

SULLIVAN & CROMWELL LLP

Canada

Sullivan & Cromwell assists a wide range of Canadian commercial and governmental clients with U.S. and non-U.S. legal matters, as well as multinational clients with strategic interests in the region. The Firm offers notable expertise in securities transactions, mergers and acquisitions, and project finance.

The Firm has broad experience advising Canadian issuers, underwriters and other market participants in public and private offerings, including multijurisdictional disclosure system and other SEC-registered offerings, as well as offerings pursuant to Rule 144A or Regulation S. The Firm also advises sponsors and lenders in connection with project finance and some of Canada's leading commercial enterprises on groundbreaking M&A transactions.

S&C's litigation lawyers regularly represent Canadian companies on a wide variety of legal disputes, including shareholder litigation, bankruptcy and U.S. federal and state law compliance matters.

SELECTED REPRESENTATIONS

Securities

Sullivan & Cromwell has broad experience representing issuers, underwriters and other market participants in registered offerings by Canadian issuers, including SEC and multijurisdictional disclosure system offerings, as well as offerings pursuant to Rule 144A or Regulation S. Representative matters include:

- **Canadian National Railway's** \$600 million SEC-registered global medium-term notes offering, in which S&C advised the underwriters. (2013)
- **Bank of Montreal's** \$2.5 billion SEC-registered senior notes offering. (2013)
- **Barrick Gold's** \$3 billion senior unsecured notes offering pursuant to Rule 144A/Reg. S. (2013)
- **Bell Canada's** \$1 billion SEC-registered/MJDS medium-term notes offering. (2013)
- **Empire Company's** \$1.6 billion subscription receipts offering pursuant to Rule 144A/Reg. S. (2013)
- **Enbridge's** \$1.15 billion SEC-registered senior notes offering. (2013)
- **Hudbay Minerals'** \$150 million senior notes offering pursuant to Rule 144A/Reg. S. (2013)
- **Hydro-Quebec's** \$1 billion guaranteed global bonds offering

PRACTICES & CAPABILITIES

Canada

PRACTICE CONTACTS

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pursuant to Schedule B, in which S&C advised the underwriters. (2012)

- **Kinross Gold's** \$1 billion senior notes offering pursuant to Rule 144A/Reg. S. (2011)
- **Nalcor Energy's** C\$5 billion guaranteed global bond offering pursuant to Rule 144A/Reg. S, in which S&C advised the underwriters. (2013)
- **Province of Manitoba's** \$600 million SEC-registered global debentures offering, in which S&C acted as counsel to the underwriters. (2013)
- **Royal Bank of Canada's** \$2.5 billion SEC-registered senior notes offering. (2014)
- **Sobeys'** \$970 million senior unsecured notes offering pursuant to Rule 144A/Reg. S. (2013)
- **Tervita's** \$850 million high-yield senior secured notes offering pursuant to Rule 144A/Reg. S, in which S&C advised the underwriters. (2013)
- **Total Capital Canada's** \$3 billion SEC-registered guaranteed bonds offering. (2013)

S&C's experience with many of the issuers above includes multiple offerings over many years and reflects our deep relationship with these companies and the region itself.

Mergers & Acquisitions

As the leading global law firm in M&A, S&C has extensive experience advising on Canadian M&A transactions, including many cross-border transactions involving Canadian companies. Selected representations include advising:

- **Alcan**, in its successful defense of a \$27 billion hostile takeover offer from Alcoa (U.S.) and its subsequent \$43 billion recommended offer by Rio Tinto (U.K.), as well as in its \$7 billion hostile takeover of Pechiney (France) and its \$4.8 billion spin-off of Novelis (U.S.).
- **Bank of Montreal**, in numerous transactions including its \$4.1 billion acquisition of Marshall & Ilsley (U.S.) and acquisition of all outstanding shares of F&C Asset Management (U.K.).
- **Barrick Gold**, in its \$7.7 billion acquisition of Equinox Minerals.
- **BCE**, with respect to U.S. law on its \$3.38 billion acquisition of Astral Media and in its proposed \$48.5 billion sale to an investor consortium led by Ontario Teachers' Pension Plan and Providence Equity Partners (U.S.).
- **Borealis Infrastructure Management**, the infrastructure

investment arm of the OMERS pension plan, and Ontario Teachers' Pension Plan Board in the sale of the Express Pipeline System (U.S.) to Spectra Energy (U.S.) as part of a \$1.49 billion transaction.

- **Cadillac Fairview**, in its approximately \$1 billion sale of Cadillac Fairview U.S. to Mills.
- **Cameco**, in the sale of its remaining interest in Centerra Gold.
- **Canada Pension Plan Investment Board**, in numerous acquisitions including its MerchCap Solutions joint venture with KKR & Co. (U.S.) and Stone Point Capital (U.S.).
- **Cameco**, as special counsel for diligence matters, in its approximately \$298 million acquisition of NUKEM Energy (Germany) from Advent International (U.S.).
- **Canetic Resources Trust**, in its \$5.5 billion sale to Penn West Energy Trust.
- **Gildan Activewear**, in its \$88 million acquisition of Anvil Holdings (U.S.) and in its \$350 million acquisition of Gold Toe Moretz Holdings (U.S.).
- **Inco**, in its \$17.8 billion acquisition by Companhia Vale do Rio Doce (Brazil).
- **Kinross Gold**, in its \$3.1 billion acquisition of Bema Gold, in its \$7.2 billion acquisition of Red Back Mining and in the \$220 million sale of its 19 percent interest in Diavik diamond mine to Harry Winston Diamond.
- **Masonite International**, in its \$3.3 billion acquisition by an affiliate of Kohlberg Kravis Roberts & Co. (U.S.).
- **Moore Wallace**, in its \$6 billion acquisition by RR Donnelley & Sons (U.S.).
- **Newbridge Networks**, in its \$7.1 billion acquisition by Alcatel (France).
- **Ontario Teachers' Pension Plan Board**, in numerous transactions, including its \$805 million acquisition of Aquilex Holdings (U.S.).
- **Royal Bank of Canada**, in numerous transactions, including its \$1.3 billion acquisition of Phillips, Hager & North Investment Management.
- **Valeant Pharmaceuticals International**, in numerous transactions, including its \$112.5 million acquisition of QLT's Visudyne business.
- **World Color Press**, in its \$1.4 billion sale to Quad/Graphics (U.S.).

Project Development and Finance

S&C has very current experience advising on groundbreaking projects and infrastructure matters in Canada or for Canadian companies. Even under difficult market and political conditions, S&C brings complex and challenging projects to a successful financial close. Selected matters include representing:

- **Alcan**, in the Sohar smelter and power project in Oman.
- **Barrick Gold**, in the development and financing of its Veladero gold project in Argentina and its Bulyanhulu gold, silver and copper mine project in Tanzania.
- **Cameco**, in the original project financing and restructuring of the Kumtor Gold Project in the Kyrgyz Republic.
- **Canada Pension Plan Investment Board**, in the \$1.7 billion acquisition financing of HQI Transelec, the largest electricity transmission company in Chile, by a consortium led by Brookfield Asset Management, which included the Canada Pension Plan Investment Board, British Columbia Investment Management Corporation and another institutional investor.
- **the confidential sponsor of a pending solar-farm project financing**, in the Province of Ontario, Canada.
- **the former project company**, in the pending development and financing of the Marcona copper project in Peru, which included as sponsors Chariot Resources and joint venture partners Korea Resources and LG-Nikko Copper.
- **First Bauxite**, in connection with its pending bauxite project in Guyana.
- **Inco**, in the divestiture of its downstream specialty nickel alloys and manufactured products businesses and environmental advice in connection with its Voisey Bay mining project.
- **Ambatovy Minerals, Dynatec Madagascar** and their owners, **Sherritt International**, SNC-Lavalin, Sumitomo and Korea Resources, in the \$3.3 billion Ambatovy nickel and cobalt project in Madagascar.
- **Stornoway Diamond**, in its pending development of the Renard diamond project, which will be the first diamond mine in Québec.
- **Victoria Gold**, in connection with the pending Eagle Gold Project in Yukon Territory.

S&C's litigators represent some of Canada's leading commercial enterprises in a variety of legal disputes. Highlights of the Firm's litigation work include representing:

- **The Bank of Montreal**, in connection with a review of losses sustained in BMO's natural gas trading activities, as well as related investigations by the United States attorney for the Southern District of New York, the Manhattan district

attorney, the SEC, the Commodity Futures Trading Commission and various bank regulators.

- **The Bank of Nova Scotia (BNS)**, in an action brought by former shareholders of Grupo Financiero Inverlat, a Mexican bank holding company, in New York State Supreme Court. The plaintiffs alleged breach of fiduciary duty, fraud, negligent misrepresentation, tortious interference, constructive trust and conversion. They sought judgment against BNS for damages in excess of \$1 billion. In March 2007, the court dismissed three of the claims—fraud, negligent misrepresentation and tortious interference with contract—on the ground that these claims were barred by the applicable statute of limitations. In August 2008, the court dismissed the remaining three claims on the ground that each one failed to state a cause of action under applicable Mexican law. At the same time, however, the court held that the complaint contained an implicit but unpleaded cause of action for breach of contract. The court permitted the plaintiffs to amend their complaint accordingly, and BNS then moved for summary judgment. On August 4, 2009, without reaching other grounds for dismissal, the court agreed with BNS that the statute of limitations had run on that claim. The court therefore dismissed the entire action.
- **Enbridge**, as well as its subsidiary, Enbridge Employee Services, and certain current and former directors of Enbridge Energy Partners (EEP), in a derivative suit brought by Peter Brinckerhoff, as a holder of EEP limited partnership units both personally and for his trust, in Delaware litigation challenging the July 2009 joint funding arrangement between Enbridge and EEP related to the \$1.2 billion Alberta Clipper Project. The suit sought to unwind the critical restructuring of an oil pipeline that occurred during the depths of the financial crisis. The Delaware Court of Chancery granted the defendants' motions to dismiss, finding that the complaint failed to allege a cognizable claim for breach of the limited partnership agreement or the implied covenants of good faith and fair dealing. After two separate arguments before the Delaware Supreme Court, the court affirmed the dismissal in 2013.
- **Inco** and various Inco officers and directors, in an action brought in federal district court in New Jersey in 2005. The action alleged violations of sections 10(b) and 20(a) of the Exchange Act and various state law claims in connection with Inco's redemption of its class VBN shares in 2000. S&C vigorously defended Inco and moved to dismiss all claims. Shortly after filing its motion to dismiss, S&C settled the matter on terms that were extremely favorable to Inco and the individual officers and directors.
- **Labatt Brewing**, in an action it brought in federal district court in Detroit against Molson and Miller, alleging infringement of Labatt's patent covering the process for brewing "ice beer." After several weeks of trial, the defendants settled on terms that were very favorable to Labatt.
- **Pershing Square Capital Management** in the vigorously contested proxy battle with Canadian Pacific Railways.

