

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 WITH RESPECT TO
EXPRESS GOLD REFINING LTD.

SUPPLEMENT TO THE FIRST REPORT OF THE MONITOR
October 27, 2020

INTRODUCTION

1. On October 15, 2020 (the “**Filing Date**”), Express Gold Refining Ltd. (“**EGR**” or the “**Applicant**”) filed for and obtained protection under the *Companies' Creditors Arrangement Act* (the “**CCAA**”). Pursuant to the Order of this Court granted October 15, 2020 (as may be amended, restated or supplemented from time to time, the “**Initial Order**”), Deloitte Restructuring Inc. (“**Deloitte**”) was appointed as the Monitor in these proceedings (in such capacity, the “**Monitor**”). The Initial Order also provided for, among other things, a stay of proceedings with respect to the Applicant until and including October 19, 2020 (the “**Stay Period**”). In his endorsement, Justice Hainey scheduled the comeback hearing (the “**Comeback Hearing**”) for October 19, 2020.
2. On October 18, 2020, Deloitte filed the First Report of the Monitor (the “**First Report**”) which, among other things, described the activities of EGR and the Monitor and the monitoring protocol established and being implemented, in conjunction with the Applicant,

with respect to the business operations of EGR. A copy of the First Report is available on the Monitor's case website at www.insolvencies.deloitte.ca/en-ca/ExpressGoldRefiningLtd (the "**Monitor's Website**").

3. At the Comeback Hearing on October 19, 2020, Justice McEwen amended the Initial Order (the "**Amended Initial Order**") to, among other things, extend the Stay Period until and including October 27, 2020.

PURPOSE

4. The Monitor has prepared this report (the "**Supplement to the First Report**") as an update to the Court on the following:
 - a) the activities of EGR and the Monitor from the date of the First Report to the date of this report; and
 - b) the monitoring protocol established and being implemented, in conjunction with the Applicant, with respect to the business operations of EGR.

TERMS OF REFERENCE AND DISCLAIMER

5. In preparing the Supplement to the First Report and the commentary contained herein, the Monitor has been provided with, and has relied upon books and records and financial information prepared by EGR, and discussions with management of the Applicant (the "**Management**") (collectively, the "**Information**").

6. The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Generally Accepted Assurance Standards (“**Canadian GAAS**”) pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under Canadian GAAS in respect of the Information.

ACTIVITIES OF EGR SINCE THE FILING DATE

7. Since the Filing Date, EGR has undertaken the following activities:
- a) Issued communication regarding the CCAA Proceedings to customers and suppliers;
 - b) Managed relationships with customers and suppliers to minimize business disruptions; and
 - c) The Applicant’s counsel, together with the Monitor’s counsel, held preliminary discussions with General Counsel for Justice Canada and Canada Revenue Agency (“**CRA**”).

ACTIVITIES OF THE MONITOR SINCE THE FILING DATE

8. Since the Filing Date, the Monitor has undertaken the following activities:

- a) On October 20, 2020, sent a notice (the “**Notice**”) to every known creditor, who has a claim against the Applicant of more than \$1,000 based on contact information of such known creditors provided by EGR, advising them that the Initial Order is publicly available on the Monitor’s Website;
- b) Prepared a list of the known creditors showing their names, addresses and estimated claim amounts and made it publicly available in the prescribed manner by posting it on the Monitor’s Website on October 20, 2020;
- c) Completed statutory forms 1 and 2, which have been filed with the Office of the Superintendent of Bankruptcy pursuant to subsection 23(1)(f) of the CCAA;
- d) Attended meetings with Management on site at EGR’s premises in Toronto regarding monitoring activities and the CCAA Proceedings;
- e) Attended to various inquiries which the Monitor received from EGR’s creditors and other interested parties through either the Monitor’s telephone hotline or by e-mail; and
- f) Together with the Applicant, established a comprehensive monitoring and control process with respect to the end-to-end purchase and sale of refined and unrefined gold and other precious metals (the “**Protocol**”).

EGR MONITORING PROTOCOL

9. The Monitor has developed the Protocol with the assistance of EGR and with input from CRA.
10. The overall purpose of the Protocol is, among other things, to provide a pathway for EGR to conduct its business in a fashion that will allow it to receive net tax refunds as applicable in accordance with the *Excise Tax Act* (Canada), while at the same time providing comfort to CRA that the business transactions are being conducted under the appropriate control and reporting from the Monitor.
11. A copy of the Protocol is being filed separately as **Confidential Appendix “A”** to this Report, subject to a request for a sealing order. The Protocol contains information that is commercially sensitive to EGR and CRA. The Monitor, EGR and CRA have agreed to treat confidentially and not disclose the Protocol to any unauthorized persons, except with the prior written consent of the Monitor, EGR and CRA (the “**Confidentiality Provision**”). The only intended recipients of the Protocol are this Court, EGR and CRA. As such, the Monitor is of the view that a sealing order is appropriate in the circumstances.
12. The Monitor, EGR and CRA have also agreed that:
 - a) The Protocol shall not be amended, restated or supplemented, except with the written consent of the Monitor, EGR and CRA, or further Order of this Court (the “**Amendment Provision**”); and

- b) The Protocol and all monitoring and control measures described therein shall automatically terminate on the earlier of: (i) the mutual agreement of the Monitor, EGR 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 (the "**Termination Provision**").
13. The Monitor understands that EGR will be seeking to have the Protocol, including the Confidentiality Provision, the Amendment Provision and the Termination Provision, approved as part of an amended and restated Initial Order. The Monitor supports EGR's request.
14. The Monitor understands that EGR will be seeking an extension of the Stay Period up to and including December 15, 2020 which will give the parties the opportunity to assess, among other things, the effectiveness of the Protocol. As described in the Report of the Proposed Monitor dated October 14, 2020, the Cash Flow Forecast indicates that the Applicant will have sufficient liquidity during the period to January 1, 2021. In the Monitor's view, the Applicant has acted and continues to act in good faith and with due diligence in the CCAA Proceedings. The Monitor supports EGR's request for the extension of the Stay Period to December 15, 2020.

All of which is respectfully submitted this 27th day of October, 2020.

**Deloitte Restructuring Inc.,
Solely in its capacity as Court-appointed Monitor
of Express Gold Refining Ltd.**

A handwritten signature in black ink, appearing to read "Phil Reynolds".

Phil Reynolds, LIT
Senior Vice-President

A handwritten signature in black ink, appearing to read "Warren Leung".

Warren Leung, LIT
Vice-President

CONFIDENTIAL APPENDIX "A"