

**IN THE SUPREME COURT OF BRITISH COLUMBIA**  
**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.**  
**1985, c. C-36**

**AND**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57**

**AND**

**IN THE MATTER OF GREAT BASIN GOLD LTD.**

**PETITIONER**

**NOTICE OF APPLICATION**

Name of applicant: The Petitioners, Great Basin Gold Ltd.

To: The parties and counsel listed on Schedule "A" attached hereto.

TAKE NOTICE that an application will be made by the Petitioner to the Honourable Madam Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, BC V6Z 2E1, on Thursday, October 25, 2012 at 9:00 a.m. for the order set out in Part 1 below.

**Part 1: ORDER SOUGHT**

1. An order substantially in the form of Order Attached hereto as Schedule "B".

**Part 2: FACTUAL BASIS**

1. On or about October 16, 2012, the Petitioner and certain of its US Subsidiaries entered into an amended agreement with the Petitioner's Financial Advisor, CIBC WM (the "Financial Advisor"), relating to the Financial Advisor's provision of investment banking services to the Company (the "Engagement Letter").

2. The Petitioner seeks court approval of the Engagement Letter, along with other relief, including the granting of Financial Advisor Charges.

**Part 3: LEGAL BASIS**

1. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended.
2. The inherent jurisdiction of this Honourable Court.

**Part 4: MATERIAL TO BE RELIED ON**

1. Order of Madam Justice Fitzpatrick made September 19, 2012;
2. Order of Madam Justice Fitzpatrick made October 16, 2012 (Approving Settlement);
3. Order of Madam Justice Fitzpatrick made October 16, 2012 (Approving KERP);
4. Affidavit #5 of Susan Taylor, sworn October 24, 2012; and
5. such further and other material as may be filed herein.

The applicant estimates that the application will take 15 minutes.

This matter is not within the jurisdiction of a master and is to be heard before Madam Justice Fitzpatrick, the CCAA Case Management Judge in these proceedings.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to receive notice of the time and date of the hearing or to respond to the application, you must

- (a) file an application response in Form 33 within 5 days after the date of service of this notice of application or, if the application is brought under Rule 9-7 of the Supreme Court Civil Rules, within 11 days after the date of service of this notice of application, and
- (b) at least 2 days before the date set for the hearing of the application, serve on the applicant 2 copies, and on every other party one copy, of a filed copy of the application response and the other documents referred to in Rule 9-7(12) of the Supreme Court Civil Rules.

Dated: October 24, 2012

  
\_\_\_\_\_  
Signature of lawyer for the Petitioner

***To be completed by the court only:***

Order made

in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this notice of application

with the following variations and additional terms:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Signature of \_\_\_\_\_

Judge  Master

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

*[Check the box(es) below for the application type(s) included in this application.]*

- document discovery
- oral examination for discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders
- experts

**SCHEDULE "A"**

**No. S-126583  
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**

**AND**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57**

**AND**

**IN THE MATTER OF GREAT BASIN GOLD LTD.**

**PETITIONER**

**SERVICE LIST**

McMillan LLP  
Royal Centre, 1055 West Georgia Street  
Suite 1500, PO Box 11117  
Vancouver, BC V6E 4N7  
Attention: Peter J. Reardon, Wael Rostom and  
Jennifer Cockbill

Counsel for:  
*The Petitioner, Great Basin Gold Ltd.*

EMAIL :  
peter.reardon@mcmillan.ca  
wael.rostom@mcmillan.ca  
jennifer.cockbill@mcmillan.ca

Gowling Lafleur Henderson LLP  
550 Burrard Street  
Suite 2300, Bentall 5  
Vancouver, BC V6C 2B5  
Attention: John I. McLean, Q.C. and Alex  
MacFarlane

Counsel for:  
*The Monitor, KPMG Inc.*

EMAIL :  
john.mclean@gowlings.com  
alex.macfarlane@gowlings.com

Blake Cassels & Graydon LLP  
Suite 2600, Three Bentall Centre  
595 Burrard Street  
P.O. Box 49314  
Vancouver BC V7X 1L3  
Attention: Peter Rubin, Katherine McEachern  
and Milly Chow

EMAIL :  
peter.rubin@blakes.com  
katherine.mceachern@blakes.com  
milly.chow@blakes.com

Fraser Milner Casgrain LLP  
20th Floor, 250 Howe Street,  
Vancouver BC V6C 3R8  
Attention: John Sandrelli, Ryan Jacobs, and  
Cindy Cheuk

EMAIL :  
john.sandrelli@fmc-law.com  
ryan.jacobs@fmc-law.com  
cindy.cheuk@fmc-law.com  
avic.arenas@fmc-law.com  
robin.peardon@fmc-law.com  
kelly.tsang@fmc-law.com

KPMG Inc.  
777 Dunsmuir Street  
Vancouver, BC V7Y 1K3  
Attention: Phillip J. Reynolds, Anthony J.  
Tillman, Ryan J. Adlington and Kumanan  
Ramanathan

EMAIL :  
pjreynolds@kpmg.ca  
atillman@kpmg.ca  
radlington@kpmg.ca  
kramanathan@kpmg.ca

Counsel for:  
*Credit Suisse, AG*

Counsel for:  
*The Ad Hoc Group of Convertible Debenture  
Holders*

Monitor:  
*KPMG Inc.*

Davis LLP  
2800 – 666 Burrard Street  
Vancouver, BC V6C 2Z7  
Attention: Peter C. Lee

EMAIL:  
pclee@davis.ca

Boughton Law Corporation  
700 – 595 Burrard Street  
PO Box 49290 Van Stn Bentall Centre  
Vancouver, BC V7X 1S8  
Attention: Alan H. Brown

EMAIL:  
abrown@boughton.ca

Computershare Trust Company of Canada  
510 Burrard Street, 2nd Floor  
Vancouver, BC V6C 3B9  
Attention: Nicole Clement and Alice Kollen

EMAIL:  
nicole.clement@computershare.com  
alice.kollen@computershare.com

Counsel for:

*CIBC*

Counsel for:

*Caterpillar Financial Services Corporation*

Trustee:

*Computershare Trust Company of Canada*

SCHEDULE B

No. S126583  
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

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57

AND

IN THE MATTER OF GREAT BASIN GOLD LTD.

PETITIONER

**ORDER MADE AFTER APPLICATION**

BEFORE THE HONOURABLE ) THURSDAY, THE 25<sup>th</sup> DAY  
 )  
MADAM JUSTICE FITZPATRICK ) OF OCTOBER, 2012

THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 25<sup>th</sup> day of October, 2012; AND ON HEARING Peter J. Reardon and Jennifer Cockbill, counsel for the Petitioners, and those other counsel listed on **Schedule "A"** hereto;

THIS COURT ORDERS THAT:

1. Notwithstanding any provision of the Initial Order pronounced herein on September 19, 2012 (the "**Initial Order**"), the engagement of CIBC World Markets Inc. as financial advisor to the Petitioner (the "**Financial Advisor**") pursuant to the engagement letter dated October 16,

2012 between the Financial Advisor, the Petitioner, Great Basin Gold Inc., Rodeo Creek Gold Inc., and Antler Creek Gold Inc. (the “**Engagement Letter**”) attached as Exhibit “A” to the Affidavit #5 of Susan Taylor, sworn October 24, 2012 is hereby approved. The Petitioner is authorized to carry out and perform its obligations thereunder, including payment of amounts due to be paid pursuant to the terms of the Engagement Letter, including, but not limited to, any fee under the Engagement Letter to be paid upon a Sale Transaction or a Restructuring Transaction as defined in the Engagement Letter, and the Engagement Letter shall be binding on the Petitioner.

2. Capitalized terms used but not otherwise defined herein shall have the same meaning ascribed to them in the Initial Order.
3. All claims of the Financial Advisor pursuant to the Engagement Letter are not claims that may be compromised pursuant to any plan of arrangement under the CCAA, any proposal under the BIA or any other restructuring and no such plan, proposal or restructuring shall be approved that does not provide for the payment of all amounts due to the Financial Advisor pursuant to the terms of the Engagement Letter.
4. The Financial Advisor, its affiliates, partners, directors, employees, agents and controlling persons shall have no liability with respect to any and all losses, claims, damages or liabilities of any nature or kind, to any person in connection with or as a result of either its engagement by the Petitioner as Financial Advisor or any matter referred to in the Engagement Letter except to the extent such losses, claims, damages or liabilities result from the gross negligence or willful misconduct of the Financial Advisor in performing its obligations under the Engagement Letter.
5. The Financial Advisor shall be a beneficiary of the Administration Charge over the Petitioner’s property and its share of the Administration Charge shall be in the maximum amount of \$1 million as security for all amounts due to be paid to the Financial Advisor pursuant to the Engagement Letter
6. The aggregate amount of the Administration Charge is hereby increased from \$2,462,500.00 to \$2,712,500.



7. The Financial Advisor is hereby granted a further charge (the “**Subordinate Financial Advisor Charge**” over all of the property of the Petitioner, as security for the balance of the amounts due to be paid to Financial Advisor pursuant to the Engagement Letter.

8. Paragraph 42 of the Initial Order is deleted and the following paragraph is substituted in its place:

“The priorities of the Administration Charge, the DIP Lenders’ Charge, the Directors’ Charge, the KERP Charge (as that term is defined in the Order pronounced herein on October 16, 2012), the First Financial Advisor Charge, and the Second Financial Advisor Charge, as among them, shall be as follows:

First - Administration Charge, including the First Financial Advisor Charge (to the aggregate maximum amount of \$2,712,500.00);

Second - Directors’ Charge (to the maximum of \$500,000);

Third - DIP Lenders’ Charge;

Fourth - KERP Charge; and

Fifth - Subordinate Financial Advisor Charge.”

9. The Financial Advisor Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property and such Charges shall, subject to the preceding paragraph, rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”), in favour of any Person with the exception of the Permitted Priority Claims as defined in the Initial Order.

10. Any security documentation evidencing, or the filing, registration or perfection of, the Financial Advisor Charges shall not be required, and that the Subordinate Advisor Charge shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the

Subordinate Financial Advisor Charge coming into existence, notwithstanding any failure to file, register or perfect any such Financial Advisor Charges.

11. The Subordinate Financial Advisor Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Subordinate Advisor Charge shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statute; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Petitioner; and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Subordinate Financial Advisor Charge nor the execution, delivery, perfection, registration or performance of any documents ancillary thereto shall create or be deemed to constitute a breach by the Petitioner of any Agreement to which it is a party;
- (b) the payments made by the Petitioner pursuant to this Order and the granting of the Subordinate Financial Advisor Charge does not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

12. The Subordinate Financial Advisor Charge created by this Order over leases of real property in Canada shall only be a charge over the Petitioner’s interest in such real property leases.

13. Notwithstanding any provision of this Order, the Ad Hoc Committee shall be at liberty to apply to set aside or vary this Order if the settlement (the “**Settlement**”) approved in the Order

of this Court pronounced on October 16, 2012 fails to complete. Any such application will be heard on a *de novo* basis.

14. This Order is subject to provisional execution and if any of the provisions of this Order in connection with the Engagement Letter, the Financial Advisor's entitlement to the benefit of the Administrative Charge, or the Subordinate Financial Advisor Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a "Variation") whether by subsequent Order of this Court or on or pending an appeal from this Order, such Variation shall not in any way impair, limit or lessen the protections, rights or remedies of the Financial Advisor, whether under this Order (as made prior to the Variation) or under the Engagement Letter, with respect to any services provided by or monies paid to the Financial Advisor prior to the Financial Advisors being given notice of the Variation and the Financial Advisor shall be entitled to rely on this Order as issued for all services provided by and monies paid to the Financial Advisor. Notwithstanding anything contained herein, no order shall be made varying, rescinding, or otherwise affecting the provisions of this Order with respect to the Engagement Letter, the Financial Advisor's entitlement to the benefit of the Administrative Charge, or the Subordinate Financial Advisor Charge after the Settlement has completed.

15. Approval as to form of this Order other than counsel for the Petitioner is dispensed with.

---

Signature of Peter J. Reardon  
Counsel for the Petitioner

BY THE COURT

---

REGISTRAR

**Schedule "A"**

(List of Counsel)

<b>COUNSEL</b>	<b>APPEARING FOR:</b>

--	--