

EXHIBIT 1

Sanction Order

Court File No. CV-20-00647824-00CL

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

THE HONOURABLE MR.) FRIDAY, THE 18TH
JUSTICE HAINEY) DAY OF DECEMBER, 2020
)



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 HEMATITE HOLDINGS INC., HEMATITE MANUFACTURING INC., HEMATITE INDUSTRIAL PRODUCTS INC., CANADIAN PAVACO INC., PAVACO HOLDINGS U.S. INC., HEMATITE, INC. AND HEMATITE AUTOMOTIVE PRODUCTS INC.

Applicants

SANCTION ORDER

THIS MOTION, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an order, among other things, approving and sanctioning the plan of compromise, arrangement and reorganization of the Applicants pursuant to the CCAA dated November 18, 2020 (the "**Plan**"), a copy of which is attached hereto as Schedule "A", was heard this day by Zoom judicial video conference due to the COVID-19 pandemic.

ON READING the affidavit of Jacques Nadeau sworn December 15, 2020 (the "**Nadeau Affidavit**"), the Fourth Report of KPMG Inc. in its capacity as monitor of the Applicants (the "**Monitor**") dated December 17, 2020 (the "**Fourth Report**"), and on hearing the submissions of counsel for the Applicants, the Monitor and any such other counsel that were present as listed on the counsel slip, no other party appearing although duly served as appears from the affidavit of service, filed:

A. SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record in support of this motion and the Fourth Report be and are hereby abridged and validated, such that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that all capitalized terms used in this Sanction Order and not expressly defined herein shall have the meanings given to them in the Plan or, if not therein defined, then as given to them in the Meeting Order.

B. FURTHER LATE CLAIMS

3. **THIS COURT ORDERS** that the Monitor is authorized, in its discretion, to accept the Additional Late Claims (as defined in the Fourth Report), which Additional Late Claims shall be reviewed by the Monitor in accordance with the Claims Procedure Order for the purposes of determining whether such Additional Late Claims are Proven Claims.

C. NOTICE AND CONDUCT OF MEETING

4. **THIS COURT ORDERS AND DECLARES** that there has been good and sufficient notice, service, and delivery of the Plan, the Meeting Order and the Meeting Materials to all Persons upon which notice, service, and delivery were required.

5. **THIS COURT ORDERS AND DECLARES** that the Meeting was duly convened, held, and conducted on December 11, 2020 in accordance with the Meeting Order, the CCAA and all other Orders of the Court in these CCAA Proceedings.

D. SANCTION OF THE PLAN

6. **THIS COURT ORDERS AND DECLARES** that:

- (a) the Plan has been approved by the Required Majorities of the Affected Creditors at the Meeting in conformity with the Meeting Order and the CCAA;

- (b) the Applicants have complied with the provisions of the CCAA and the Orders of the Court made in these CCAA Proceedings in all respects;
- (c) the Applicants have acted, and continue to act, in good faith and with due diligence, and have not done or purported to do anything, nor does the Plan do or purport to do anything, that is not authorized by the CCAA or the Orders of the Court in these CCAA Proceedings;
- (d) the Plan and all of the matters and transactions contemplated thereby are fair and reasonable; and
- (e) the Plan and all associated steps, compromises, arrangements, releases, transactions and reorganizations effected thereby are hereby sanctioned and approved pursuant to section 6 of the CCAA.

E. PLAN IMPLEMENTATION

Authorization to Implement the Plan

7. THIS COURT ORDERS that:

- (a) each of the Applicants and the Monitor, as applicable, is hereby authorized and directed to take all steps and actions, and to do all things, necessary or appropriate to implement the Plan in accordance with and subject to its terms and conditions, and to enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, payments, deliveries, allocations, instruments and agreements contemplated by, and subject to the terms and conditions of, the Plan;
- (b) all distributions and payments under the Plan shall be free and clear of all claims, rights and interests of any Person other than the recipient, including, without limitation, all Encumbrances; and
- (c) none of the Applicants nor the Monitor shall incur any liability as a result of acting in accordance with the terms of the Plan and this Sanction Order.

Reserves

8. **THIS COURT ORDERS** that the Unresolved Claims Reserve in the amount of up to \$2.5 million and the Administration Reserve in the amount of up to \$0.2 million are hereby approved, and the Applicants shall set aside (pursuant to arrangements satisfactory to the Monitor) or deliver to the Monitor, in trust, the Unresolved Claims Reserve and the Administrative Reserve at or prior to the Effective Time in accordance with the Plan.
9. **THIS COURT ORDERS** that:
 - (a) prior to the Effective Time, the amount of the Unresolved Claims Reserve and the Administration Reserve may be reduced with the agreement of the Monitor, the Applicants and the Plan Sponsor;
 - (b) the Applicants and Monitor, as applicable, are hereby authorized and directed to distribute funds from the Unresolved Claims Reserve in accordance with the provisions of the Plan; and
 - (c) the Monitor and Monitor's counsel shall be entitled to payment from the Administration Reserve for their fees and expenses in connection with administering the resolution of Unresolved Claims in accordance with the Claims Procedure Order and performing any other work required after the Effective Time.
10. **THIS COURT ORDERS** that:
 - (a) any amounts remaining in the Unresolved Claims Reserve after all Unresolved Claims have been finally resolved in accordance with the Claims Procedure Order and any required distributions have been made with respect to Proven Claims; and
 - (b) any amounts remaining in the Administration Reserve after the duties of the Monitor have been completed in respect of all Unresolved Claims and the Monitor has performed any other work required after the Effective Time,shall be distributed or released in accordance with the Plan.

Articles of Reorganization and Shares

11. **THIS COURT ORDERS AND DECLARES** that the articles of Hematite Holdings Inc. and Hematite Industrial Products Inc. will be amended as set out in the applicable Articles of Reorganization as of the Effective Time.

12. **THIS COURT ORDERS AND DECLARES** that all warrants, options and agreements to purchase Existing Shares are of no further force or effect as of the Effective Time.

13. **THIS COURT ORDERS AND DECLARES** that the New Common Shares and New Redeemable Shares issued pursuant to or in connection with the Plan will be validly issued and outstanding as fully paid and non-assessable as of the Effective Time.

Plan Implementation Certificates

14. **THIS COURT ORDERS** that, upon receipt of the Certificate of Amendment for each of Hematite Holdings Inc. and Hematite Industrial Products Inc., the Hematite Group shall deliver to the Monitor a certificate (the "**Applicants' Certificate**") (i) stating that each of the Plan Implementation Conditions has been satisfied or waived and that the Articles of Reorganization for each of Hematite Holdings Inc. and Hematite Industrial Products Inc. have been filed and have become effective as of the date set out in the applicable Certificate of Amendment, and (ii) designating an Effective Time on the Plan Implementation Date. The Applicants shall file the Applicants' Certificate with this Court as soon as reasonably practicable following delivery thereof to the Monitor.

15. **THIS COURT ORDERS** that, as soon as practicable following the Effective Time and receipt of the Applicants' Certificate, the Monitor shall be authorized and directed to serve on the service list in these CCAA Proceedings (the "**Service List**") and post on the website established by the Monitor in respect of these proceedings (the "**Monitor's Website**") a certificate in the form attached hereto as Schedule "B" (the "**Monitor's Plan Implementation Certificate**"), signed by the Monitor, certifying that the Plan Implementation Date has occurred. The Monitor shall file the Monitor's Plan Implementation Certificate with this Court as soon as reasonably practicable following delivery thereof to the Service List.

Restructuring Steps

16. **THIS COURT ORDERS** that the Restructuring Steps to be taken and the transactions, arrangements, reorganizations, transfer, assignments, cancellations, compromises, settlements, payments, extinguishments, discharges, injunctions and releases to be effected on the Plan Implementation Date are hereby authorized and approved and are and shall be deemed to occur and be effected in accordance with the terms of the Plan in the sequence and at the times contemplated by the Plan, without any further act or formality.

Effect of Plan Implementation

17. **THIS COURT ORDERS AND DECLARES** that, at the Effective Time, the Plan and all associated steps, compromises, arrangements, transactions, releases and reorganizations effected thereby will be binding and effective upon and with respect to the Applicants, the Affected Creditors, the Released Parties, the Plan Sponsor and all other Persons named or referred to in, or subject to, the Plan or the Sanction Order.

18. **THIS COURT ORDERS** that, as at the Effective Time, any and all Affected Claims shall be and shall be deemed to be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, and the ability of any Person to proceed against any of the Applicants in respect of or relating to any Affected Claims, whether directly, indirectly, derivatively or otherwise is hereby forever discharged, enjoined and restrained, and all proceedings with respect to, in connection with or relating to such Affected Claims are hereby permanently stayed, excepting only any proceeding to enforce the obligation of the Applicants to make distributions in respect of such Affected Claims in the manner and to the extent provided for in the Plan and this Sanction Order.

19. **THIS COURT ORDERS** that, as at the Effective Time, any and all Released Claims shall be and shall be deemed to be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, and the ability of any Person to proceed against any of the Released Parties in respect of or relating to any Released Claims, whether directly, indirectly, derivatively or otherwise is hereby forever discharged, enjoined and restrained, and all

proceedings with respect to, in connection with or relating to such Released Claims are hereby permanently stayed.

20. **THIS COURT ORDERS** that any Person that did not file a proof of claim in respect of a Claim by the applicable bar date in accordance with the Claims Procedure Order, and any Person with an Affected Claim that is not a Proven Claim or Unresolved Claim, shall be and is hereby fully, finally, irrevocably and forever barred from making any such Claim and shall not be entitled to any consideration under the Plan, and such Person's Claim shall be and is hereby fully, finally, irrevocably and forever barred and extinguished.

21. **THIS COURT ORDERS** that:

- (a) the designation of any claim as an Unaffected Claim is without prejudice to the Applicants' right to dispute the existence, validity or quantum of any Unaffected Claim; and
- (b) nothing in this Sanction Order or the Plan shall affect or waive the Applicants' rights and defences, both legal and equitable, with respect to any Unaffected Claim, including, but not limited to, all rights with respect to entitlements to set-offs or recoupments against such Unaffected Claim.

22. **THIS COURT ORDERS AND DECLARES** that notwithstanding: (i) the pendency of these CCAA Proceedings; (ii) any applications for a bankruptcy, receivership or other order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"), the CCAA or otherwise in respect of the Applicants and any bankruptcy, receivership or other order issued pursuant to any such applications; and (iii) any assignment in bankruptcy made or deemed to be made in respect of any of the Applicants, the transactions contemplated by the Plan will be binding on any trustee in bankruptcy or receiver that may be appointed in respect of any of the Applicants or its assets and will not be void or voidable by creditors of any of the Applicants, nor will the Plan, or the payments and distributions contemplated pursuant thereto constitute nor be deemed to constitute a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA, CCAA or any other applicable federal

or provincial legislation, nor will the Plan constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

23. **THIS COURT ORDERS AND DECLARES** that all contracts, leases and other agreements and arrangements to which any of the Applicants or Hematite R.E. 1 Inc. (the “**Affected Party**”) is a party, whether written or oral (each, including any and all amendments or supplements thereto, an “**Existing Agreement**”) that have not been terminated or disclaimed pursuant to the applicable paragraph of the Initial Order and related provision of the CCAA will be and remain in full force and effect, unamended as of the Effective Time, and no Person who is a party to any such Existing Agreement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set off, dilution or other remedy) or make any demand under or in respect of any such Existing Agreement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the Effective Time and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events or default arising as a result of the insolvency of the Applicants);
- (b) the insolvency of the Applicants or the fact that the Applicants sought or obtained relief under the CCAA;
- (c) any compromises or arrangements effected pursuant to the Plan or any action taken or transaction effected pursuant to the Plan; or
- (d) any change in the control of the Applicants or the Affected Party arising from the implementation of the Plan and the transactions contemplated by the Plan Sponsor Agreement.

24. **THIS COURT ORDERS** that, from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults or non-compliance by any of the Applicants or the Affected Party, or caused by any of the Applicants or the Affected Party (directly or indirectly), under the terms of any Existing Agreement existing between such Person and any of the Applicants or the Affected Party up to the Effective Time and arising directly or indirectly from

any of the matters or events listed in the immediately preceding paragraph, and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under an Existing Agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Applicants from performing their obligations under the Plan.

Conflict with the Plan and Ongoing Effect of Orders Made in these CCAA Proceedings

25. **THIS COURT ORDERS** that, from and after the Effective Time, any conflict between:

- (a) the Plan; and
- (b) the terms of any Agreement existing between any Person and the Applicants as at the Plan Implementation Date,

will be deemed to be governed by the terms of the Plan and this Sanction Order, which shall take precedence and priority.

26. **THIS COURT ORDERS** that other than as expressly set out herein, the provisions of the Initial Order, including the Stay Period, shall terminate at the Effective Time except with respect to the protections granted therein in favour of the Monitor. All other Orders of the Court made in these CCAA Proceedings shall continue in full force and effect in accordance with their respective terms, except to the extent that such Orders are varied by or are inconsistent with this Sanction Order or any further Order of this Court in these CCAA Proceedings.

F. CCAA CHARGES

27. **THIS COURT ORDERS** that the Administration Charge (as provided for and defined in the Initial Order) shall be terminated, discharged, expunged and released upon the filing of the Monitor's Discharge Certificate (as defined below).

28. **THIS COURT ORDERS** that the Directors' Charge (as provided for and defined in the Initial Order) shall be terminated, discharged, expunged and released at the Effective Time.

29. **THIS COURT ORDERS** that the DIP Loan Secured Note, as defined in the Nadeau Affidavit and attached as Exhibit “J” thereto, is hereby approved and that the DIP Lender’s Charge (as provided for and defined in the Initial Order) shall not be terminated, discharged, expunged and released at the Effective Time and shall continue to apply from and after the Effective Time to secure the debt and obligations of the Applicants to the DIP Lender under the DIP Loan Secured Note with the same force, effect and priority as set out under the Initial Order (except in respect of intellectual property of the Applicants and life insurance proceeds, over which BDC Capital Inc. has a priority security interest) until such time as the indebtedness of the Applicants under the DIP Loan Secured Note is repaid in full, as evidenced by a receipt or other written confirmation of repayment by the DIP Lender.

G. APPLICANTS AND MONITOR

Conduct of the Directors and CRO of the Applicants

30. **THIS COURT ORDERS AND DECLARES** that the activities and conduct of the Directors and CRO of the Applicants in these CCAA Proceedings, as disclosed in the affidavits filed with the Court on behalf of the Applicants from time to time and the reports of the Monitor to the Court from time to time be and are hereby ratified and approved.

The Monitor

31. **THIS COURT ORDERS AND DECLARES** that the Monitor has complied with the provisions of the CCAA and the Orders of this Court made in these CCAA Proceedings in all respects.

32. **THIS COURT ORDERS AND DECLARES** that the Monitor has not done or purported to do anything that is not authorized by the CCAA.

33. **THIS COURT ORDERS AND DECLARES** that the activities and conduct of the Monitor and its representatives in these CCAA Proceedings, as disclosed in its reports to the Court from time to time, including, without limitation, in relation to conducting and administering the Meeting, be and are hereby ratified and approved, and that the Monitor has satisfied all of its obligations up to and including the date of this Sanction Order and all claims of

any kind or nature against the Monitor arising from or relating to the services provided to the Applicants up to and including the date of this Sanction Order are hereby barred and extinguished.

34. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and the powers provided to the Monitor herein, under the Plan and under the other Orders of this Court, shall be and is hereby authorized, directed and empowered to perform its functions and fulfill its obligations under the Plan to facilitate the implementation of the Plan and to complete all matters incidental to the termination of these CCAA Proceedings.

35. **THIS COURT ORDERS** that:

- (a) in carrying out the terms of this Sanction Order and the Plan, the Monitor shall have all the protections given to it by the CCAA and the other Orders in these CCAA Proceedings, and as an officer of the Court, including the stay of proceedings in its favour;
- (b) the Monitor shall incur no liability or obligation for any act or omission as a result of carrying out any duties or work in connection with the Sanction Order and/or the Plan, save and except for any gross negligence or wilful misconduct on its part;
- (c) the Monitor shall be entitled to rely on the books and records of the Applicants and any information provided by the Applicants without independent investigation; and
- (d) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

36. **THIS COURT ORDERS AND DECLARES** that any payments or deliveries under the Plan or this Sanction Order made or assisted by the Monitor shall not constitute a “distribution” and the Monitor shall not constitute a “legal representative” or “representative” of the Applicants or “other person” for the purposes of section 159 of the *Income Tax Act* (Canada), section 270 of the *Excise Tax Act* (Canada), section 46 of the *Employment Insurance Act* (Canada), section 22

of the *Retail Sales Tax Act* (Ontario), section 107 of the *Corporations Tax Act* (Ontario), or any other similar federal, provincial or territorial tax legislation (collectively, the “**Statutes**”), and the Monitor in making any such payments or deliveries of funds or assets in relation to the Plan is not “distributing”, not shall it be considered to have “distributed”, such funds or assets for the purposes of the Statutes, and the Monitor shall not incur any liability under the Statutes for making any payments or deliveries under the Plan or failing to withhold amounts, ordered or permitted hereunder, and the Monitor shall not have any liability for any of the Applicants’ tax liabilities regardless of how or when such liabilities may have arisen, and is hereby forever released, remised and discharged from any claims against it under or pursuant to the Statutes or otherwise at law, arising as a result of the distributions and deliveries under the Plan and this Sanction Order and any claims of this nature are hereby forever barred.

37. **THIS COURT ORDERS** that upon: (i) fulfillment of the Monitor’s duties under the Claims Procedure Order, the Meeting Order and this Sanction Order; and (ii) the Monitor receiving an acknowledgement of payment in full of the claims secured by the Administration Charge, the Monitor shall serve on the Service List, post on the Monitor’s website, and file with the Court a certificate substantially in the form attached hereto as Schedule “C” (the “**Monitor’s Discharge Certificate**”), and that, upon the filing of the Monitor’s Discharge Certificate, KPMG Inc. shall be deemed to be discharged from its duties, obligations and responsibilities as Monitor of the Applicants and shall be forever released, remised and discharged from any claims against it relating to its activities as Monitor.

Fee Approval

38. **THIS COURT ORDERS** that the fees and disbursements of the Monitor for the period from August 24, 2020 to November 30, 2020, inclusive, as set out in the Fourth Report, are hereby approved.

39. **THIS COURT ORDERS** that the fees and disbursements of Gowling WLG (Canada) LLP, in its capacity as counsel to the Monitor, for the period from September 10, 2020 to November 30, 2020, inclusive, as set out in the Fourth Report, are hereby approved.

40. **THIS COURT ORDERS** that the Monitor and its counsel shall not be required to pass any further accounts in these CCAA Proceedings unless otherwise requested by the Applicants.

H. RECOGNITION AND NOTICE

Notice

41. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Sanction Order, the Monitor shall cause a copy of this Sanction Order to be posted on the Monitor's Website, and the Applicants shall serve a copy on the parties on the Service List and those parties who appeared at the hearing of the motion for this Sanction Order. From and after the Effective Time, any notices, motions or documents which may be filed with the Court need only be served on the Applicants, the Monitor, the parties on the Service List and such Persons who deliver a Notice of Appearance to the Applicants and the Monitor, and file it with the Court, after the Effective Time.

42. **THIS COURT ORDERS** that the measures in paragraph 41 shall constitute good and sufficient service and notice of this Sanction Order on all Persons who may be entitled to receive notice thereof or who may have an interest in these proceedings, and no other form of notice or service need be made on such Persons and no other document or material need be served on such Persons in respect of these proceedings.

General Provisions

43. **THIS COURT ORDERS** that, notwithstanding any other provision of this Sanction Order, the Applicants and the Monitor shall remain entitled to seek advice, directions or assistance from the Court in respect of the interpretation and implementation of this Sanction Order and the performance by the Applicants and the Monitor of their respective obligations under the Plan, the Sanction Order and any other matters that pertain to the completion of the administration of these CCAA Proceedings.

44. **THIS COURT ORDERS AND DECLARES** that, pursuant to section 142 of the *Courts of Justice Act* (Ontario), no Person shall be liable for any act done in good faith in accordance with any Order issued in this proceeding, and any person who takes any action whatsoever in

reliance on this Sanction Order prior to the commencement of any appeal hereof or the expiry of any appeal period shall not be prejudiced or harmed in any manner by any such subsequent appeal.

45. **THIS COURT ORDERS** that this Sanction Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

46. **THIS COURT ORDERS** that this Sanction Order is effective from the date that it is made and is enforceable without any need for entry and filing.

47. **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 abroad, to give effect to this Sanction Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Sanction Order and the Plan. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Sanction Order and the Plan or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Sanction Order and the Plan.



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