

Court of Appeal File No. _____
Supreme Court File No. S126583
Supreme Court Registry: Vancouver

COURT OF APPEAL

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C36

AND

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

AND

IN THE MATTER OF GREAT BASIN GOLD LTD.

BETWEEN:

GREAT BASIN GOLD LTD.

RESPONDENT
(PETITIONER)

AND:

THE AD HOC GROUP OF CONVERTIBLE DEBENTURE HOLDERS

APPELLANT
(RESPONDENT)

NOTICE OF APPLICATION FOR LEAVE TO APPEAL

Take notice that the Appellant, the Ad Hoc Group of Convertible Debenture Holders, hereby applies for leave to appeal to the Court of Appeal for British Columbia from the following Orders of the Honourable Madam Justice Fitzpatrick of the Supreme Court of British Columbia at Vancouver, British Columbia:

- (A) the Initial Order, pronounced September 19, 2012; and
- (B) the Order, pronounced September 27, 2012.

1. The appeal is from a:
- | | |
|--|--|
| <input type="checkbox"/> Trial Judgment | <input type="checkbox"/> Summary Trial Judgment |
| <input type="checkbox"/> Order of a Statutory Body | <input checked="" type="checkbox"/> Chambers Judgment |
2. If the appeal is from an appeal under Rule 18-3 or 23-6(6) of the Supreme Court Civil Rules or 22-7(8) of the Supreme Court Family Rules, name the maker of the original decision, direction or order: **N/A**
3. Please identify which of the following is involved in the appeal:
- | | | |
|--|--|---|
| <input type="checkbox"/> Constitutional/Administrative | <input type="checkbox"/> Civil Procedure | <input checked="" type="checkbox"/> Commercial |
| <input type="checkbox"/> Family | <input type="checkbox"/> Motor Vehicle Accidents | <input type="checkbox"/> Municipal Law |
| <input type="checkbox"/> Real Property | <input type="checkbox"/> Torts | <input type="checkbox"/> Equity |
| <input type="checkbox"/> Wills and Estates | | |

And further take notice that the Court of Appeal will be moved at the hearing of this application for Orders that:

1. leave be granted to the Appellant to appeal from the provisions of the Initial Order (the "**Initial Order**") of the Honourable Madam Justice Fitzpatrick, pronounced on September 19, 2012, which authorized and approved the debtor in possession financing facility (the "**Credit Suisse DIP Facility**") from Credit Suisse AG as Facility Agent and Lender and such other lenders from time to time (collectively, the "**Credit Suisse DIP Lenders**")
2. leave be granted to the Appellant to appeal from the Order (the "**September 27 Order**") of the Honourable Madam Justice Fitzpatrick, pronounced on September 27, 2012, dismissing the Appellant's application for an Amended and Restated Initial Order which provided for, among other things:
 - (i) the setting aside of the authorization and approval of the Credit Suisse DIP;
 - (ii) the authorization and approval of the debtor in possession financing facility (the "**Alternative DIP Facility**") from Sprott Resource Lending Corp., Linden Capital L.P. and such other lenders from time to time;
 - (iii) the addition of Great Basin Gold Inc., Antler Peak Gold Inc. and Rodeo Peak Gold Inc. (the "**Subsidiaries**") as Respondents;
 - (iv) the increase in the "**Administration Charge**" (as defined and created pursuant to the Initial Order) from \$2,400,000 to \$3,000,000; and


(v) the entitlement of the Appellant's "**Assistants**" (as defined in the Initial Order) to share in the benefit of the Administration Charge.

The grounds of appeal are that the Honourable Madam Justice Fitzpatrick erred in:

1. dismissing the Appellant's application to set aside the Credit Suisse DIP Facility and approve the Alternative DIP Facility in its place, along with ancillary relief to add the Subsidiaries as Respondents, increase the Administrative Charge and include the Appellant's Assistants as beneficiaries thereof, all as sought in the Appellant's draft Amended and Restated Initial Order;
2. dismissing the Appellant's alternative application for a declaration that the terms of the Credit Suisse DIP Facility amount to an agreement to receive interest at a criminal rate, and will result in the Credit Suisse DIP Lenders receiving a payment of interest at a criminal rate, both of which constitute offences under section 347 of the *Criminal Code*, R.S.C. 1985 c. C-46.

The trial/hearing of the Application for the Initial Order occupied 0.5 days and the trial/hearing of the Application for the September 27 Order occupied 1 day.

Dated at Vancouver, British Columbia; this 27th day of September 27, 2012.


for: _____
Jim Schmidt and John R. Sandrelli
Counsel for the Appellant, the Ad Hoc Group of
Convertible Debenture Holders

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AND TO ITS SOLICITORS: McMillan LLP
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TO: Credit Suisse, AG
AND TO ITS SOLICITORS: Blake Cassels & Graydon LLP
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This Notice of Leave to Appeal is given by Jim Schmidt and John R. Sandrelli, of the law firm of Fraser Milner Casgrain LLP, whose address for service is 20th Floor, 250 Howe Street, Vancouver, B.C., V6C 3R8. Telephone: 604 687-4460, Facsimile: 604 683-5214, jim.schmidt@fmc-law.com and john.sandrelli@fmc-law.com

To the respondent(s):

IF YOU INTEND TO PARTICIPATE in this proceeding, YOU MUST GIVE NOTICE of your intention by filing a form entitled "Notice of Appearance" (Form 2 of the Court of Appeal Rules) in a Court of Appeal registry and serve the notice of appearance on the appellant **WITHIN 10 DAYS** of receiving this Notice of Application for Leave to Appeal.

IF YOU FAIL TO FILE A NOTICE OF APPEARANCE

- (a) you are deemed to take no position on the application, and
- (b) the parties are not obliged to serve you with any further documents related to the application.

The filing registries for the British Columbia Court of Appeal are as follows:

Central Registry:

B.C. Court of Appeal
Suite 400, 800 Hornby Street
Vancouver BC V6Z 2C5

Other Registries:

B.C. Court of Appeal
The Law Courts
P.O. Box 9248 STN PROV GOVT
850 Burdett Ave
Victoria BC V8W 1B4

B.C. Court of Appeal
223 — 455 Columbia Street
Kamloops BC V2C 6K4

Inquiries should be addressed to (604) 660-2468
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