



NO. S-154746
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*,
R.S.C. 1985 c. C-44, as amended

AND

IN THE MATTER OF NORTH AMERICAN TUNGSTEN CORPORATION LTD.

PETITIONER

NOTICE OF APPLICATION

Name of applicant: North American Tungsten Corporation Ltd. ("NATC" or the
"Petitioner")

To: The Service List

TAKE NOTICE that an application will be made by the applicant to the Honourable Mr. Justice Butler at the courthouse at 800 Smithe Street, Vancouver, B.C. on 14/October/2015 at 9:00 a.m. for the orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An order substantially in the form attached hereto as **Schedule "A"**, *inter alia*, extending the Stay Period (as defined in the Amended and Restated Initial Order made July 9, 2015) to 11:59 p.m. on November 30, 2015; and
2. Such other relief as this Honourable Court may deem just.

Part 2: FACTUAL BASIS

BACKGROUND

1. On June 9, 2015, Mr. Justice Butler granted the Initial Order providing for a stay of proceedings to July 8, 2015, and a come-back hearing was set for July 8, 2015 at 9:00 a.m.
2. On July 9, 2015, Mr. Justice Butler granted the Amended and Restated Initial Order, pursuant to which (among other things) the Stay Period was extended to 11:59 p.m. on July 17, 2015.
3. In previous applications, the Petitioner developed and disclosed an operating plan to:
 - (a) run production at the Cantung Mine until the end of October 2015, recognizing that shipments will continue for a period of time thereafter;
 - (b) conduct an orderly wind down of underground mining activities;
 - (c) undertake a staged disposition of underground mining equipment to reduce the amount outstanding to one of its senior secured lenders, Callidus Capital Corporation ("**Callidus**"); and
 - (d) move the Cantung Mine to care and maintenance over the winter
(the "**Operating Plan**").
4. On July 17, 2015, Mr. Justice Butler granted an order, *inter alia*, (a) extending the Stay Period to 11:59 p.m. on October 31, 2015, (b) approving a Sale and Investment Solicitation Process (the "**SISP**") to identify long term investors or purchasers of some or all of its assets, and (c) approving the engagement of Alvarez & Marsal Canada Securities ULC as financial advisor to assist the Petitioner to implement the SISP (the "**Financial Advisor**").
5. It was intended that the SISP would run parallel to the Operating Plan, with the aim of closing a transaction by late 2015.
6. On July 22, 2015, the Petitioner received a letter from Global Tungsten & Powders Corp ("**GTP**") notifying the Petitioner of GTP's intention to set off amounts due to the Petitioner in respect of post-filing invoices against amounts advanced to the Petitioner under a pre-filing loan agreement.

7. On July 27, 2015, Mr. Justice Butler made an order declaring that set off was stayed by the ARIO and requiring GTP to make immediate payment of all amounts due to the Petitioner for shipments made before July 22, 2015.
8. On July 31, 2015, Mr. Justice Butler made an order declaring that GTP had a valid right of set off and staying GTP from exercising its right of set off during the Stay Period, as may be extended by order of the Court (the "**Set-Off Order**"). GTP sought leave to appeal to the British Columbia Court of Appeal (the "**BCCA**").
9. On August 12, 2015, Mr. Justice Savage of the BCCA denied GTP's application for leave to appeal. GTP applied to vary this order.
10. On August 20, 2015, Mr. Justice Butler granted an order authorizing and empowering the Petitioner to enter into a revolving credit facility with Callidus (the "**AR Facility**") to finance accounts receivable owed to the Petitioner by GTP, secured by a super-priority charge over the Petitioner's assets.
11. An amendment to the SISF was approved by order of Mr. Justice Butler on September 14, 2015, which saw the Monitor play a larger and expanded role in regards to the SISF.
12. On September 30, 2015, a panel of three judges of the BCCA dismissed GTP's application to vary the order by Mr. Justice Savage of the Court of Appeal of British Columbia, and confirmed the denial of leave to appeal the Set-Off Order.

AR FACILITY

13. After the AR Facility was approved, the Petitioner resumed regular shipments to GTP in order the access funding under the AR Facility.
14. The Petitioner and Callidus were not able to settle the AR Facility term sheet and related security with Callidus. However, Callidus did advance \$1.17 million on or about September 18, 2015 (the "**Advance**").
15. On October 1, 2015, Callidus and the Petitioner came to an agreement regarding the AR Facility and the Advance whereby Callidus agreed to continue to provide the revolving facility at the limit of that initial Advance.
16. Callidus recently informed the Petitioner that it is not prepared to advance in respect of amounts for which the invoices from GTP are due after the current expiration of the Stay Period.

17. The Petitioner's last shipment to GTP was on September 29, 2015. The Petitioner currently has further shipments planned through the end of October 2015 and into early November.
18. Due to its liquidity challenges, without ongoing advances from Callidus, the Company will not be able to pay its employees and contractors to produce and ship product to GTP in the month of October, and is therefore seeking an extension of the Stay Period to November 30, 2015.
19. GTP is currently stayed from exercising its right of set off until the end of October 2015. As a result, GTP is bound to pay for all outstanding shipments and has been doing so.
20. If the Stay Period is extended, additional shipments will be made to GTP in accordance with the contract under which the Petitioner continues to perform, providing further consideration to GTP. GTP will thus suffer no prejudice from an extension of the Stay Period.

OUTCOME OF SISP

21. The deadline for potential bidders to submit Qualified Bids (as defined in the SISP) was September 30, 2015.
22. The Financial Advisor, the Monitor and the Petitioner are assessing Qualified Bids received, in consultation with Callidus and the Government of the Northwest Territories ("GNWT").
23. Although it is currently uncertain whether discussions with Qualified Bidders (as defined in the SISP) will lead to a transaction in respect of the Cantung Mine in the near future, the Petitioner remains committed to finding a solution for the long term success of the mine, and is engaging with GNWT and Callidus in relation to potential options.
24. The Petitioner is carrying out the Operating Plan to transition the Cantung Mine to care and maintenance over the winter, and is in discussions with Callidus and GNWT for the funding of same after the end of November.
25. The Financial Advisor, the Monitor and the Petitioner are also assessing bids on equipment at the Cantung Mine, in consultation with Callidus, in accordance with the Operating Plan.
26. The Petitioner expects to file a Notice of Application during the requested extension to the Stay Period in respect of one or more transactions and a further

extension of the Stay Period to facilitate an appropriate care and maintenance plan over the winter.

EXTENSION OF THE STAY PERIOD

27. If the Stay Period is extended, the cash flow forecast attached as Schedule "A" to the Twelfth Affidavit of Dennis Lindahl, to be sworn, demonstrates that the Petitioner can satisfy its post-filing liabilities through the end of November 2015.
28. The Petitioner continues to work in good faith and with due diligence towards finalizing one or more transactions in respect of its property and ultimately proposing a restructuring plan to its creditors, and it is appropriate in the circumstances to extend the Stay Period to enable the Petitioner to work towards these aims.

Part 3: LEGAL BASIS

1. Sections 11 and 11.02, of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, (the "CCAA") and the inherent and equitable jurisdiction of this Honourable Court.
2. The Petitioner has been, and is, acting in good faith and with due diligence.

Part 4: MATERIAL TO BE RELIED ON

1. Amended and Restated Initial Order, made July 9, 2015;
2. Order Made After Application, made July 17, 2015;
3. Order Made After Application, made July 27, 2015;
4. Set-Off Order, made July 30, 2015;
5. Order Made After Application, made August 13, 2015;
6. Order Made After Application, made September 14, 2015;
7. Affidavit #6 of Dennis Lindahl, sworn July 15, 2015;
8. Affidavit #9 of Dennis Lindahl, sworn July 21, 2015;
9. Affidavit #12 of Dennis Lindahl, to be sworn;
10. The Fifth Report of the Monitor, dated July 15, 2015;

11. The Sixth Report of the Monitor, dated July 23, 2015;
12. The Seventh Report of the Monitor, dated August 10, 2015;
13. The Ninth Report of the Monitor, to be filed; and
14. Other pleadings and materials filed in this proceeding.

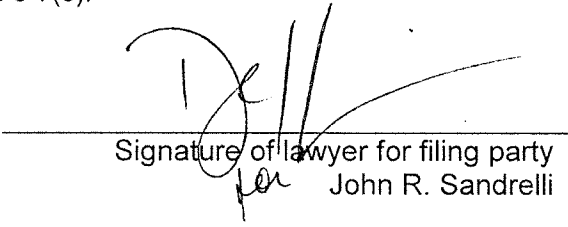
The applicant(s) estimate(s) that the application will take 1 hour.

- ☐ This matter is within the jurisdiction of a master.
- ☒ This matter is not within the jurisdiction of a master. Mr. Justice Butler is seized of these proceedings and this application has been scheduled to be heard before Mr. Justice Butler by Trial Scheduling.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days of service of this Notice of Application,

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed Application Response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: 09 / October / 2015



Signature of lawyer for filing party
John R. Sandrelli

To be completed by the court only:	
Order made	
<input type="checkbox"/>	in the terms requested in paragraphs _____ of Part 1 of this Notice of Application
<input type="checkbox"/>	with the following variations and additional terms:
Date:	
Signature of <input type="checkbox"/> Judge <input type="checkbox"/> Master	

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial

- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts

Schedule "A"

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ORDER MADE AFTER APPLICATION

)	THE HONOURABLE)	
BEFORE))	14 / Oct / 2015
)	MR. JUSTICE BUTLER)	

ON THE APPLICATION of North American Tungsten Corporation Ltd. coming on for hearing at Vancouver, British Columbia on this day and on hearing Jordan Schultz, counsel for North American Tungsten Corporation Ltd., and those counsel listed in **Schedule "A"** hereto;

THIS COURT ORDERS that:

1. The time for service of the Notice of Application herein be and is hereby abridged such that the Notice of Application is properly returnable today and service upon any interested party, other than those parties on the service list maintained by the Petitioner and Alvarez & Marsal Canada Inc. (the "**Monitor**") in these proceedings is hereby dispensed with.
2. The relief granted in the Order made in this proceeding on June 9, 2015, as amended and restated by further Order in this proceeding on July 9, 2015, as extended by further Order in this proceeding on July 17, 2015, including the Stay Period as defined therein, is hereby continued and extended to 11:59 p.m. on November 30, 2015.

3. Endorsement of this Order by counsel appearing on this application is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of _____
Lawyer for North American Tungsten Corporation Ltd.

By the Court.

Registrar