

CANADA / JUDGMENT

ITMO Myra Falls Mine Ltd.

2025 BCSC 958

COURT

Supreme Court of British Columbia

DECIDED

3 April 2025

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2025 BCSC 958 Myra Falls Mine Ltd. (Re) IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: Myra Falls Mine Ltd. (Re), 2025 BCSC 958 Date: 20250403 Docket: S238572 Registry:

Vancouver 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 and Arrangement of Myra Falls Mine Ltd.

Petitioner Corrected Judgment: The text of the judgment was corrected on the cover page on May

29, 2025. Before: The Honourable Madam Justice Fitzpatrick Oral Reasons for Judgment In

Chambers Counsel for the Petitioner, Myra Falls Mine Ltd.: J.B. Ross M. Dominguez V. Gauthier

(by videoconference) Counsel for the Monitor, FTI Consulting Canada Inc.: P.L. Rubin Counsel

for WSP Canada Inc. and WSP E&I Canada Ltd.: S.A. Turner Counsel for Thyssen Mining

Construction of Canada Ltd.: J.D. Schultz Counsel for UNIFOR Local 3019: R. Ahluwalia Counsel

for the Ministry of Attorney General of British Columbia: C.M. Cheuk (by videoconference)

Counsel for Texcan, a division of Sonepar Canada Inc., Heidelberg Materials Ltd., and Frontline

Equipment Ltd.: B.J. Lorimer (by videoconference) Place and Date of Hearing: Vancouver, B.C.

April 3, 2025 Place and Date of Judgment: Vancouver, B.C. April 3, 2025

[1] THE COURT: These are Companies' Creditors Arrangement Act ("CCAA") proceedings that I have been supervising since the proceeding began in late 2023. The subject mine (the asset held by the petitioner, Myra Falls Mine Ltd. ("Myra Falls") on Vancouver Island), has been in care and maintenance for some time. At this stage, Myra Falls is seeking to move toward what it believes and hopes will result in a conclusion to these proceedings, that have been outstanding for some time.

[2] The present application, brought by Myra Falls, is to extend the stay of proceedings to July 31, 2025, to allow ongoing care and maintenance operations at the mine. For that reason, Myra Falls also seeks an \$8 million increase in the interim financing, to bring the aggregate to \$45 million.

- [3] The stay extension sought is in addition to other relief that Myra Falls seeks to hopefully move towards some resolution of the proceeding. Myra Falls seeks approval of a second sales and investment solicitation process ("SISP"). In relation to the SISP, Myra Falls has negotiated a stalking horse bid from Trafigura Holding SARL, which is a related party to the Trafigura company that is the indirect owner of Myra Falls and also related in some fashion to the interim financier.
- [4] The second SISP is modeled essentially on the terms of the original SISP. The order sought also allows for Myra Falls to re-engage FTI Capital Advisors Canada ULC, who was involved in the original SISP.
- [5] The stalking horse agreement is before me. Myra Falls' counsel describes that there are minimum considerations in order to be a qualified or compliant bid under the Phase 1 stage. Otherwise, the SISP and the stalking horse agreement are on terms that are consistent with previous sales processes and stalking horse bids that have been presented here.
- [6] The stalking horse agreement also contemplates that the closing would be through the mechanism of a reverse vesting order ("RVO"). RVOs involve the transfer of certain excluded liabilities and excluded assets to Residual Co. The stalking horse agreement anticipates the purchaser taking over the mine on a care-and-maintenance, and not operational, mode. The purchase price is essentially the interim financing amount, amounts due under certain CCAA charges and what is called a priority payment amount. The conditions include termination of employees, amendments to the impact benefits agreements with the local First Nations and also a wharf lease with respect to the Discovery Terminal.
- [7] The collective bargaining agreement, presently in place with UNIFOR Local 3019 (the "Union"), is not an excluded contract. However, under the RVO transaction anticipated under the stalking horse agreement, unsecured employee claims, which includes severance, would be transferred to Residual Co.
- [8] The expense reimbursement amount under the stalking horse agreement is \$500,000. In light of the purchase price under the stalking horse agreement, that is a very low percentage of the purchase price and well below the normal range of usual expense reimbursement amounts. No break fee is sought.
- [9] The other parties attending on this application, including various lien claimants, take no position on the application. Notwithstanding, the lien claimants' counsel have identified certain concerns with respect to the sales process in light of the close relationship between the Trafigura companies and Myra Falls. I accept the comments of the Monitor's counsel that the Monitor is very much aware of those concerns and, given the Monitor's substantial involvement in the SISP, will be alive to those concerns and prepared to address them, if necessary.

- [10] The Union's counsel has also made submissions. Its counsel takes no position but reserves rights to object to any sale that might ultimately be proposed for approval with respect to issues relating to the Union and its members. Finally, the BC Attorney General appears and similarly takes no position while reserving the right to make submissions with respect to any proposed sale.
- [11] The Monitor fully supports the relief sought, as discussed in its Seventh Report dated April 1, 2025. As stated above, the Monitor is very much alive to the expressed concerns of the stakeholders here and is prepared to address those concerns, if necessary, in respect of the sales process.
- [12] With respect to the SISP and the stalking horse agreement, I am satisfied that it stands as a reasonable path forward in terms of hopefully bringing this matter to some conclusion.
- [13] I am also satisfied that it is appropriate to approve the stalking horse agreement for the purpose of providing a backstop to the stakeholders in the event that a further and better bid is not obtained through the open-market process.
- [14] I also conclude that the stay extension and the interim financing increase is appropriate as sought. Clearly, it will be some time to complete the revived sales process. The Trafigura company, who has funded the interim financing in these CCAA proceedings, continues to show its support by providing the increase of the facility by \$8 million. I accept that Myra Falls is acting in good faith and with due diligence.
- [15] Accordingly, the orders sought are granted, including the approval of the stalking horse agreement, the increase in the interim financing, and finally, the extension of the stay.
"Fitzpatrick J."

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Prepared on 27 October 2026 · Esheria