

**SUPERIOR COURT
(Commercial Division)**

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF ABITIBI

N°: 615-11-001311-127

DATE : September 3, 2014

PRESIDING : THE HONOURABLE ROBERT DUFRESNE, J.S.C.

IN THE MATTER OF THE RECEIVERSHIP OF :

CENTURY MINING CORPORATION,

Debtor

-and-

SAMSON BÉLAIR / DELOITTE & TOUCHE INC.,

Receiver / Petitioner

-and-

COMPUTERSHARE TRUST COMPANY OF CANADA,

Collateral Agent

-and-

DEUTSHE BANK AG, LONDON BRANCH,

Principal Secured Creditor

-and-

**THE LAND REGISTRAR FOR THE LAND REGISTRY
OFFICE FOR THE REGISTRATION DIVISION OF ABITIBI,**

-and-

THE REGISTRAR OF THE REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS,

-and-

THE MINISTER OF ENERGY AND NATURAL RESOURCES,

-and-

SOMERSET LEASING CORP. IV,

-and-

SOMERSET CAPITAL GROUP LTD,

Mis en cause

APPROVAL AND VESTING ORDER

- [1] **ON READING** the Receiver / Petitioner Samson Bélair/Deloitte & Touche inc's (the Receiver") *Motion (i) to Authorize the Sale of Part of the Debtor's Assets, and (ii) to Modify the Receivership Order* (the "**Motion**"), the affidavit and the exhibits in support thereof, as well as the Report of the Receiver dated August 29 , 2014 (the "**Report**");
- [2] **SEEING** the service of the Motion;
- [3] **SEEING** the submissions of the Receiver's attorney;
- [4] **SEEING** that it is appropriate to issue an order approving the transaction contemplated by the agreement entitled *Asset Purchase Agreement* by and between the Receiver, the Purchaser (as these terms are defined below) and the Purchaser's parent company, copy of which was filed under seal of confidentiality as **Exhibit R-4** to the Motion, and vesting in the Purchaser the assets described in the list appended as Schedule "A" hereto;
- [5] **SEEING** that it is appropriate to issue an order approving the settlement transactions contemplated by the agreements attached to said *Asset Purchase Agreement* as "Schedule I" and "Schedule J" and that are ancillary to the Transaction, as this term is defined hereinafter (see **Exhibit R-4**);

WHEREUPON THE COURT :

- [6] **GRANTS** the Motion;

SERVICE

- [7] **ORDERS** that any prior delay for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof;
- [8] **PERMITS** service of this Order at any time and place and by any means whatsoever;

SALE APPROVAL

- [9] **ORDERS and DECLARES** that the transaction (the "**Transaction**") contemplated by the agreement entitled *Asset Purchase Agreement* (the "**Purchase Agreement**") by and between *Samson Bélair / Deloitte & Touche Inc.* in its capacity as receiver (the "**Receiver**") to the assets of *Century Mining Corp.* ("**CMC**"), the Purchaser, as this term is defined in the Purchase Agreement (the "**Purchaser**") and the Purchaser's parent company, as it is identified in the Purchase Agreement, copy of which was filed under seal of confidentiality as **Exhibit R-4**, for the purchase of the assets described in the list appended as "**Schedule A**" hereto (the "**Purchased Assets**") and the execution of the Purchase Agreement, are hereby authorized and approved, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Receiver;
- [10] **ORDERS AND DECLARES** that the transactions (the "**Settlement Transactions**") contemplated by the agreements attached to the Purchase Agreement as "Schedule I" (the "**Somerset Agreement**") and "Schedule J" (the "**Waste Rock Settlement Agreements**") and that are ancillary to the Transaction are hereby approved, and the execution of the Somerset Agreement and the Waste Rock Settlement Agreements by the Receiver is hereby authorized and approved, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Receiver;

EXECUTION OF DOCUMENTATION

- [11] **AUTHORIZES** the Receiver and the Purchaser to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Purchase Agreement (**Exhibit R-4, (under seal)**) and any other ancillary document which could be required or useful to give full and complete effect thereto;
- [12] **AUTHORIZES** the Receiver to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Somerset Agreement and the Waste Rock Settlement Agreements (**Exhibit R-4, Schedules I and J, (under seal)**) and any other ancillary document which could be required or useful to give full and complete effect thereto;

AUTHORIZATION

- [13] **ORDERS and DECLARES** that this Order shall constitute the only authorization required by the Receiver to proceed with the Transaction and that no shareholder or regulatory approval, if applicable, shall be required in connection therewith;
- [14] **ORDERS and DECLARES** that this Order shall constitute the only authorization required by the Receiver to proceed with the Settlement Transactions, and that no shareholder or regulatory approval, if applicable, shall be required in connection therewith;

VESTING OF PURCHASED ASSETS

- [15] **ORDERS and DECLARES** that upon the issuance of a Receiver's certificate substantially in the form appended as **Schedule "B"** hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, charges, rights of resolution, hypothecs, trusts or deemed trusts, judgments, writs of seizure or execution, notices of sale, contractual rights relating to the Property, royalties, encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges, or security evidenced by registration, publication or filing pursuant to the *Civil Code of Québec* in movable / immovable property, and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets be cancelled and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate;
- [16] **DECLARES** that upon issuance of the Certificate, the Transaction shall be deemed to constitute and shall have the same effect as a sale under judicial authority as per the provisions of the *Code of Civil Procedure* and a forced sale as per the provisions of the *Civil Code of Quebec*;
- [17] **ORDERS and DIRECTS** the Receiver to file with the Court a copy of the Certificate, forthwith after issuance thereof;
- [18] **ORDERS** that the rights and interests of CMC in and to the Contracts, as this term is defined in Schedule A hereto, be transferred and assigned to the Purchaser upon filing of the Certificate;
- [19] **RESERVES** the right of the Receiver to further apply to this Court as necessary for any other Court-ordered assignment that would be necessary for any Purchased Asset as provided in section 2.2 of the Purchase Agreement;

CANCELLATION OF SECURITY REGISTRATIONS

[20] **ORDERS** the *Land Registrar of the Land Registry Office for the Registration Division of Abitibi*, upon presentation of the Certificate in the form appended as Schedule "B" and a certified copy of this Order accompanied by the required application for registration and upon payment of the prescribed fees, to publish this Order against the immovable property described in Schedule "A" attached hereto, and (i) to make an entry at the appropriate registers on the Land Register showing the Purchaser as the holder of the mining concessions identified in paragraph 1 of Lot #1A, as the owner of the immovable property identified in paragraphs 1 to 9 of Lot #1B and, if and as applicable, in paragraphs 3 and 4 of Lot #1A, paragraph 10 of Lot #1B and as the owner of the rights identified in paragraphs a) and b) of paragraph 2 of Lot #1A, as the holder of the mining claims identified at paragraph 2 of Lot #1A, and if and as applicable, as the holder of the mining concession identified in paragraph xliii) of Lot #3 and of the mining claims identified at Lot #3 and Lot#4, all the aforementioned lots and paragraphs being of Schedule "A" hereto (the "**Real Property**"), and (ii) to cancel any and all Encumbrances on Real Property, including, without limitation, those resulting from the following deeds published at the said Land Registry Office:

- Deed of Gift registered at the Registration Division of Abitibi on July 21, 1962 under number **74 270**, including the right to recover, the right of resolution and the right-of-way contained therein;
- Deed of Gift registered at the Registration Division of Abitibi on December 22, 1987 under number **256 544**, including the right of resolution;
- Deed of Hypothec registered at the Land Register, Registration Division of Abitibi, on December 23, 2009 under number **16 833 894**, followed by a Deed registered at the Land Register, Registration Division of Abitibi, on November 7, 2011 under number **18 611 839** (the "**Deutsche Bank Hypothec**");
- Notice in respect of a Legal Hypothec (claim of a person having taken part in the construction or renovation of an immovable) registered at the Land Register, Registration Division of Abitibi, on June 5, 2012 under number **19 128 208**, followed by a Motion (Court File No.: 615-17-000569-128) registered at the Land register, Registration Division of Abitibi, on October 25, 2012 under number **19 515 042**, and a Notice of Prior Registration registered at the Land Register, Registration Division of Abitibi, on November 22, 2012 under number **19 581 713** (the "**CMAC Thyssen Legal Hypothec**");
- Notice in respect of a Legal Hypothec (claim of a person having taken part in the construction or renovation of an immovable) registered at the Land Register, Registration Division of Abitibi, on June 14, 2012 under number **19 161 374**, followed by a Motion (Court File No.: 615-17-000568-120)

registered at the Land register, Registration Division of Abitibi, on October 25, 2012 under number **19 515 049**, and a Notice of Advance Registration registered at the Land Register, Registration Division of Abitibi, on November 22, 2012 under number **19 581 710** (the "**Trudel Legal Hypothec**");

- Notice in respect of a Legal Hypothec (claim of a person having taken part in the construction or renovation of an immovable) registered at the Land Register, Registration Division of Abitibi, on June 21, 2012 under number **19 187 425**, followed by Motions (Court File No.: 615-17-000578-129) registered at the Land register, Registration Division of Abitibi, under numbers **19 651 051** and **19 653 619**.

[21] **ORDERS** the *Quebec Personal and Movable Real Rights Registrar*, upon presentation of the required form with a true copy of this Order and the Certificate, to reduce the scope of the registrations numbers **09-0795138-0001** and **11-0857514-0001** in connection with the Purchased Assets in order to allow the transfer to the Purchaser of the Purchased Assets free and clear of such registrations;

[22] **ORDERS** the *Minister of Energy and Natural Resources*, upon presentation of the Certificate and a certified copy of this Order and upon payment of the prescribed fees, to publish this Order at the *Public Register of Real and Immovable Mining Rights* and to cancel all Encumbrances resulting from the Deutsche Bank Hypothec registered therein under numbers **53245** and **54320**, the CMAC Thyssen Legal Hypothec registered under numbers **54622** and **54869**, and the Trudel Legal hypothec registered under numbers **54671** and **54870**;

PROCEEDS

[23] **ORDERS** that the proceeds from the sale of the Purchased Assets (the "**Proceeds**") shall be remitted to the Receiver and shall be distributed in accordance with applicable legislation;

[24] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the Proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that upon payment of the Purchase Price (as defined in the Purchase Agreement) by the Purchaser, all Encumbrances shall attach to the Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale;

PROTECTION OF PERSONAL INFORMATION

[25] **ORDERS** that, pursuant to sub-section 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* or any similar provision of any applicable provincial legislation, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the

company's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by CMC;

VALIDITY OF THE TRANSACTION

[26] **ORDERS** that notwithstanding:

- (i) the pendency of these proceedings;
- (ii) the provisions of any federal or provincial legislation;

the vesting of the Purchased Assets and the Settlement Agreements contemplated in this Order, as well as the execution of the Purchase Agreement and of the Settlement Agreements pursuant to this Order, are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Receiver and the Purchaser;

LIMITATION OF LIABILITY

[27] **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Receiver to occupy or to take control, or to otherwise manage all or any part of the Purchased Assets. The Receiver shall not, as a result of this Order, be deemed to be in possession of any of the Purchased Assets within the meaning of environmental legislation, the whole pursuant to the terms of the BIA;

[28] **DECLARES** that no action lies against the Receiver by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph;

INCREASE OF THE CHARGE BONIS DE RÉTENTION

[29] **DECLARES** that the *Charge de Bonis de Réention* created pursuant to the paragraph [7] of the order of this Court rendered in this file on July 13, 2012 by the Honourable Edouard Martin, j.c.s. be increased to an amount of **\$835,000**;

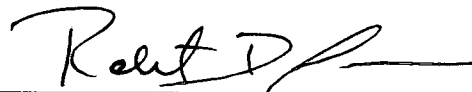
GENERAL

[30] **ORDERS** that the Purchaser or the Receiver shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances;

[31] **ORDERS** that **Exhibit R-3** and **Exhibit R-4** be kept confidential and under seal in the Court record herein until further order of this Court;

- [32] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada;
- [33] **DECLARES** that the Receiver shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Receiver shall be the foreign representative of the Debtor. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Receiver as may be deemed necessary or appropriate for that purpose;
- [34] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order;
- [35] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever;

THE WHOLE WITHOUT COSTS.



ROBERT DUFRESNE, J.C.S