

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	MONDAY, THE 26 TH
)	
JUSTICE NEWBOULD)	DAY OF SEPTEMBER, 2016

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 ESSAR STEEL ALGOMA INC., ESSAR TECH ALGOMA INC.,
ALGOMA HOLDINGS B.V., ESSAR STEEL ALGOMA (ALBERTA) ULC,
CANNELTON IRON ORE COMPANY AND ESSAR STEEL ALGOMA INC. USA

Applicants

ORDER

THIS MOTION, made by the DIP Lenders (defined below) for an order authorizing, directing and empowering Ernst & Young Inc. in its capacity as Monitor pursuant to the Amended and Restated Initial Order of the Honourable Mr. Justice Morawetz dated November 9, 2015 (the "**Amended and Restated Initial Order**") and not in its personal capacity (the "**Monitor**") to commence certain proceedings and make certain investigations, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of John McKenna sworn August 9, 2016, the Thirteenth Report of the Monitor dated June 20, 2016 (the "**Thirteenth Report**"), the Sixteenth Report of the Monitor dated September 9, 2016 (the "**Sixteenth Report**"), the affidavit of Anshumali Dwivedi, sworn September 19, 2016 and on hearing the submissions of counsel for the Applicants, the Monitor, Port of Algoma Inc. and

those other parties present, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service, filed:

1. **THIS COURT ORDERS** that the Monitor is authorized, empowered and directed to commence and continue proceedings (the “**Related Party Proceedings**”) under the provisions of section 241 of the *Canada Business Corporations Act* (“CBCA”) in relation to the transactions and matters described in the Thirteenth Report and the Sixteenth Report (the “**Related Party Transactions**”), including without limitation the transactions involving the conveyance of Algoma’s port facility assets (the “**Port Transaction**”) to Port of Algoma Inc.
2. **THIS COURT ORDERS** that all issues regarding the merits of the Related Party Proceedings may be raised in the course of those proceedings, including but not limited to: (i) the sufficiency of the pleadings; (ii) whether the plaintiff or applicant is a proper complainant pursuant to section 238 of the CBCA; (iii) whether the proper parties are named in the Related Party Proceedings; and (iv) whether the Related Party Proceedings meet the elements of section 241 of the CBCA. The granting of this Order permitting the Monitor to commence the Related Party Proceedings does not constitute a determination of any such issue.
3. **THIS COURT ORDERS** that the Monitor is directed to bring any and all Related Party Proceedings on the Commercial List by a date not later than October 21, 2016.
4. **THIS COURT ORDERS** that the stays of proceedings provided for under the Amended and Restated Initial Order, as they apply to the Applicants, Port of Algoma Inc. and Essar Power Corporation Limited, are hereby lifted to allow the Monitor to commence and continue the Related Party Proceedings and any defendants or

respondents named in the Related Party Proceedings to respond to the Related Party Proceedings, provided however, that the stay of proceedings shall be lifted with respect to no other claim.

5. **THIS COURT ORDERS** that in addition to the powers provided to the Monitor pursuant to the Amended and Restated Initial Order and the obligations imposed upon those with information and records pertaining to the Applicants, all persons having notice of this Order shall cooperate fully with the Monitor in relation to its investigation of the Related Party Transactions, and provided further that such persons shall incur no liability merely by reason of the cooperation referred to in this paragraph. All procedural and discovery related issues shall be determined by the case management judge of the Related Party Proceedings.

6. **THIS COURT ORDERS** that in relation to all matters connected with the Related Party Proceedings, the Monitor shall have all of the rights, powers and protections provided for pursuant to the Amended and Restated Initial Order.

7. **THIS COURT ORDERS** that the Monitor shall continue to have the benefit of the protections provided for under paragraph 41 of the Amended and Restated Initial Order in the exercise of its powers under this Order, including, without limitation, the commencement and continuation of the Related Party Proceedings.

8. **THIS COURT ORDERS** that the foregoing does not preclude the Court from awarding legal costs associated with the Related Party Proceedings in favour of a party to the Related Party Proceedings and in the event that such costs are awarded against the Monitor, the Monitor shall, have a claim for indemnity against the Property to satisfy any such costs award ("**Monitor's Cost Indemnity Claim**") and such indemnity claim shall be secured by the Administrative Charge created in accordance with the Amended and Restated Initial Order, as amended by this Order.

9. **THIS COURT ORDERS** that the Amended and Restated Initial Order shall be amended as necessary so as to provide that the maximum aggregate amount of the Administrative Charge (as defined therein) is equal the sum of \$5 million plus the amount of the Monitor's Cost Indemnity Claim.

GENERAL

10. **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 or any other jurisdiction to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order, including the U.S. Bankruptcy Court. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.



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ON / BOOK NO:
LE / DANS LE REGISTRE NO:

SEP 26 2016

PER / PAR: 

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

Court File No. CV15-000011169-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF ESSAR STEEL ALGOMA INC., ET AL

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

Proceeding commenced at Toronto

ORDER

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