having been obtained on terms acceptable to the Purchasers.

20. The Monitor's high-level comments with respect to the Appian SPA are as follows:

- a. the SISP was fair and transparent and provided all participants with equal access to information and opportunity to submit an offer and was conducted with the oversight of the Monitor;
- b. the Purchase Price and other terms of the Appian SPA are reasonable and fair considering its market value as determined through the SISP;
- c. the Monitor consents to holding the Working Capital Escrow Amount in escrow and administering the Working Capital Escrow Amount in accordance with the Appian SPA and the Working Capital Escrow Agreement to be finalized;
- d. Trevali is making arrangements to ensure that its on-going interest in the Indemnity Escrow Account will be governed appropriately for the period in escrow;

- e. the granting of Court approval of the SISP was supported by key stakeholders including the major secured creditors of Trevali;
- f. the Appian SPA is supported by key stakeholders including the RCF Administrative Agent, on behalf of the RCF Lenders, and Glencore, each of whom enjoyed certain consultation and information rights throughout the duration of the SISP;
- g. the target date of the Appian SPA will enable Trevali to seek to complete a transaction within the liquidity runway afforded by the Interim Financing Tranche;
- h. the timelines, conditions and other key terms of the Appian SPA are commercially reasonable in the circumstances, based on the Monitor's experience with similar transactions in the context of insolvency and restructuring proceedings;
- i. the Monitor is satisfied that Appian has the wherewithal to complete the transactions contemplated by the Appian SPA; and
- j. the Appian SPA will provide for the continued operation and investment in the Rosh Pinah mine to the benefit of its employees and local communities, offering greater benefit than a forced liquidation of Trevali's interest in the Rosh Pinah mine.

21. Overall, the Appian SPA is the best offer resulting from the SISP and will result in substantial recoveries to the stakeholders of Trevali in a timely manner, and is in the best interests of Trevali's stakeholders. Accordingly, the Monitor respectfully recommends that this Honourable Court grant the AVO that will vest the GLCR Shares and the Capital Loans in the Purchasers, free and clear of any encumbrances.

All of which is respectfully submitted this December 19, 2022.

FTI Consulting Canada Inc.
In its capacity as Monitor of Trevali

A handwritten signature in black ink, appearing to read 'Tom Powell', with a stylized, cursive script.

Tom Powell
Senior Managing Director

A handwritten signature in black ink, appearing to read 'Mike Clark', with a stylized, cursive script.

Mike Clark
Senior Director