



ONTARIO SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

COUNSEL/ENDORSEMENT SLIP

COURT FILE NO.: CV-24-00722252-00CL

DATE: 02-OCT-2024

NO. ON LIST: 3

TITLE OF PROCEEDING: NEVADA COPPER, INC. et al. v. KFW IPEX-BANK GMBH
BEFORE: JUSTICE CAVANAGH

PARTICIPANT INFORMATION

For Plaintiff, Applicant, Moving Party:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|------------------------------|--|
| Fred Sosnick | US Counsel for the Applicant | fsosnick@aoshearman.com |

For Defendant, Respondent, Responding Party:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|----------------------------|--|
| Ashley Bowron | Counsel for the Respondent | abowron@mccarthy.ca |

For Other, Self-Represented:

| Name of Person Appearing | Name of Party | Contact Info |
|--------------------------|--|--|
| Jeremy Opolsky | Foreign Representative and the Other Debtors | jopolsky@torys.com |
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| Jake Harris | Counsel to the DIP Lenders and Triple Flag Mining Finance Bermuda Ltd. | jake.harris@blakes.com |
| Leanne Williams | Counsel to the Official Committee of Unsecured Creditors | lwilliams@tgf.ca |
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ENDORSEMENT OF JUSTICE CAVANAGH:

- [1] Nevada Copper, Inc. is the foreign representative with respect to the Chapter 11 proceedings of itself and its named affiliates (the “Debtors”). On June 21, 2024, this Court recognized the Chapter 11 proceeding of the Debtors as a foreign main proceeding under Part IV of the *Companies’ Creditors Arrangements Act*.
- [2] The Foreign Representative brings this motion for an Order (i) recognizing the Bankruptcy Court’s Sale Order (as defined in the motion materials) which approved the Asset Purchase Agreement (defined in the motion materials) under U.S. law; and (ii) certain ancillary relief designed to implement the Asset Purchase Agreement in Canada, including vesting the Canadian purchased assets, if any, free and clear of all claims and encumbrances, and authorizing the Canadian Debtors to change their names.
- [3] The Asset Purchase Agreement served as the stalking horse bid in the sale process under the Bankruptcy Court’s Stalking Horse Order, which this Court recognized on August 30, 2024. The Asset Purchase Agreement provides for the going-concern sale of substantially all of the Debtors’ assets that relate to their mining business in Nevada.
- [4] The Bankruptcy Court considered the Asset Purchase Agreement during a hearing on the merits held on September 25. On September 27, the Bankruptcy Court entered an order approving the Asset Purchase Agreement and the Sale Order. In granting the Sale Order, the Bankruptcy Court held that the Debtors’ sale process was open, fair, and afforded a full, fair and reasonable opportunity for interested parties to make a better offer than the Asset Purchase Agreement. It held further that the consideration provided under the Asset Purchase Agreement was fair, reasonable and constitutes the highest or otherwise best offer for the Purchased Assets.
- [5] The issue on this motion is whether this Court should grant an order under section 49 of the *CCAA* (i) recognizing the Sale Order in Canada; and (ii) providing certain ancillary relief designed to implement the Asset Purchase Agreement in Canada, including vesting the sellers’ Canadian Purchased Assets (if any) free and clear of all claims and encumbrances and authorizing the Canadian Debtors to change their names post-closing.
- [6] I have reviewed the motion materials and heard submissions from counsel for the Foreign Representative and counsel for the Information Officer. No one appeared at the hearing to oppose the requested relief.
- [7] The Information Officer reports that it believes that the requested Order is fair and reasonable in the circumstances and recommends that this Court grant the requested order. The Information Officer, at section 6.2 of its Third Report, sets out the factors that it considered in assessing the reasonableness of the Asset Purchase Transaction and the requested recognition Order. These factors support the Information Officer’s recommendation, which I accept.
- [8] I am satisfied that the requested Order should be made.
- [9] Order to issue in form of Order signed by me today.