



No. S-228723  
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 THE PLAN OF COMPROMISE AND ARRANGEMENT OF  
PURE GOLD MINING INC.

PETITIONER

**NOTICE OF APPLICATION**

**Name of applicant: Pure Gold Mining Inc. (the "Applicant")**

To: The Service List

TAKE NOTICE that an application will be made by the applicant to the Honourable Justice Walker at the courthouse at 800 Smithe Street, Vancouver, British Columbia on January 23, 2023, at 10:00 am for the orders set out in Part 1 below.

**Part 1: ORDERS SOUGHT**

1. The Applicant seeks an Order substantially in the form attached as **Schedule "A"**:
  - (a) extending the Stay Period, as defined in paragraph 13 of the Amended and Restated Initial Order of this Court pronounced on November 9, 2022 (the "**ARIO**"), from January 27, 2023 to March 10, 2023; and
  - (b) amending the Order (Key Employee Retention Plan) (the "**KERP Order**") to provide that a portion of the total Retention Bonus (as defined in the KERP Order) will be paid upon the completion of the "Scoping Study" (as defined below) rather than upon the completion of the "PFS" (as defined below).
2. The Applicant further seeks such other orders, directions, and declarations as counsel for the Applicant may advise and this Court may deem appropriate in the circumstances.

## Part 2: FACTUAL BASIS

### ***Background***

3. On October 31, 2022, this Court pronounced an order (the “**Initial Order**”) granting the Applicant protection under the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36 (the “**CCAA**”).

4. The principal purpose of the Applicant’s CCAA proceeding as of the date of the Initial Order was to create a stabilized environment to enable the Applicant to pursue a sale and/or restructuring of its business and assets through a Court-supervised sale and investment solicitation process.

5. On November 9, 2022, in furtherance of the Applicant’s restructuring objectives, this Court approved, among other things, (a) a sales and investment solicitation process (the “**SISP**”) in respect of the Applicant and its Business and Property (as defined in the ARIO); and (b) a key employee retention plan (the “**KERP**”), as set out in the KERP Order, which granted certain protections and incentives to employees whose continued involvement and cooperation is critical to the overall success of the Applicant’s restructuring efforts including the conduct of the SISP.

### ***The Status of the SISP***

6. The SISP commenced on November 10, 2022 by the Applicant with the assistance of its Court-approved “**Sales Agent**”, National Bank Financial Inc., under the oversight of the Monitor, and in consultation with Sprott, in its capacity as Pure Gold’s senior secured lender, interim lender in these proceedings, and largest creditor. Pursuant to the SISP, the deadline for letters of intent was December 19, 2022 (the “**LOI Deadline**”).

7. The first phase of the SISP generated several expressions of interest from participants, however, no acceptable LOI’s were submitted by the initial deadline of December 19, 2022 (the “**LOI Deadline**”).

8. Since the LOI Deadline, the company, with the assistance of the Sales Agent, has continued to engage with several potential bidders regarding a transaction and their ongoing due diligence.

9. Based on discussions among the company, the Sales Agent, the Monitor and Sprott, it is the collective view that parties who are or may be interested in pursuing an opportunity to complete a transaction with respect to Pure Gold or its assets would be assisted by further information related to the company and its assets including a “**Scoping Study**” with respect to the Pure Gold Mine.

10. While it was contemplated at the commencement of the SISP that the new “Life of Mine Plan” (“**LOM Plan**”) in the form of a “Pre-Feasibility” or “Preliminary Economic Assessment” study (together, the “**PFS**”) would be prepared to re-establish Pure Gold’s long-term development and production plans, it has become apparent that completing the LOM Plan in the form of a PFS in accordance with the requirements of NI 43-101 (*Standards of Disclosure for Mineral Projects*) would require more time and resources than initially expected.

11. Pure Gold has determined, in consultation with the Sales Agent, the Monitor, and Sprott, that it is not in the best interests of the company and its stakeholders to expend further time, resources and funding in order to obtain a PFS at this juncture, particularly given the timing and liquidity constraints facing the company in the context of these CCAA proceedings. Instead, and in consultation with the aforementioned parties, Pure Gold believes that the completion of a "Scoping Study", rather than a full NI 43-101 compliant PFS, to summarize the new LOM Plan, is the prudent approach at this time.

#### ***The Proposed Stay Extension***

12. To provide the company with the "breathing room" required to continue its care and maintenance activities at its mine site, complete the Scoping Study, and, if determined appropriate, continue the SISP, Pure Gold is requesting that the Stay Period in these CCAA proceedings be extended from January 27, 2023 to March 10, 2023.

13. Pure Gold believes that the proposed extension is necessary to continue to advance its restructuring efforts.

14. Based on its updated cash flow projections, Pure Gold has sufficient liquidity to carry it through the extended stay period.

#### ***The KERP Amendment***

15. With Pure Gold's shift to the completion of a Scoping Study, Pure Gold is seeking a clarifying amendment to the KERP Order to provide that the relevant Retention Bonuses will be paid upon the completion of the Scoping Study rather than the completion of the PFS as had been contemplated at the time that the KERP Order was granted.

### **Part 3: LEGAL BASIS**

#### ***The Stay of Proceedings Should be Extended***

16. A stay of proceedings is the "central tool" by which this Court maintains the status quo for a debtor company, allowing it the necessary time, flexibility, and "breathing room" to carry out a supervised restructuring or organized sales process while continuing its ongoing operations.

***1057863 B.C. Ltd. (Re), 2022 BCSC 876, paras. 31, 35 [1057863], citing Timminco Limited (Re), 2012 ONSC 2515, para. 15.***

17. The baseline considerations and requirements for a stay extension are that a stay is "appropriate" and that the debtor company subject to the CCAA is acting in good faith and with due diligence.

***CCAA, ss. 11.02(2)-(3).***

18. The basic purpose of the CCAA must be considered when determining what relief authorized by the CCAA is "appropriate" in the circumstances:

The question is whether the order will usefully further efforts to achieve the remedial purpose of the CCAA — avoiding the social and economic losses resulting from liquidation of an insolvent company. I would add that appropriateness extends not only to the purpose of the order, but also to the means it employs. Courts should be mindful that chances for successful reorganizations are enhanced where participants achieve common ground and all stakeholders are treated as advantageously and fairly as the circumstances permit.

**1057863, para. 33, citing *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60, para. 70.**

19. In the present case, the Applicant has been acting in good faith and with due diligence in these CCAA proceedings.

20. The proposed stay extension is necessary to maintain the status quo as the Applicant pursues restructuring efforts for the benefit of its stakeholders and is appropriate given the status of such efforts.

***The KERP Amendment is Appropriate***

21. The KERP was approved by this Court pursuant to section 11 of the CCAA as being appropriate in the circumstances of the Applicant's restructuring efforts. The proposed KERP amendment is required to give effect to the purpose and intent of the KERP, and as such is appropriate in the circumstances.

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

22. Affidavit #4 of Chris Haubrich, made January 18, 2023; and

23. Second Report of the Monitor, to be filed.

24. The Applicant further relies on such materials as counsel may advise and this Court allows.

The Applicant estimates that the application will take 1 hour.

This matter is not within the jurisdiction of a master.

**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 after service of this notice of application,

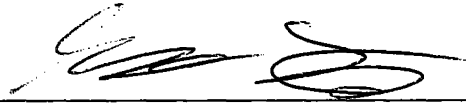
(a) file an application response in Form 33,

(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: January 18, 2023



Signature of Peter L. Rubin  
Lawyer for Pure Gold Mining Inc.

Blake, Cassels & Graydon LLP  
Barristers and Solicitors  
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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
- 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  
(STAY EXTENSION AND KERP AMENDMENT)**

BEFORE     )     THE HONOURABLE JUSTICE WALKER     )     JANUARY 23, 2023  
              )     )     )

ON THE APPLICATION of the petitioner, Pure Gold Mining Inc. (the "**Applicant**"), coming on for hearing at Vancouver, British Columbia on the 23<sup>rd</sup> day of January 2023; AND ON HEARING Peter L. Rubin, counsel for the Applicant, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING Affidavit #4 of Chris Haubrich affirmed on January 18, 2023 (the "**Fourth Haubrich Affidavit**"), and the Second Report of KSV Restructuring Inc. dated January [-], 2023; AND pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985 c. C-36, as amended, the British Columbia *Supreme Court Civil Rules*, and the inherent jurisdiction of this Honourable Court;

**THIS COURT ORDERS AND DECLARES that:**

1. The Stay Period (as defined in paragraph 13 of the Amended and Restated Initial Order of this Court pronounced on November 9, 2022) is hereby extended until and including March 10, 2023.
2. The Order (Key Employee Retention Plan Approval) (the "**KERP Order**") of this Court pronounced on November 9, 2022, is hereby amended by deleting the words "PFS (as defined in the First Currie Affidavit)" as they appear in paragraph 3(a) of the KERP Order with the words "Scoping Study (as defined in the Fourth Haubrich Affidavit)".

3. Endorsement of this Order by counsel appearing on this application other than counsel for the Applicant 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:

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Signature of Peter L. Rubin  
Lawyer for the Petitioner

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BY THE COURT.

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Registrar



**Schedule "A"**

<b>Counsel</b>	<b>Party Represented</b>

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**ORDER MADE AFTER APPLICATION**

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