

Court File No.: S/M/_/09

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

BETWEEN:

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

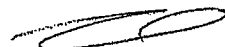
- and -

IN THE MATTER OF THE APPLICATION OF
BLUE NOTE CARIBOU MINES INC., a body
corporate.

AFFIDAVIT

I, MICHAEL JUDSON, of the City of Montréal, and Province of Québec, MAKE
OATH AND SAY AS FOLLOWS THAT:

1. I am the Chief Executive Officer and sole director of the Applicant, Blue Note Caribou Mines Inc. ("BNC"), and as such have personal knowledge of the matters to which I herein depose, except where stated to be by way of information and belief and in such cases I do verily believe the truth of the contents herein deposed to.
2. In addition to my duties as Chief Executive Officer and sole director of BNC, I am President and Chief Executive Officer of BNC's parent corporation, Blue Note Mining Inc. ("BN") and I am President and Chief Executive Officer of Forest Gate Resources Inc. ("Forest Gate").



BNC - General

3. BNC was incorporated under the *Canada Business Corporation Act* (the "CBCA") and is a wholly owned subsidiary of BN. BNC is registered as an Extra Provincial Corporation under the *New Brunswick Business Corporations Act* (the "NBBCA"), having its CBCA and NBBCA registered office in Bathurst, New Brunswick.
4. BNC's chief place of business is the Province of New Brunswick where all of its assets are located. BNC owns and operates the Restigouche and Caribou mines (collectively the "Mines" and respectively the "Restigouche Mine" and the "Caribou Mine") located at or near Bathurst, New Brunswick. The Mines are comprised of the following:
- Mining Lease 246, issued by the Minister of Mines, pursuant to the *Mining Act*;
 - Mining Lease 255 issued by the Minister of Mines;
 - Industrial Surface Lease No. 415040158, between Her Majesty the Queen and BNC, as assignee;
 - Industrial Surface Lease No. 415060027 between Her Majesty the Queen and BNC, as assignee;
 - Various mineral claims; and
 - Freehold real estate known by parcel identifier 50072032.
5. In addition to the above Mining Leases, Surface Leases, freehold real property and Mineral Claims, BNC holds pieces of personal property and equipment used in the exploration and exploitation of the metallic mineral reserves associated with the Mines.

BNC's Employees

6. BNC employed approximately 287 people, inclusive of independent contractors.

7. BNC has made substantial reductions in its labour costs while attempting to restructure including the layoff of many of its employees and contractors. BN's workforce is well trained. The workforce at December 31, 2008 was 28 including 3 temporary short term employees reflecting the operation being in care and maintenance mode. This was further reduced to 17 on January 31, 2009 which is a significant reduction from a workforce of 287 which included 118 full-time contractors as at December 31, 2007.

History of the Restigouche and Caribou Mines

8. I have been intimately and directly involved in the process by which BNC acquired ownership of the Mines. I have also taken steps to inform myself with respect to the history of the Mines from prior to the time of acquisition by BNC.
9. The Caribou Mine is an underground base metal mine located approximately 50 kilometres west of Bathurst New Brunswick. The Caribou Mine first began operations in 1970 with a view to producing zinc, lead and copper.
10. The Restigouche Mine has been in operation at various times since the late 1950's and also produces zinc and lead.
11. The geology of each of the Mines makes ore extraction difficult and expensive. Technological advances have assisted in making the Mines more economically efficient but the Mines still require, as is more particularly set out below, sufficiently robust metal prices in order to be economically viable.
12. BNC acquired the Mines through its parent BN as set out below.

BN & Acquisition of the Mines

13. BN, BNC's parent, was incorporated under the CBCA on February 20, 2002 under the name San Lorenzo Resources Inc./Resources San Lorenzo Inc. BN's head and registered office is located at 1 Place Ville Marie, Suite 2125, Montreal, Quebec H3B 2C6.
14. BN is a publicly traded corporation, the shares of which are listed on the Toronto Stock Exchange.
15. On December 15, 2004, BN's articles of incorporation were amended to: (i) change its corporate name to Blue Note Metals Inc./Métaux Note Bleue Inc.; (ii) remove the private corporation restrictions and the restrictions against the transfer of the company's common shares ("Common Shares"); and (iii) delete the existing class A, class B, class C and class D preferred shares and create a single class of preferred shares (the "Preferred Shares") issuable in series.
16. On October 4, 2006, BN changed its name from Blue Note Metals Inc. to Blue Note Mining Inc. and changed its stock symbol from "BNT" to "BN".
17. My own involvement in mining in New Brunswick began in the summer of the year 2000. At that time, in my capacity as President and Chief Executive Officer of Forest Gate, I negotiated the acquisition of certain mineral claims in New Brunswick from a New Brunswick prospector. These mineral claims were later transferred from Forest Gate to BN, prior to BN becoming a publicly traded company.
18. Prior to November 10, 2005, BN carried on its business as a wholly-owned subsidiary of Forest Gate and, as such, its operations were not reported separately. All working capital was provided by Forest Gate as well as all direction regarding BN's exploration activities.



19. Under a corporate plan of arrangement completed on November 10, 2005 (the "Arrangement") and approved by the shareholders of Forest Gate (the "FG Shareholders"), the then parent corporation of BN, the FG Shareholders agreed to exchange each of their common shares of Forest Gate for one new common share of Forest Gate and 0.1168 reorganization shares of Forest Gate (the "Reorganization Shares"). All of the Reorganization Shares held by the FG Shareholders were subsequently transferred to Blue Note in exchange for Common Shares, on the basis of one Common Share for each Reorganization Share.
20. Forest Gate then redeemed all of the Reorganization Shares held by BN in consideration for the transfer to BN of the Canoe Landing Lake, Rio Road and California Lake properties (collectively, the "Exploration Properties") and \$1,000,000.00 of working capital.
21. In addition, BN received the rights to a letter of intent dated October 3, 2004, (the "Letter of Intent") between Forest Gate, as purchaser, and Breakwater Resources Ltd., ("Breakwater"), and its wholly-owned subsidiary, CanZinco Ltd., ("CanZinco"), to purchase the Mines. CanZinco was the then owner of the Mines.
22. Following execution of the Letter of Intent, BN needed to raise funds sufficient to complete the acquisition of the Mines and to bring the Mines into production. Initially, I estimated that the funds required would be in the vicinity of \$75,000,000.00.
23. From and after the execution of the Letter of Intent, I and the other executives of BN worked tirelessly to raise the funds needed to acquire the Mines.
24. As of late 2005, BN's investment bankers, including Octagon Capital Corporation and Blackmont Capital Inc., TD Securities Inc. and Northern Securities Inc., advised me that they had received commitments from investors such that the funds necessary to complete the acquisition of the Mines would be available to BN if BN could negotiate a final Asset Purchase Agreement (the "APA") and close the transaction with Breakwater/Canzinc.

Negotiations with Vendor and with Minister

25. In or about early 2006 and continuing through the spring of 2006, BN, its officers and outside advisors, negotiated with Breakwater/Canzenco for the finalization of the APA and the closing of the transaction. Further, in order to acquire the Mining Leases and Industrial Service Leases that comprised the Mines, BN had to obtain the consent of the Minister of Mines (the "Minister").
26. Mining in New Brunswick is regulated pursuant to the *Mining Act* and falls under the authority of the Minister. No Mining Lease may be transferred without the Minister's consent. There were a number of concerns that had to be met prior to gaining the Minister's consent to the transfer of the Mines.
27. In general, the Minister had the following concerns:
- The existing state of the Restigouche and Caribou Mines at that time could fairly be described as an environmental hazard as neither had been operated in a number of years and had been on a care and maintenance program which, while adequate to a previous standard, did not meet the current expectations of the Minister; and
 - Mining itself is an environmentally sensitive activity and the Minister required business and environmental plans such that the existing situation would not only be remediated but that any further mining activity would be conducted in a manner consistent with best practices.
28. To secure performance of the plans put forth by BN, the Minister further required that substantial amounts of cash be deposited in the event that these plans were not implemented. As well, BN engaged the services of Jacques Whitford Environmental Limited as consulting engineers to prepare Mine Reclamation Plans relating to both Mines. BN spent considerable sums in an effort to ensure that the Plans were very detailed.

29. BN and the Minister were able to arrive at a mutually acceptable arrangement which included cash security in favour of the Minister and certain protections for BN relating to historical and environmental liabilities. The cash security deposited with the Minister was \$10,400,000.00 (the "Reclamation Fund").
30. The Minister further required and obtained an agreement whereby BN agreed to pay the sum of \$7,500,000.00, in accordance with the repayment schedule set out in the agreement.
31. Concurrent with the negotiations with the Minister, BN conducted and concluded negotiations with Breakwater/Canzinc and arrived at terms acceptable to both parties for the acquisition of the Mines by BN.
32. The APA required that BN grant a debenture to the Vendor, Canzinc in the amount of \$15,000,000.00, convertible to a 20% interest in the Mines. As of August, 2008, Canzinc converted its debenture to a 20% interest in the Mines.
33. The APA was signed as of July 26th, 2006 and the transaction closed as of August 1st, 2006.

Re-Opening of the Mines and Transfer to BNC

34. Beginning almost immediately following the closing of the APA, BN took steps to implement its plans for the remediation of the Mines and the commencement of commercial production. The Mines are located within the Bathurst mining camp which is one of Canada's best known base metal mining districts with at least 35 deposits and about 100 known occurrences.
35. BN also started the process of refurbishing the Mines and mill complex with Genivar Limited Partnership being appointed to oversee the engineering, procurement,

- construction and management activities for the re-opening of the Mines. At that time, activity at the Mines was limited to a general clean up of the site and the mill in preparation for construction. As well, bids for the underground dewatering and rehabilitation of the Mines were assembled and preparations commenced for the dewatering of the open pit at the Restigouche Mine.
36. Shortly following the acquisition, BN incorporated BNC with a view to BNC becoming the operating entity which would own the Mines, employ all employees, engage contractors and otherwise operate the mining properties.
37. As of July, 2007, all of the Mineral Claims, Mining Leases, Surface Leases and real property were transferred from BN to BNC.
38. As at June 30, 2007, BNC had total proven and probable mineral reserves at its Caribou Mine of 3.6 million tonnes grading 6.62% zinc, 2.86% lead and 81.4 grams per tonne silver. These reserves and resources change in accordance with the BNC's production and exploration activities. BNC has total proven and probable mineral reserves at its Restigouche Mine of 1.3 million tonnes grading 6.53% zinc, 5.05% lead and 100 grams per tonne silver. BNC has total measured and indicated resources at its Caribou Mine of 3.8 million tonnes grading 7.5% zinc, 3.26% lead and 992 grams per tonne silver and total inferred resources of 3.9 million tonnes grading 7.36% zinc, 3.59% lead and 107 grams per tonne silver. BNC has total measured and indicated resources at its Restigouche Mine of 1.5 million tonnes grading 7.1% zinc, 5.5% lead and 104 grams per tonne silver. Overall, BNC has total estimated mineral reserves of 4.9 million tonnes and total estimated mineral resources of 9.2 million tonnes.
39. In early 2008, the original mine production schedule was altered to increase the ratio of higher lead grade Restigouche Mine ore to Caribou Mine ore subject to mill process limitations. Production from the Restigouche Mine open pit during the second quarter was 27% above the 2008 operating plan at 131,634 tonnes assaying 4.93% lead, 6.57% zinc, 0.25% copper and 103 grams/tonne silver. 127,980 tonnes of waste were removed

and stockpiled on site. Collaring of the decline to access the underground ore reserves has been delayed indefinitely to defer capital spending. The open pit mining plan was modified to provide for pit ore production into the first quarter of 2009 thereby mitigating the risk involved in delaying the underground development.

40. For the quarter ended March 31, 2008, operating costs per tonne of ore milled were \$93.09. This operating cost figure was reduced to \$89.68 per tonne milled in the quarter ended June 30, 2008. BNC forecasts an improvement in operating costs to a range of between \$75 and \$78 per tonne milled during the quarter ending September 30, 2008 and a further reduction to a range of between \$70 and \$74 per tonne milled for the quarter ending December 31, 2008.

Investment in Mines

41. As at December 31, 2007, BN on its own and through BNC has allocated a total of \$140 million toward the Caribou Mine since the date of acquisition. The allocation of this amount is as follows:
- a. \$922 thousand to the Acquisition-related costs for the Caribou Mine;
 - b. \$7.5 million to the agreement with the Minister in connection with the Acquisition;
 - c. \$15 million to the Breakwater Debenture;
 - d. \$8.4 million to capital lease equipment;
 - e. \$499 thousand on stock-based compensation;
 - f. \$97 million to the rehabilitation and development of the Caribou Mines;
 - g. \$9.8 million to asset retirement obligation; and
 - h. \$2.2 million to ongoing capital projects.
42. In addition, BN has also posted a deposit for reclamation and environmental obligations of approximately \$10.4 million with the Province of New Brunswick and \$100,000.00 with the Belledune Port Authority.

Additional Financing


43. As of early 2007, it became clear to me that BNC would require additional funding to bring the Mines into commercial production. While the acquisition of the Mines was funded by an equity issue, it appeared to me that the most advantageous way to gain further financing on favourable terms was to arrange for debt financing against the security of the mine assets.
44. With the assistance of our investment bankers, BN was able to arrange for a \$30,000,000.00 private placement, secured by the mine assets. The financing closed as of May, 2007. While the initial financing had been expected to be in the amount of \$30,000,000.00, the financing finally closed at \$25,000,000.00.
45. The terms of the financing are set out in detail in a certain note indenture dated as of May 4, 2007 wherein BN issued \$25,000,000 of senior secured notes in the principal amount of \$1,000 (the "Senior Secured Notes") among Computershare Trust Company of Canada, BNC and BN (the "Note Indenture"). The Senior Secured Notes bear interest at 11% per annum, accruing from May 4, 2007, payable semi-annually in arrears, in equal instalments on the last day of March and September of each year. The Senior Secured Notes will become due and payable, together with all accrued interest and unpaid interest thereon, on March 31, 2012. The Senior Secured Notes are secured by a charge on the assets of BN and BNC, subject only to permitted encumbrances, as defined in the Note Indenture. Attached and marked as Exhibit "A" is a copy of the Senior Secured Notes.
46. In addition to the financing pursuant to the Senior Secured Notes, BN also obtained an operating line of credit from the Bank of Nova Scotia in the amount of \$15,000,000.00. This line of credit is guaranteed in full by a provincial crown corporation known as Provincial Holdings Ltd. In consideration of granting the guarantee to the Bank of Nova Scotia, Provincial Holdings Ltd. required that BN and BNC grant a second charge by way of a debenture over the assets and undertaking of BNC. Attached and marked as Exhibit "B" is a copy of the debenture.

Financial Condition of BNC

- 47. BNC is insolvent in that it is unable to meet its obligations as they generally become due.
- 48. BNC's creditors (excluding shareholder loans) have claims against it in excess of approximately \$75.80 Million. Attached hereto and marked as Exhibit "C" is a preliminary balance sheet statement for BNC as of December 31, 2008. Attached hereto and marked Exhibit "D" is a list of BNC's accounts payable.
- 49. Attached hereto and marked as Exhibit "E" is a copy of the unaudited consolidated financials for BN. These financials consolidate BN's and BNC's results as at the end of the third quarter of 2008. These are all of the financial statements of BNC prepared since February 1, 2008.

Recent Activities of Creditors and Necessity of Application

- 50. Concurrent with the filing of the within Application, I have caused detailed reports of our financial position to be prepared and filed by PricewaterhouseCoopers Inc. As these reports indicate, BNC has significant secured and unsecured debt. BNC has not been able to meet its unsecured obligations as they fall due.
- 51. In addition to the issues set out above, BNC's business was further affected by a significant fluctuation of the US v. Canadian dollar exchange rate.
- 52. In order to try to salvage their operations, BNC started an informal restructuring process during the month of August 2008, whereby it contacted its secured lenders and BNC's most important suppliers in an effort to reduce its cash outflow and address certain operational problems.



53. On or about August 29, 2008, Canzenco exercised its right under the Canzenco Debenture and the indebtedness owing thereunder was converted to a 20% interest in the Mines.
54. Unfortunately, the informal restructuring process did not yield the expected results and BNC has since been served with a number of proceedings by its creditors.
55. Since September 2008, the following entities have filed a mechanics lien against property owned by BNC:
- Sunny Corner Entreprises Inc.;
 - Eastern Reinforcing Ltd.;
 - Hachey Construction & Fabrication Ltd.;
 - Rockwood Transportation Co. Ltd.;
 - Guillevin International Co.;
 - Jacques Whitford Limited;
 - K. & M Utility Lines Ltd.;
 - Godin Electric Ltee-Godin's Electric Ltd.;
 - Hewitt Rentals Inc.;
 - Atlantic Tractors & Equipment Limited;
 - Boart Longyear Alberta Limited;
 - Boart Longyear Canada;
 - Longyear Canada, ULC;
 - J.S. Redpath Limited;
 - Corepro Drilling Inc.;
 - Eddy Group Limited;
 - United Rentals of Canada, Inc.;
 - ADI Limited;
 - Bradley Jenks Excavation Ltd.;
 - Consbee Inc.;
 - Source Atlantic, A Division of Universal Sales, Limited.

56. On or about September 23, 2008, Bradley Jenks Excavation Ltd., Rockwood Transportation Company Co. Inc. and Sunny Corner Enterprises Inc. instituted proceedings by way of Mareva application against BNC seeking to prevent BNC from shipping ore from New Brunswick. This application was dismissed.
57. On or about October 17, 2008, given the current market conditions and BNC's increasing losses, BN ceased providing additional advances to BNC for operating purposes and BNC's Caribou Mine ceased operations and was placed on care and maintenance.
58. On or about October 24, 2008, BNC had no alternative but to cease all production activities at the Mines and accordingly, BNC issued temporary layoff notices to the majority of its employees effective October 24, 2008.
59. In light of the foregoing, BNC has no alternative but to apply for the protection afforded by the *Companies' Creditors Arrangement Act*, ("CCAA"), in order to continue its restructuring efforts.
60. As is clear from the foregoing, BNC and more particularly its employees have made significant efforts to bring the Mines into commercial production. Further, numerous investors and lenders have made substantial advances to BN and BNC in order to bring the Mines into operation. Finally, BNC's suppliers have also granted significant advances to support these efforts.

Challenges and Opportunities Facing BNC

61. BNC's current management consists of seasoned professionals with broad experience in their respective fields of expertise. BNC's management are dedicated to tackling BNC's challenges.

62. BNC invested heavily in the training of its employees and the development of the Mines which have the potential to be successful operations if BNC's current liquidity crisis is addressed.
63. I believe that if BNC is given the opportunity to restructure its operations and implement strategic recommendations with the restructuring of loans, it will become a viable company in the long-term and will continue to be a valuable contributor to the New Brunswick economy. It may become necessary to explore the sale of certain assets of BNC during the restructuring process but BNC is committed to first exploring other methods of reorganizing its affairs.
64. The economic and social implications of a complete cessation of the operations of BNC would be serious for Bathurst and the Province. These implications include the loss of employment for the approximately 300 people previously employed by BNC (including independent contractors) and the numerous other individuals who are not employed by BNC, but whose jobs or livelihoods depend on BNC and the contribution it makes to the New Brunswick economy.
65. Due to the various security held by secured creditors, and the claims of unsecured creditors, a stay of proceedings is necessary to afford BNC the time to develop a plan to present to its creditors.
66. I believe that a formal restructuring as requested in the within Application will lead to BNC's continued long term operation although the temporary shutdown of the Mines will continue during the restructuring.
67. The amounts that would be realized for the benefit of BNC's creditors on a liquidation of its properties and assets by a forced sale would certainly be less than book value.
68. Moreover, given the current value of zinc and lead, it would be difficult to find a purchaser willing to pay an amount near or equal to the book value of BNC's assets.

Cash Flow Forecast

69. Attached hereto and marked as Exhibit "F" is a copy of the projected cash flow forecast of BNC, prepared by PricewaterhouseCoopers Inc.
70. PricewaterhouseCoopers Inc. is not the auditor of BN or BNC and has had, until recently, no previous dealings with BN or BNC.

DIP Financing

71. As set out above, BNC is not able to fund its ongoing obligations; which include charges for electricity. Without electricity BNC will not be able to continue de-watering of the Mines and water treatment which would result in the Mines flooding. This would cause serious environmental damage. NB Power has advised BNC that the electricity will be cut off on February 25, 2009. Attached to this my affidavit as Exhibits "G" and "H" are copies of correspondence from NB Power.
72. BNC has attempted to obtain access to the Reclamation Fund to avoid the environmental disaster that would be caused by the electricity being cut off. BNC's efforts have not resulted in the Province returning any portion of the \$10.4 million dollars deposited to the Reclamation Fund which is to be used to avoid environmental damage.
73. BN, as shareholder and creditor, continues to support BNC's plans. As BNC has not been able to access the Reclamation Fund, BN has agreed to provide debtor in possession ("DIP") financing while BNC continues to seek access to the Reclamation Fund and restructure its operations. The terms of the DIP financing are set out in the term letter between BN and BNC, a copy of which is attached as Exhibit "I" to this my affidavit (the "DIP Facility").

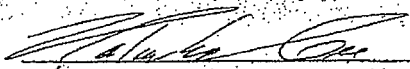
74. DIP financing is essential for BNC to continue its restructuring efforts. The need for the DIP financing is to fund maintenance of BNC's facilities and avoid potential environmental damage.
75. The advances under the DIP facility will benefit all stakeholders by allowing BNC the ability to meet its operational demands including continuing with de-watering of the Mines and funding water treatment.
76. The benefit of DIP financing outweighs the prejudice to the lenders whose security will be subordinated.
77. Even if some prejudice would result from the DIP financing, the DIP financing is necessary and in the best interests of the stakeholders generally of BNC because:
- (a) The amount of the DIP financing sought by BNC is sufficient to address its most urgent needs only;
 - (b) BNC believes that it will be able to successfully restructure with the aid of DIP financing; and
 - (c) If successful, CCAA restructuring is the most beneficial result for all stakeholders of BNC.

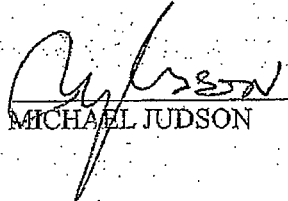
Relief Sought

78. I believe that if the relief sought is granted, BNC will be able to effect a successful restructuring. If the order is not granted, I believe that BNC will have to permanently cease operations which would cause prejudice to BNC and its stakeholders. Additionally, if the order requested is not granted, the Mines will be flooded when the electricity is cut off which will result in environmental damage and an estimated \$40 million dollars increase in the cost to recommence operations.

- 79. If this Honourable Court should grant the relief sought by BNC, I believe that there would be no material prejudice to the position of the existing creditors of BNC when compared to the consequences if BNC permanently ceased to operate.
- 80. Each of our stakeholder groups is best served by the preservation of the status quo while BNC develops and presents to its stakeholders a detailed plan to bring the Mines from commercial production to sustainable profitable returns.
- 81. I make this Affidavit in support of the within Application.

SWORN TO before me at the City of)
 Montréal, in the Province of Québec,)
 this 18th day of February, 2009)


 NATASHA Girouard (print name))
 A Notary Public in and for the)
 Province of Québec)
 61392


 MICHAEL JUDSON

