

**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 EXPRESS GOLD REFINING LTD. (the
"Applicant" or "EGR")**

**MOTION RECORD
(CCAA TERMINATION ORDER)
(RETURNABLE JULY 14, 2025)**

July 8, 2025

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TO: THE SERVICE LIST

**ONTARIO
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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 OR
ARRANGEMENT OF EXPRESS GOLD REFINING LTD.
(the "**Applicant**" or "**EGR**")

SERVICE LIST
(as of June 12, 2025)

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**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT
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TAB 1

Court File No. CV-20-00649558-00CL

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF EXPRESS GOLD REFINING LTD. (the
"**Applicant**" or "**EGR**")

**NOTICE OF MOTION
(re CCAA TERMINATION)
(returnable July 14, 2025)**

Express Gold Refining Ltd. (the "**Applicant**"), will make a motion before Justice Cavanagh of the Ontario Superior Court of Justice (Commercial List) on Monday July 14, 2025 at 12:30 p.m. (Toronto time), or as soon after that time as the motion can be heard by judicial videoconference via Zoom at Toronto, Ontario.

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

- ☐ in writing under subrule 37.12.1 (1) because it is on consent, unopposed or made without notice;
- ☐ in writing as an opposed motion under subrule 37.12.1 (4);
- ☐ In person;
- ☐ By telephone conference;
- ☒ By video conference.

At the following location:

<https://ca01web.zoom.us/j/61804264297?pwd=MEpzRUtlUVB0UGc4eStsVGNTYmkxUT09#success>

Meeting ID: 618 0426 4297

Passcode: 057603

THE MOTION IS FOR:

1. a termination order (the “**Termination Order**”), substantially in the form appended at Tab 3 to the Applicant’s motion record that, among other things:
 - (a) abridges the notice periods and service requirements pursuant to section 6 of the *Bankruptcy and Insolvency General Rules*;
 - (b) terminates the CCAA Proceeding and discharges the Monitor upon the Monitor filing with this Court the discharge certificate, substantially in the form appended at Schedule “A” to the Termination Order (the “**Discharge Certificate**”), certifying that all matters to be attended to in connection with the CCAA Proceeding have been completed to the satisfaction of the Monitor (the “**CCAA Termination Time**”);
 - (c) approves Deloitte Restructuring Inc., in its capacity as monitor of the Applicant (in such capacity, the “**Monitor**”), Twenty Second Report dated June 13, 2025 and the Monitor’s Twenty Third Report, to be filed (“**Twenty Third Report**” and collectively with the Twenty Third Report, the “**Reports**”);
 - (d) approves the fees, costs and expenses of the Monitor, including those of its independent legal counsel Dentons LLP (“**Dentons**”), as set out in the fee affidavits appended to the Twenty Third Report (the “**Fee Affidavits**”);

- (e) terminates the Charges (as defined herein) and the monitoring protocol (as established in connection with the Applicant's filing and maintained throughout these proceedings) upon the CCAA Termination Time;
- (f) grants a release to the Monitor, its counsel, and each of their respective affiliates, and each of their respective current and former directors, officers, partners, employees and agents (collectively, the "**Released Parties**") from any and all claims that any party may have or be entitled to assert against the Released Parties now or hereinafter in relation to the CCAA Proceeding;
- (g) extends the Stay Period (as defined herein) up to and including the CCAA Termination Time; and

Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THIS MOTION ARE:

Background of the CCAA Proceeding

- 2. The Applicant is in the business of refining, selling, buying, trading, investing and storing metals, including gold (the "**Business**").
- 3. The Applicant was experiencing financial difficulties due to Canada Revenue Agency's ("**CRA**") refusal to pay the Applicant's net tax refunds and a reassessment in excess of \$189,000 issued to the Applicant on July 28, 2020 for the period from June 1, 2016 to October 31, 2018 (the "**2020 Reassessment**").
- 4. At the time, the Applicant challenged the 2020 Reassessment (the "**Tax Litigation**") in the Tax Court. While doing so, CRA initiated enforcement steps against the Applicant and its

assets which had the legal effect of a judgement and rendered the Applicant insolvent.

5. In order to preserve the status quo of the Business, on October 15, 2020, the Applicant sought and obtained creditor protection pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA Proceeding**"). The Court granted an initial order (as amended on October 19 and October 27, 2020, the "**Initial Order**") which, among other things:
 - (a) granted a stay of proceedings (the "**Stay of Proceedings**") and remedies taken or that might be taken in respect of the Applicants, the Monitor or the current directors or officers of the Applicants, or affecting the Applicants' business or any of the Applicants' current and future assets, licences, undertakings, and properties of every nature and kind whatsoever, and wherever situate including all proceeds (collectively, the "**Property**") in favour of the Applicant up to and including December 15, 2020 (the "**Stay Period**") with the exception of the Tax Litigation;
 - (b) appointed Deloitte Restructuring Inc. as monitor of the Applicant (in such capacity, the "**Monitor**");
 - (c) granted the following charges (the "**Charges**") over the Applicant's Property:
 - (i) First- an administration charge to the maximum amount of \$300,000; and
 - (ii) Second – a directors' charge to the maximum amount of \$100,000.
6. The primary objective of the CCAA Proceeding has been to provide the Applicant with sufficient breathing room to preserve the status quo of the Business while reaching a resolution with the CRA on the Tax Litigation.

7. Now that the Applicant has reached and implemented a settlement with CRA on the merits of the Tax Litigation (the “**Global Settlement**”), the protections afforded by the CCAA are no longer required. As such, the Applicant seeks to terminate the CCAA Proceeding.
8. Throughout the course of the CCAA Proceeding, the Applicant has continued to operate its Business in the ordinary course, with no material changes or developments in its day-to-day operations. Additionally, the Applicant has made arrangements to pay the professional fees incurred during the CCAA Proceeding and the Tax Litigation.
9. With respect to all suppliers who were not Impugned Suppliers (as defined in the Affidavit of Atef Salama sworn July 8, 2025), the Applicant intends to pay such suppliers in the ordinary course of business following termination of the CCAA Proceeding, subject to any requirements to pay to which the Applicant is a recipient.

Termination of the CCAA Proceeding and Discharge of the Monitor

10. Having reached the Global Settlement with CRA, the Applicant is now seeking approval of the Termination Order to facilitate the completion of the CCAA Proceeding.
11. Pursuant to the Termination Order, the CCAA Proceeding will be terminated upon the filing of the Discharge Certificate certifying, to the knowledge of the Monitor, all matters to be attended in connection with the Termination Order have been completed.
12. At the CCAA Termination Time, the Charges and the monitoring protocol will be terminated immediately, and Deloitte will be released and discharged as Monitor.
13. The Monitor is supportive of the proposed termination of the CCAA Proceeding.

The Monitor's Reports and Professional Fees

14. As described in the Monitor's Reports, the Monitor has undertaken numerous activities to facilitate the CCAA Proceeding and to reach a resolution with CRA. The Applicant and the Monitor are now seeking approval of such activities pursuant to the proposed Termination Order.
15. The Monitor also seeks approval of the professional fees of Deloitte, in its capacity as Monitor, and its legal counsel, as outlined in the Fee Affidavits.

Releases

16. The Applicant is seeking a release for the Released Parties from any and all claims that any Person may have or be entitled to assert against the Released Parties now or hereafter in relation to the CCAA Proceeding.
17. The Monitor was instrumental to the continued operation of the Applicant during the CCAA Proceeding and in reaching the Global Settlement, which represented the best possible outcome for the Applicant and its stakeholders.

Extension of the Stay of Proceedings

18. The Stay of Proceedings currently expires on July 14, 2025. The proposed Termination Order seeks an extension of the Stay Period until and including the CCAA Termination Time or such later date as this Court orders.
19. The extension of the Stay Period to the CCAA Termination Time will provide the Applicant and the Monitor with the breathing room to complete any necessary remaining steps. Further, the proposed extension of the Stay Period will obviate the need for a further

attendance before the Court which will avoid the additional costs and occupation of further court time.

20. The Monitor is supportive of the proposed extension of the Stay Period and does not believe it will materially prejudice any stakeholders.
21. The Applicant has act and will continue to act in good faith and with due diligence to complete the CCAA Proceeding.

Other Grounds

22. The provisions of the CCAA and the inherent and equitable jurisdiction of this Honourable Court.
23. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.
24. Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED ON THE HEARING OF THE MOTION:

25. The Affidavit of Atef Salama, sworn July 8, 2025;
26. The Twenty-Third Report of the Monitor, to be filed; and
27. Such further and other evidence as counsel may advise and this Honourable Court may permit.

July 8, 2025

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TO: **THE SERVICE LIST**

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

Court File No. CV-20-00649558-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF EXPRESS GOLD REFINING LTD.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

NOTICE OF MOTION
(re CCAA Termination)

RECONSTRUCT LLP

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Court File No. CV-20-00649558-00CL

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(the "**CCAA**")

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF EXPRESS GOLD REFINING LTD. (the
"**Applicant**" or "**EGR**")

AFFIDAVIT OF ATEF SALAMA
(sworn July 8, 2025)

I, **Atef Salama**, of the City of Toronto, in the province of Ontario, **MAKE OATH AND
SAY:**

1. I am EGR's Vice-President and have been since 2001. As such, I have personal knowledge of the facts and matters deposed in this affidavit save where the same are stated to be based upon information or belief, and where so stated I verily believe the same to be true.

2. All references to currency in this affidavit are references to Canadian dollars unless otherwise indicated.

I. OVERVIEW

3. This affidavit is sworn in support of the Applicant's motion for a termination order (the "**Termination Order**") that among other things:

- (a) extends the Stay Period (as defined herein) to the CCAA Termination Time;
- (b) provides for the termination of the within CCAA Proceeding and the discharge of the Monitor upon the CCAA Termination Time;

- (c) approves the Deloitte Restructuring Inc., in its capacity as monitor of the Applicant (in such capacity, the “**Monitor**”), Twenty Second Report dated June 13, 2025 and the Monitor’s Twenty Third Report, to be filed (together, the “**Reports**”);
- (d) approves the fees and disbursements of the Monitor and its counsel and the anticipated further fees and disbursements of the Monitor and its counsel required to complete the administration of the CCAA Proceeding;
- (e) terminates the Charges (as defined herein) upon the CCAA Termination Time; and
- (f) grants a release to the Monitor, its counsel, and each of their respective affiliates, and each of their respective current and former directors, officers, partners, employees and agents (collectively, the “**Released Parties**”) from any and all claims that any party may have or be entitled to assert against the Released Parties now or hereinafter in relation to the CCAA Proceeding.

4. I understand that the relief sought on this motion is supported by the Monitor (as defined herein) and Canada Revenue Agency (“**CRA**”). The relief sought will further the Applicant’s restructuring efforts in this proceeding for the benefit of all stakeholders.

II. BACKGROUND OF THE CCAA PROCEEDING

5. The Applicant is in the business of arranging for refining, selling, buying, trading, investing and storing metals, including gold (the “**Business**”).

6. Since the fall of 2018, the Applicant experienced financial difficulties as a result of CRA’s refusal to pay EGR’s GST/HST net tax refunds, since August 2018, and CRA’s issuance of reassessments against EGR, dated July 28, 2020 in excess of \$189,000,000 for the period from June 1, 2016 to October 31, 2018 (the “**2020 Reassessments**”).

7. Although the 2020 Reassessments were being challenged by the Applicant (the “**Tax Litigation**”) in the Tax Court of Canada (“**Tax Court**”), CRA initiated enforcement steps against EGR and its assets in respect of the 2020 Reassessments which have the legal effect of a judgment and accordingly rendered EGR insolvent.

8. In an effort to preserve the *status quo* of the Business, the Applicant sought and obtained creditor protection pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA Proceeding**”) to provide the Applicant with a platform to accelerate the resolution of the Tax Litigation.

9. On October 15, 2020, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) granted an initial order (as amended on October 20, and October 27, 2020, the “**Initial Order**”) which, among other things:

- (a) granted a stay of proceedings (the “**Stay of Proceedings**”) and remedies taken or that might be taken in respect of the Applicants, the Monitor or the current directors or officers of the Applicants, or affecting the Applicants’ business or any of the Applicants’ current and future assets, licences, undertakings, and properties of every nature and kind whatsoever, and wherever situate including all proceeds (collectively, the “**Property**”) in favour of the Applicant up to and including December 15, 2020 (the “**Stay Period**”) with the exception of the Tax Litigation;
- (b) appointed Deloitte Restructuring Inc. as monitor of the Applicant (in such capacity, the “**Monitor**”);
- (c) granted the following charges (the “**Charges**”) over the Applicant’s Property:
 - 1. First- an Administration Charge to the maximum amount of \$300,000; and
 - 2. Second – a Directors’ Charge to the maximum amount of \$100,000.

Attached hereto and marked as **Exhibit “A”** is a copy of the Second Amended and Restated Initial Order dated October 27, 2020.

10. Since the commencement of the CCAA Proceeding, the Applicant has appeared before this Court to seek various extensions of the Stay of Proceedings to provide the Applicant with the breathing room to preserve the status quo of the Business while advancing the Tax Litigation and awaiting a decision from the Tax Court on the merits of its case in the Tax Litigation.

III. TAX LITIGATION & GLOBAL SETTLEMENT

11. Since the Applicant’s appearance before the Court on December 9, 2024, EGR and CRA have been working cooperatively toward a resolution of the Tax Litigation. Such a settlement was achieved (the “**Global Settlement**”) with the final elements of the settlement mechanics being implemented on or around June 20, 2025.

12. The Global Settlement was reached after and extensive audit, followed by proceedings under the Tax Court’s full disclosure rules which I understand required both EGR and CRA to disclose all relevant unprivileged documents. Both I and the CRA auditor were subject to four weeks of oral examinations for discovery by the opposing party. I understand that proceeding under the full disclosure rules is a process rarely undertaken however, I believe this benefited EGR in revealing the truth of this matter.

13. The Global Settlement resolved all GST/HST matters – namely, for the following GST/HST reporting periods at issue:

- a. June 1, 2016 to July 31, 2018, which were before the Tax Court (“**Tax Court Periods**”);

- b. August 1, 2018 to October 31, 2018, which were in the CRA's administrative appeals process ("**Objection Periods**"); and
- c. November 1, 2018 to October 15, 2020 (i.e., the date of the Initial Order), which the CRA had proposed to reassess, but had not previously issued reassessments ("**Proposal Periods**").

14. The Tax Court appeals at issue in the Tax Litigation were resolved pursuant to an April 2, 2025 Judgment of the Tax Court, issued pursuant to a Consent to Judgment executed by EGR and the CRA, dated March 28, 2025, as part of the Global Settlement a copy of which is attached hereto as **Exhibit "B"**.

15. In previously reassessing and proposing to reassess EGR for the above periods, the CRA identified approximately 70 refining customers of EGR ("**Impugned Suppliers**") that the CRA alleged failed to comply with their GST/HST obligations or that were otherwise actively participating in a nefarious scheme(s) to defraud the CRA of GST/HST revenue.

16. During the course of the Tax Litigation, EGR came to the realization that the CRA's allegations vis-à-vis these Impugned Suppliers appeared to have a strong factual basis and that significant GST/HST was effectively misappropriated from the system by Impugned Suppliers or others in the supply chain associated with the Impugned Suppliers. Moreover, principals for six of the Impugned Suppliers located in Quebec were convicted of offences relating to GST/HST carousel fraud in early 2025, having been charged in 2022 by Montreal Police.

17. In previously reassessing and proposing to reassess EGR for the above periods and during the course of the Tax Litigation, the CRA had made very serious allegations against EGR and implicating me, personally, including that:

- a. EGR was involved in a 'carousel scheme', the sole purpose of which was to generate the false impression of entitlement to ITCs;
- b. certain Impugned Suppliers did not sell gold to EGR and instead issued EGR 'invoices of accommodation' to generate ITCs and support the false illusion of *bona fide* commercial activity;
- c. EGR's transactions with Impugned Suppliers were sham transactions;
- d. approximately 2,794 kg of pure gold purportedly received by EGR was unaccounted for in respect of EGR's May 2017 and 2018 fiscal year ends and EGR purchased approximately 858 more kg of pure gold than it sent to refiners during the Tax Court Periods and Objection Periods (the "**Missing Gold Allegations**"); and
- e. EGR did not have sufficient cash on hand to complete physical cash transactions reflected in its books and records (the "**Missing Cash Allegations**").

18. EGR denied all of the above allegations and as I noted above took the rare step of requesting that the Tax Litigation proceed under 'full disclosure', requiring both EGR and the CRA to disclose all unprivileged documents relevant to the issues in the Tax Litigation.

19. Through counsel, I facilitated and supported the Monitor's access to the transcripts from both my and the CRA auditor's four week examinations, in full, and ensured that the Monitor had access to the voluminous productions made by both parties in the proceedings (made available to the Monitor in accordance with the Order of Justice McEwen dated June 8, 2021).

20. My strong desire was to demonstrate that EGR and I had no part in the nefarious schemes and transactions perpetrated by the Impugned Suppliers and moreover that all of the Missing Gold Allegations and Missing Cash Allegations were false and erroneous in totality.

21. During the course of the Tax Litigation, EGR's tax counsel, Baker Mackenzie LLP ("**Tax Counsel**"), obtained an expert report from forensic accounting experts fully refuting the Missing Gold Allegations, which I understand the Monitor reviewed, in full. In late 2024, the CRA first raised the Missing Cash Allegations through delivery of an expert report, which was fully rebutted by a forensic accounting expert report obtained by Tax Counsel. Despite having the opportunity, the CRA did not obtain rebuttal reports to those EGR expert reports, nor did CRA otherwise refute their accuracy. The Global Settlement was reached shortly after all expert reports were exchanged.

22. The Global Settlement reflects that the allegations in paragraph 17 are false and, moreover, that neither I nor EGR was aware of any Impugned Suppliers engaging in non-compliance or nefarious schemes at the time that EGR engaged in transactions with the Impugned Suppliers and that I and EGR were instead innocent victims/dupes in the Impugned Suppliers' nefarious scheme(s).

23. The Global Settlement has resulted in the allowance of over \$99 million in previously denied ITCs to EGR for the Tax Court Periods. That consisted entirely of GST/HST amounts that EGR had already paid to Impugned Suppliers and that the CRA had initially allowed as ITCs and paid EGR corresponding net tax refunds. The Global Settlement also resulted in all ITCs claimed in respect of EGR transactions with non-Impugned Suppliers for all three periods being allowed by the CRA.

24. The Global Settlement reversed all gross negligence penalties that had been assessed against EGR, reflecting that neither I nor EGR did either knowingly, or under circumstances amounting to gross negligence, make or participate in, assent to or acquiesce in the making of a false statement or omission with regards to its GST/HST returns or reporting (including the claiming of ITCs with respect to Impugned Suppliers).

25. The Global Settlement also reflects that neither I nor EGR committed fraud nor made any misrepresentation attributable to neglect, carelessness or willful default. Rather, EGR was used by Impugned Suppliers and were victimized as they pursued their fraudulent schemes.

26. The non-compliance and/or participation in nefarious schemes by the Impugned Suppliers triggered the CRA's reassessments against EGR, which, in turn led to EGR incurring significant costs, including the costs of the CCAA Proceeding and the Tax Litigation, among others. To date, EGR has not commenced any legal proceedings to seek recovery of such amounts from Impugned Suppliers but has indicated to the Monitor that it may seek to do so in the future.

27. Since executing the Global Settlement, I was interested in engaging with the CRA to determine an appropriate course of action in respect of EGR's GST/HST obligations once it exits the CCAA, including determining any specific steps EGR should take to address GST/HST fraud in the industry. The CRA has declined to engage in such discussions and has refused to suggest any steps or other course of action EGR should take to minimize GST/HST fraud in the industry.

28. I also understand from the Federal government's 2024 Fall Economic Statement that the government is exploring options to combat carousel schemes. I also understand that the Canadian Bar Association delivered an 8-page letter to the CRA dated September 20, 2024 suggesting various means of addressing carousel schemes and missing trader frauds. However, I am not aware of any particular measures that the CRA or the federal government has taken in response to the letter or as indicated in the Fall Economic Statement, nor am I aware of any other public guidance to the industry regarding these issues.

29. In the circumstances, EGR has indicated to the Monitor that it will continue to abide by its rigorous due diligence policies and procedures and all recommendations by governing authorities, consistent with its approach for the past 30 years, with a view to minimizing risk of

non-compliance by its customers, avoiding similar GST/HST reassessments denying ITCs, and avoiding any other allegations of non-compliance in the future.

30. As a result of the Global Settlement, EGR will be seeking to terminate the CCAA Proceeding.

IV. TERMINATION OF THE CCAA PROCEEDING

31. Throughout the CCAA Proceeding, the Applicant has continued to operate its Business in the ordinary course. There are no material changes or developments in the Applicant's day-to-day operations.

32. However, the CCAA Proceeding, and the Tax Litigation have been extremely costly to EGR. I estimate that EGR has expended approximately \$25 million as a direct consequence of having to resist the 2020 Reassessments brought about by the schemes and machinations of the Impugned Suppliers and to fund these CCAA Proceeding. The proceedings in general have adversely affected EGR's Business in a variety of ways not the least of which were in its reputational standing in the gold refining community. As a consequence, and as mentioned above, EGR will assess what remedies it may have against the Impugned Suppliers whose conduct contributed directly to the damage and expense EGR has had to suffer and endure.

33. In this regard, I understand that many of the Impugned Suppliers are now either insolvent or bankrupt. In addition, CRA has issued requirements to pay to EGR in respect of approximately 20 Impugned Suppliers in respect of claims totaling up to approximately \$105 million. Accordingly, the population of Impugned Suppliers may have no or limited assets against which EGR can recover its damages.

V. PAYMENT OF PROFESSIONAL FEES AND NON-IMPUGNED SUPPLIERS

34. As noted above, EGR has incurred substantial fees, costs and expenses in the course of prosecuting the Tax Litigation and the CCAA Proceeding. Prior to terminating these proceedings, EGR has made arrangements to make payments owing to its professionals involved in the CCAA Proceeding and the Tax Litigation as well as to pay the Monitor and the Monitor's legal counsel.

35. The Termination Order sought herein contemplates that the effectiveness of the termination is predicated on EGR making arrangements for the payment of its professionals and payment of the Monitor and its counsel. Given the nature and circumstances of this CCAA Proceeding and the nexus of this proceeding to the Tax Litigation such a payment is not only appropriate but is necessary to account for the post-filing services rendered by the proposed recipients of such arrangements and payments.

36. With respect to all suppliers who were not Impugned Suppliers and who were otherwise caught in the CCAA Proceeding through no fault of their own, EGR intends to pay such suppliers in the ordinary course of business following termination of these proceedings subject to the terms of any requirements to pay to which EGR is a recipient. I have determined that such suppliers' accounts amount in aggregate to approximately \$ 1.7 million.

37. The Applicant has acted and is continuing to act in good faith and with due diligence in the CCAA Proceeding and in seeking the relief herein.

38. I verily believe, based on my discussions with the Monitor, that the Monitor is supportive of the proposed Termination Order.

THIS IS **EXHIBIT "A"** REFERRED TO IN THE
AFFIDAVIT OF **ATEF SALAMA** SWORN REMOTELY BY **ATEF SALAMA** STATED AS BEING
LOCATED IN THE CITY OF TORONTO BEFORE ME AT THE CITY OF TORONTO, IN THE
PROVINCE OF ONTARIO THIS 8TH DAY OF JULY 2025, IN ACCORDANCE WITH O. REG
431/20, *ADMINISTERING OATH OR DECLARATION*
REMOTELY

Signed by:

A blue ink signature of Simran Joshi is written over a dashed line.

000B645B9A9E494...

A COMMISSIONER FOR TAKING AFFIDAVITS

SIMRAN JOSHI
LSO # 89775A

Court File No. CV-20-00649558-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**



THE HONOURABLE MR.

)

TUESDAY, THE 27TH

JUSTICE McEWEN

)

DAY OF OCTOBER, 2020

)

**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 EXPRESS GOLD REFINING LTD.
(the "Applicant")**

SECOND AMENDED AND RESTATED INITIAL ORDER

THE INITIAL APPLICATION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), was heard on October 15, 2020 at 330 University Avenue, Toronto, Ontario, by videoconference due to the COVID-19 pandemic.

THE APPLICANT'S MOTION for the first Amended and Restated Initial Order was heard on October 19, 2020, and THE APPLICANT'S MOTION for the herein Second Amended and Restated Initial Order was heard this day on October 19, 2020 at 330 University Avenue, Toronto, Ontario, also by videoconference due to the COVID-19 pandemic.

ON READING the affidavit of Atef Salama sworn October 14, 2020 and the exhibits thereto (collectively, the "**Salama Affidavit**"), and on reading the pre-filing report of Deloitte Restructuring Inc. ("**Deloitte**") as proposed monitor, and on reading the consent of Deloitte to act as the appointed monitor (in such capacity, the "**Monitor**"), and on hearing the submissions of counsel for the Applicant, Deloitte, and such other counsel as were present as indicated on the counsel slip, no one else appearing despite being served as evidenced in the affidavit of service, filed:

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicant is a company to which the CCAA applies.

3. THIS COURT ORDERS AND DECLARES that the herein Order continues the Initial Order made on October 15, 2020 by Hainey J. and effective as of 12:01 a.m. Eastern Standard/Daylight Time on such date, together with any amendment or restatement of the same.

POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

6. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay or otherwise deal with its creditors' claims, whether arising before or after the making of this Order, in accordance with the contracts and agreements in place as of the date of this Order, or that may be mutually agreed upon thereafter.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order; and
- (c) payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date or thereafter.

8. THIS COURT ORDERS that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and

services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. THIS COURT ORDERS that the Applicant is hereby directed, until further Order of this Court:

- (a) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and
- (b) to not grant credit or incur liabilities except in the ordinary course of the Business.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

10. THIS COURT ORDERS that from the date of the present Order and until and including **[December 15, 2020]**, or such later date as this Court may order (the “**Stay Period**” or the “**Stay**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, and any and all Proceedings currently underway against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended, but the Stay shall not apply:

- (a) to the proceeding in Tax Court File No. 2020-1214(GST)G, which for avoidance of doubt shall remain procedurally unaffected by the Stay, but the Stay is applicable to the enforcement of any order made in such proceeding affecting the Monitor, the Business or the Property; and

- (b) to any Proceeding the continuation or commencement of which is consented to in writing by the Applicant and the Monitor or allowed with leave of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

11. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities, as those terms may be understood in their broadest sense (all of the foregoing, collectively being “Persons” and each being a “Person”) against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

12. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

13. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal

payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

14. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROTOCOL

15. THIS COURT ORDERS AND DECLARES that the protocol agreed to on October 27, 2020 among the Applicant, the Canada Revenue Agency (the “CRA”) and the Monitor and appended as a confidential appendix to the Supplement to the Monitor’s First Report dated October 27, 2020 (the “Protocol”) is hereby approved.

16. THIS COURT ORDERS that (i) the Protocol is hereby sealed from the public record until further order of this Court, and (ii) no party to the Protocol shall disclose to any Person all or any portion of the Protocol which shall be confidential information among the Applicant, the CRA and the Monitor, unless (a) the parties thereto agree to such disclosure in advance and in writing, (b) subject to prior notice to the other parties which notice shall provide an opportunity to seek protective relief, disclosure is required by a party in order to satisfy any legal or regulatory requirement, or (c) upon further Order of this Court.

17. THIS COURT ORDERS that the Protocol shall not be amended, restated or supplemented, except with the written consent of the Monitor, the Applicant and the CRA, or further Order of this Court.

18. THIS COURT ORDERS that the Protocol and all monitoring and control measures described therein shall automatically terminate on the earlier of: (i) the mutual agreement of the Monitor, the Applicant and the CRA to terminate the Protocol; (ii) the termination of the CCAA

Proceedings and Deloitte's discharge as Monitor; or (iii) further Order of this Court providing for the termination of the Protocol.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations (including, but not limited to Proceedings arising from section 323 of the ETA), until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. THIS COURT ORDERS that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$100,000, as security for the indemnity provided in paragraph 16 of this Order. The Directors' Charge shall have the priority set out in paragraph 27 herein.

22. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 16 of this Order.

APPOINTMENT OF MONITOR

23. THIS COURT ORDERS that Deloitte Restructuring Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

24. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Applicant in its preparation of the Applicant's cash flow statements;
- (d) advise the Applicant as to the herein proceedings, including the eventual formulation of a plan of arrangement or compromise;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

25. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

28. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order or the Protocol, save and except for any gross negligence or wilful misconduct on its part. Nothing in

this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant incurred in respect of these proceedings or attendant matters both before and during the period for which this Order is effective, and the Applicant is further hereby authorized to pay to the Monitor and counsel to the Applicant, retainers in the amount of \$50,000 for the former and \$40,000 for the latter, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, and the Applicant's counsel, which for clarity includes all Applicant's counsel such as restructuring counsel and tax counsel, shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$300,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order, and both in respect of these proceedings and proceedings in respect of any tax assessment or reassessment or similar proceedings. The Administration Charge shall have the priority set out in paragraph 27 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

31. THIS COURT ORDERS that the priorities of the Directors' Charge and the Administration Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$300,000); and

Second – Directors' Charge (to the maximum amount of \$100,000).

32. THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the

Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

33. THIS COURT ORDERS that the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

34. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Charges unless the Applicant also obtains the prior written consent of the beneficiaries of the Charges, or further Order of this Court.

35. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicant entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant pursuant to this Order and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances,

transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

36. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

37. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the Globe and Mail (national edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

38. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**E-Service Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the E-Service Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the *Rules of Civil Procedure*. Subject to Rule 3.01(d) of the *Rules of Civil Procedure* and paragraph 21 of the E-Service Protocol, service of documents in accordance with the E-Service Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the E-Service Protocol with the following URL: [insolvencies.deloitte.ca/en-ca/ExpressGoldRefiningLtd].

39. THIS COURT ORDERS that if the service or distribution of documents in accordance with the E-Service Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier,

personal delivery or facsimile transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

40. THIS COURT ORDERS that except to the extent incompatible with paragraphs 33 to 35 hereof, due to the COVID-19 pandemic and save Court instructions, the *Consolidated Notice to the Profession, Litigants, Accused Persons, Public and the Media* dated May 13, 2020, as amended (the "**Consolidated Notice**"), the text of which is available at [ontariocourts.ca/scj/notices-and-orders-covid-19/consolidated-notice], and the guidelines set out on the *Changes to Commercial List Operations in light of COVID-19* available at [ontariocourts.ca/scj/changes-to-commercial-list-operations-in-light-of-covid-19], as both may be amended or supplemented from time to time, shall apply to the herein proceeding.

GENERAL

41. THIS COURT ORDERS that the Applicant or the Monitor may apply to this Court for advice and directions in the discharge of their powers and duties hereunder.

42. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

43. 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 Applicant, the Monitor 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 Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

44. THIS COURT ORDERS that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

45. THIS COURT ORDERS that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

OCT 28 2020

PER / PAR:



Court File No. CV-20-00649558-00CL

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

AND IN THE MATTER OF A COMPROMISE OR ARRANGEMENT OF
EXPRESS GOLD REFINING LTD.

27 Oct 20

The Order shall go on an unopposed basis as per the draft filed and signed.
It has the Monitor's support.
I have reviewed the draft with counsel. The provisions in the draft are fair and
reasonable. The confidentiality terms meet the Sierra Club criteria.
The stay extension meets the required legal test.

McE...

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced in TORONTO

**SECOND AMENDED AND RESTATED INITIAL
ORDER**

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2
Fax: 416-597-6477

Mario Forte (LSO #27293F)
Tel: 416-597-6477
Email: forte@gsnh.com

Joël Turgeon (Member of the Bar of Quebec,
Ontario Student-at-Law)

Lawyers for the Applicant, Express Gold Refining Ltd.

THIS IS **EXHIBIT “B”** REFERRED TO IN THE
AFFIDAVIT OF **ATEF SALAMA** SWORN REMOTELY BY **ATEF SALAMA** STATED AS BEING
LOCATED IN THE CITY OF TORONTO BEFORE ME AT THE CITY OF TORONTO, IN THE
PROVINCE OF ONTARIO THIS 8TH DAY OF JULY 2025, IN ACCORDANCE WITH O. REG
431/20, *ADMINISTERING OATH OR DECLARATION*
REMOTELY

Signed by:

Simran Joshi

000B645B9A9E494...

A COMMISSIONER FOR TAKING AFFIDAVITS

SIMRAN JOSHI
LSO # 89775A

Tax Court of Canada



Cour canadienne de l'impôt

Docket: 2020-1214(GST)G

BETWEEN:

EXPRESS GOLD REFINING LTD.,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

Counsel for the Appellant:

Jacques Bernier
Bryan Horrigan
David Gadsden
Andrew Boyd
Brendan O'Grady
Juliana Orlando Rohr

Counsel for the Respondent:

Arnold H. Bornstein
Jasmeen Mann
Pallavi Gotla
Bryant Godkin
Hassan Rasmi

JUDGMENT

Upon reading the Consent to Judgment filed on March 28, 2025;

The appeals from the assessments made under Part IX of the *Excise Tax Act* in respect to Appellant's reporting periods commencing June 1, 2016 to July 31, 2018, are allowed, without costs and the reassessments are referred

Page: 2

back to the Minister of National Revenue for reconsideration and reassessment on the basis set out in the attached Consent to Judgment.

Signed this 1st day of April 2025.

“Sylvain Ouimet”

Ouimet J.

2020-1214(GST)G

TAX COURT OF CANADA

B E T W E E N :

EXPRESS GOLD REFINING LTD.

Appellant

and

HIS MAJESTY THE KING

Respondent

CONSENT TO JUDGMENT

The parties consent to judgment allowing the appeal with respect to reassessments under Part IX of the *Excise Tax Act*, RSC 1985, c. E-15, as amended (ETA), notices of which are all dated July 29, 2020, for the appellant's monthly Goods and Services Tax/Harmonized Sales Tax reporting periods from June 1, 2016 through July 31, 2018, and the matter is referred back to the Minister of National Revenue for reconsideration and reassessment on the following basis:

1. Gross negligence penalties applied under section 285 of the ETA are vacated in their entirety for each of the monthly reporting periods under appeal.
2. In calculating net tax under subsection 225(1) of the ETA, the appellant will be allowed additional input tax credits for each of the reporting periods under appeal in accordance with the table in Appendix "A" to this Consent to Judgment.



Initial for App.

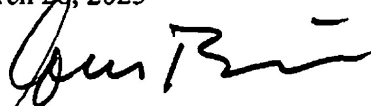


Initial for Resp.

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3. The parties shall bear their own costs.

March 28, 2025



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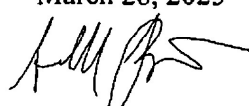
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March 28, 2025



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Counsel for the Respondent



Initial for App.



Initial for Resp.

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Appendix "A"
to Consent to Judgment

Reporting period end date	Input tax credits claimed by the appellant (\$)	Net reduction in Input tax credits by the Minister per July 29, 2020 notices of reassessment (\$)	Additional input tax credits allowed per this Consent to Judgment (\$)
June 30, 2016	2,228,676.34	2,124,865.95	2,026,444.21
July 31, 2016	2,400,765.12	2,067,197.82	2,067,401.02
August 31, 2016	2,483,950.93	2,113,082.00	2,090,992.04
September 30, 2016	2,434,819.18	1,772,722.89	1,757,034.31
October 31, 2016	2,451,002.55	1,771,757.08	1,776,703.79
November 30, 2016	2,992,112.57	2,339,476.65	2,348,775.38
December 31, 2016	2,630,228.60	2,248,436.71	2,248,597.75
January 31, 2017	4,049,082.17	3,467,459.34	3,475,896.46
February 28, 2017	3,649,119.88	3,045,522.57	3,113,807.21
March 31, 2017	4,268,011.71	3,607,442.88	3,545,428.59
April 30, 2017	4,340,883.29	4,053,598.12	3,791,286.46
May 31, 2017	5,311,524.94	5,012,296.44	4,546,086.24
June 30, 2017	4,603,980.42	4,410,374.96	3,759,859.03
July 31, 2017	3,463,801.35	3,096,219.10	2,802,431.54
August 31, 2017	5,345,933.21	5,134,413.09	4,475,624.45
September 30, 2017	5,885,425.34	5,627,620.03	4,417,897.07
October 31, 2017	6,873,639.64	6,580,722.09	5,285,182.18



Initial for App.


Initial for Resp.

- 4 -

Reporting period end date	Input tax credits claimed by the appellant (\$)	Net reduction in Input tax credits by the Minister per July 29, 2020 notices of reassessment (\$)	Additional input tax credits allowed per this Consent to Judgment (\$)
November 30, 2017	6,258,431.01	5,990,280.04	5,034,487.11
December 31, 2017	3,598,329.08	3,405,324.59	2,928,034.41
January 31, 2018	6,372,698.37	6,079,127.44	4,025,479.90
February 28, 2018	7,672,843.60	7,405,756.58	4,798,254.10
March 31, 2018	8,636,911.54	8,604,993.93	4,808,229.14
April 30, 2018	7,021,937.16	6,535,379.24	4,902,715.09
May 31, 2018	9,043,794.87	8,774,610.67	6,851,964.34
June 30, 2018	8,292,504.58	8,024,545.34	6,534,180.25
July 31, 2018	6,925,188.22	6,671,977.52	5,639,478.26


 Initial for App.


 Initial for Resp.

2020-1214(GST)G

TAX COURT OF CANADA

B E T W E E N :

EXPRESS GOLD REFINING LTD.

Appellant

and

HIS MAJESTY THE KING

Respondent

CONSENT TO JUDGMENT

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
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Counsel for the Respondent


Initial for App.


Initial for Resp.

IN THE MATTER OF THE COMPANIES' CREDITORS' ARRANGEMENT ACT,
R.S.C. 1985, c. C-36
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
EXPRESS GOLD REFINING LTD.

<p>ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST Proceeding commenced in TORONTO</p>	
<p>AFFIDAVIT OF ATEF SALAMA (sworn July 8, 2025)</p>	
<p>RECONSTRUCT LLP 80 Richmond Street West, Suite 1700 Toronto, ON M5H 2A4 Mario Forte LSO #27293F Tel: (416) 597-6477 Email: mforte@reconllp.com Simran Joshi LSO No. 89775A Tel: 416.646.4109 Email: sjoshi@reconllp.com</p>	<p>Lawyers for the Applicant, Express Gold Refining Ltd.</p>

Court File No. CV-20-00649558-00CL

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

THE HONOURABLE)	MONDAY, THE 14 TH
)	
JUSTICE CAVANAGH)	DAY OF JULY, 2025

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 EXPRESS GOLD REFINING LTD (the
"Applicant" or "EGR")

TERMINATION ORDER

THIS MOTION, made by Express Gold Refining Ltd. ("**EGR**" or the "**Applicant**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, among other things: (i) approving an extension of the Stay Period to the Termination Time; (ii) terminating the proceedings of the Applicant under the CCAA (the "**CCAA Proceeding**") at the CCAA Termination Time (as defined below); (iii) discharging Deloitte Restructuring Inc. ("**Deloitte**") in its capacity as Monitor of the Applicant (in such capacity, the "**Monitor**") at the CCAA Termination Time (as defined below); (v) approving the Twenty-Second Report and the Twenty-Third Report (as defined below) and the Monitor's activities described therein; (vi) approving the fees of the Monitor and its legal counsel as described in the affidavits of Robert Kennedy and ●, to be filed (the "**Kennedy Affidavit**" and the "**● Affidavit**", respectively); and certain related relief was heard this day by videoconference by the Ontario Superior Court of Justice (Commercial List);

ON READING the affidavit of Atef Salama sworn July 8, 2025 (the “**Salama Affidavit**”) and the Twenty-Third Report of the Monitor, to be filed (the “**Twenty-Third Report**”), and on hearing the submissions of counsel for the Applicant and the Monitor, no one else appearing although duly served as appears from the affidavit of ● sworn July ●, 2025:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used herein and not otherwise defined have the meanings given to them in the Second Amended and Restated Initial Order of this Court made in the within proceedings dated October 27, 2020, the Salama Affidavit, or the Twenty-Second Report, as the case may be.

EXTENSION OF STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until the CCAA Termination Time.

APPROVAL OF THE TWENTY-SECOND AND TWENTY-THIRD REPORTS AND THE MONITOR'S ACTIVITIES AND FEES

4. **THIS COURT ORDERS** that the Twenty-Second Report of the Monitor dated June 13, 2025 and the Twenty-Third Report, and the activities of the Monitor and its counsel as described therein are hereby approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

5. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Kennedy Affidavit and the ● Affidavit, including the estimated fees and disbursements up to the CCAA Termination Time, are hereby approved.

TERMINATION OF THE CCAA PROCEEDING & DISCHARGE OF THE MONITOR

6. **THIS COURT ORDERS** that upon the Monitor filing with this Court a certificate substantially in the form attached at **Schedule “A”** (the “**Discharge Certificate**”) certifying that all matters to be attended to in connection with the CCAA Proceeding have been completed to the satisfaction of the Monitor, Deloitte shall be discharged as Monitor effective immediately and shall have no further duties, obligations, or responsibilities as Monitor (the filing of the Discharge Certificate, the “**CCAA Termination Time**”).

7. **THIS COURT ORDERS** that the Monitor shall be authorized to file the Discharge Certificate with the Court, following receipt of confirmation in writing from the relevant payee that EGR shall have paid or with the agreement of the relevant payee, made arrangements to pay all professional and administrative fees, costs and expenses of EGR's tax counsel, special counsel, restructuring counsel, the Monitor and its counsel incurred or estimated to be incurred in the course of the Tax Litigation and/or these CCAA Proceedings.

8. **THIS COURT ORDERS** that effective immediately upon the filing with this Court of the Discharge Certificate:

- (a) the CCAA Proceeding and the Stay Period are hereby terminated without any other act or formality;
- (b) the Administration Charge, the Director's Charge, and monitoring protocol shall be and are hereby terminated, released and discharged; and

(c) Deloitte shall be discharged as Monitor, subject to paragraph 9 below.

9. **THIS COURT ORDERS** that, notwithstanding any provision of this Order and the termination of the CCAA Proceeding, nothing herein shall affect, vary, derogate from, limit or amend any of the protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order or any other Order of this Court in the CCAA Proceeding, all of which are expressly continued and confirmed following the CCAA Termination Time, including in connection with any actions taken by Deloitte following the CCAA Termination Time with respect to the Applicant or these proceedings.

RELEASES

10. **THIS COURT ORDERS** that, effective at the at the CCAA Termination Time, in addition to the protections in favour of the Monitor in any Order of this Court in the CCAA Proceedings or the CCAA, the Monitor, Dentons LLP, and each of their respective affiliates, and each of their respective current and former officers, directors, partners, employees and agents, as applicable, (collectively, the “**Released Parties**”) shall be and are hereby released and forever discharged from any and all claims that any Person may have or be entitled to assert against the Released Parties now or may hereafter by reason of any act, omission, transaction, dealing or other occurrence in any way relating to arising out of, or in respect of the CCAA Proceedings, including in carrying out any incidental matters, whether known or unknown, matured or unmatured, foreseen or unforeseen, relating to matters that were raised, or could have been raised, in the within proceedings (collectively, the “**Released Claims**”), and any such Released Claims are hereby irrevocably and permanently released, discharged, stayed, extinguished and forever barred and the Released Parties shall have no liability in respect thereof, save and except for any gross negligence or wilful misconduct.

GENERAL

11. **THIS COURT ORDERS** that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of their respective powers and duties under this Order or in the interpretation or application of this Order.

SCHEDULE "A"

Court File No. CV-20-00649558-00CL

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

THE HONOURABLE Mr.) _____, THE ____
JUSTICE CAVANAGH) DAY OF _____, 2025

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF EXPRESS GOLD REFINING LTD.
(the "**Applicant**")

MONITOR'S DISCHARGE CERTIFICATE

RECITALS

1. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated October 15, 2020, as amended from time to time, among other things, Express Gold Refining Ltd. commenced proceedings under the *Companies' Creditors Arrangement Act* (such proceedings, the "**CCAA Proceeding**"), and Deloitte Restructuring Inc. ("**Deloitte**") was appointed as the Monitor (in such capacity, the "**Monitor**") of the Applicant.
2. Pursuant to an Order of the Court dated July 14, 2025 (the "**CCAA Termination Order**"), the CCAA Proceeding are to be terminated and Deloitte is to be discharged as Monitor of the CCAA Proceeding effective upon the filing by the Monitor with the Court of a certificate confirming that all matters listed in paragraph 9 of the CCAA Termination Order have been attended to.
3. Capitalized terms not otherwise defined herein have the meanings set out in the CCAA

Termination Order.

THE MONITOR CERTIFIES the following:

4. All matters to be attended to in connection with the CCAA Proceeding have been completed to the satisfaction of the Monitor.
5. This Certificate was filed by the Monitor with the Court on the [●] day of July, 2025 at [time].

DELOITTE RESTRUCTURING INC.,
solely in its capacity as the Monitor of the Applicant
and not in its personal or corporate capacity

Per: _____
Name:
Title:

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
EXPRESS GOLD REFINING LTD.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced in TORONTO

ORDER
(CCAA Termination)

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Lawyers for the Applicant, Express Gold Refining Ltd.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
EXPRESS GOLD REFINING LTD.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced in TORONTO

**MOTION RECORD
(returnable July 14, 2025)**

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