

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
No.: 500-06-000693-149

(Class Actions)

SUPERIOR COURT

ANAS NSEIR, domiciled and resident at 446
Oakdale Avenue, Mont-Royal, Quebec, H3P 1J5

Petitioner

- VS -

BARRICK GOLD CORPORATION, a legal
person with an elected domicile at 1, Place Ville-
Marie, Suite 2500, Montreal, Quebec, H3B 1R1

- and -

AARON REGENT, TD Canada Trust Tower, 161
Bay Street, Suite 3700, P.O. Box 212, Toronto,
Ontario, M5J 2S1

- and -

JAMIE SOKALSKY, TD Canada Trust Tower,
161 Bay Street, Suite 3700, P.O. Box 212,
Toronto, Ontario, M5J 2S1

- and -

AMMAR AL-JOUNDI, TD Canada Trust Tower,
161 Bay Street, Suite 3700, P.O. Box 212,
Toronto, Ontario, M5J 2S1

- and -

PETER KINVER, TD Canada Trust Tower, 161
Bay Street, Suite 3700, P.O. Box 212, Toronto,
Ontario, M5J 2S1

Respondents

**RE-RE-AMENDED (MAY 17TH, 2019) CONSOLIDATED MOTION FOR
AUTHORIZATION TO PURSUE
AN ACTION IN DAMAGES UNDER THE *SECURITIES ACT*, AND
FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND
OBTAIN THE STATUS OF REPRESENTATIVE**

(Securities Act article 225.4, and C.C.P. articles 1002 et seq.)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT OF QUEBEC
SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE PETITIONER ALLEGES
THE FOLLOWING:

- 1. The Petitioner wishes to institute a class action on behalf of persons forming part of the Class hereinafter described and of which he is also a member, namely:**

All natural persons and legal persons who reside in Quebec and acquired securities of Barrick Gold Corporation from May 7, 2009 to November 1, 2013, except the Respondents, all officers and directors of Barrick Gold Corporation during the class period, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which the excluded persons have a controlling interest now or during the class period;

Toutes les personnes physiques et les personnes morales qui résident au Québec et qui ont acquis des valeurs mobilières de Barrick Gold Corporation entre le 7 mai 2009 et le 1^{er} novembre 2013, sauf les Intimés, tout administrateur ou dirigeant de Barrick Gold Corporation durant la période visée par le Recours, ainsi que leurs représentants légaux et ayants droit, ou toute entité liée ou contrôlée par une personne exclue ou dans laquelle une personne exclue est un initié;

- 2. The facts that give rise to an individual action on behalf of the Petitioner and which give rise to individual actions on behalf of class members against the Respondents are as follows:**

- 2.1. The Petitioner alleges that the Respondents have contravened their obligations under the *Quebec Securities Act*, particularly article 73 of the Act which reads as follows:

73. A reporting issuer shall provide periodic disclosure about its business and internal affairs, including its governance practices, timely disclosure of a material change and any other disclosure prescribed by regulation in accordance with the conditions determined by regulation.

- 2.2. They have further violated their duty not to make misrepresentations in the secondary market under Division II of Chapter II of Title VIII of the Act (articles 225.2 to 225.33);

- 2.2.0. They have also violated their duty not to make misrepresentations in the primary market under Division I of Chapter II of Title VIII of the Act (articles 217 to 225.0.2.)

- 2.2.1. The Petitioner further alleges that the Respondents have breached their duties under the Civil Code of Quebec;

- 2.3. The available evidence demonstrates that the Respondents failed to provide timely disclosure of material changes and made several misrepresentations

regarding the environmental compliance of its Pascua-Lama mine project, [...];

2.3.1. [...]

2.3.2. [...]

The Parties

- 2.4. The Petitioner resides in Quebec and purchased shares of Barrick Gold Corporation during the class period on several occasions, as appears from a copy of his transaction summaries for the years 2011 to 2013, filed as Exhibit **P-1**, en liasse;
- 2.5. The Respondent Barrick Gold Corporation ("**Barrick**") is a mining corporation incorporated under the laws of Ontario and is headquartered in Toronto, Ontario, as appears from a copy of its entry in the Quebec Régistrare des entreprises, filed as Exhibit **P-2**;
- 2.6. Barrick is a reporting issuer on the Toronto Stock Exchange and the New York Stock Exchange;
- 2.7. The following Respondent Directors and Senior Officers of Barrick had actual, implied or apparent authority to act and speak on behalf of Barrick and did so in making the misrepresentations and failures to disclose described below;
- 2.8. The Respondent Aaron Regent was Chief Executive Officer and a director of Barrick from January 2009 until he was terminated on June 6, 2012;
- 2.9. The Respondent Jamie Sokalsky was Chief Financial Officer of Barrick from 1999 until June 2012, after which he became Chief Executive Officer and a director;
- 2.10. The Respondent Ammar Al-Joundi has been the Chief Financial Officer and Executive Vice President of Barrick since June 2012;
- 2.11. The Respondent Peter Kinver was Chief Operating Officer of Barrick from January 1, 2004 to May 2, 2012 and Executive Vice President from September 9, 2012 to May 2, 2012;

The Respondents Misrepresented the Environmental Compliance of the Pascua-Lama Project

- 2.12. Barrick owns the Pascua-Lama mine located underneath glaciers in the Andes Mountains on the border between Chile and Argentina;

- 2.12.1. Pascua-Lama is an open-pit mine site located at an altitude of 4,800 meters which covers a total area of 45,550 hectares (455.5 km²).¹ It was supposed to process 45,000 tonnes of mineral ore per day² over a mine life of 25 years. Barrick stated that the mine had proven reserves of 17.8 million ounces of gold and 718 million ounces of silver;³
- 2.13. From at least 2006 until October 31, 2013, when its operations were suspended, Barrick claimed to be developing the Pascua-Lama mine;
- 2.14. From the outset, the Respondents understood that the mine would present considerable challenges for development and production because of its location and the extreme weather changes regularly found in such an environment. They further maintained that their proven track record in harsh conditions would enable them to push forward with the Pascua-Lama mine;
- 2.14.1. Pascua-Lama notably risked altering, contaminating, or partially destroying the adjacent glaciers, which sourced the waterways that provided water to the communities living at the foot of the Andes in this region in the Atacama desert, one of the driest deserts in the world. This risk primarily arose from the dust generated by the project whose accumulation in large quantities on glaciers could alter the glaciers' *albedo* (reflection coefficient) and cause them to melt at abnormal rates⁴;
- 2.14.2. Pascua-Lama further endangered the waterways which flowed through the mine site to the foot of the Andes, especially the Estrecho River. This risk arose from the contaminants produced by the excavation of mineral ore and the chemicals used to extract gold or silver from this ore⁵;
- 2.14.3. In 2006, Barrick knew perfectly well that the risk of water contamination was a consideration vital to the operation of the mine. It admitted as much in a June 2006 response to what it termed misleading information circulating about its Pascua-Lama project in which it wrote: "To underline its confidence in its operations and commitment to responsible mining practices, Barrick has committed

¹ Exhibit P-4 cc at. pp. 79, 81.

² *Ibid.* at. p. 80.

³ Exhibit P-4 f at. p. 1.

⁴ See generally Exhibit P-6A at para 6.2 (Discussing the project's likely impact on glaciers, the Commission noted that dust generated by the project was likely to impact the Esperanza, Toro 1 and Toro 2 glaciers that acted as natural reservoirs and regulators of the Atacama basin's water sources. Barrick had initially planned to displace parts of these glaciers, but due to the lack of scientific knowledge on the potential impacts of this move, the Commission had refused to accept any alteration of these glaciers).

⁵ See generally *ibid.* at paras 6.2, 7.1 (On the topic of impacts on water resources, the Commission announced that Barrick would have to take several measures to control the risks of contamination due to acid mine drainage).

that should the water quality change, it would immediately stop the project.” A copy of the document is filed as Exhibit **P-5**;

2.15. In February 2006, the Chilean government approved the Pascua-Lama project but imposed 400 conditions, including a variety of environmental conditions, upon Barrick, as appears from an environmental qualification resolution from the Chilean province of Atacama’s Regional Environmental Commission (the “**RCA**”, from the Spanish acronym *Resolución de Calificación Ambiental*), filed as Exhibit **P-6**, and a French translation of selected passages of the RCA, filed as Exhibit **P-6A**⁶;

2.15.1 The RCA notably imposed the following obligations on Barrick’s development of Pascua-Lama:

- A prohibition against destroying, displacing or altering the glaciers adjacent to the mine in any way⁷;
- An obligation to put in place several dust suppression measures such as: constructing the primary “ore crusher” at safe distance from the glaciers, transporting mineral ore in covered trucks only, and keeping the mine’s access roads wet at all times⁸;
- An obligation to monitor the Estrecho River for the presence of heavy metals, and the obligation to activate “emergency plans” if heavy metals were detected⁹;
- An obligation to construct and operate several treatment facilities for used waters¹⁰;
- An obligation to divert the Estrecho river from all of the water used or affected by the project’s operations (“**contact water**”)¹¹;

2.16. From May 7, 2009 to November 1, 2013 (“**the class period**”), the Respondents repeatedly represented that Barrick was complying with these environmental conditions and working to safeguard the environment of the area and water surrounding the mine;

2.16.1. Construction of the Pascua-Lama project began in October 2009;

⁶ The environmental sensitivity of the project is apparent from the contents of the RCA. The Environmental Commission notably listed and commented on over 158 environmental issues raised by concerned citizens and organizations: Exhibit P-6 at pp. 3 -95

⁷ Exhibit P-6A at para. 6.2.

⁸ *Ibid.* at para. 4.4.3. b).

⁹ *Ibid.* at para. 7.1 a).

¹⁰ See Exhibit P-11A at para. 59.1, bullet points 4 – 9.

¹¹ See *ibid.* at para. 59.1, bullet point 1.

- 2.17. These representations were inaccurate, misleading, or omitted material facts regarding Barrick's failure to safeguard the environment and comply with various environmental conditions, regulations and permits as detailed below;

Barrick's subsidiary's self-reporting of its RCA violations and the Administrative Review Undertaken by Chile's Environmental Superintendent

- 2.17.1. On January 18, 2013, Barrick's Chilean subsidiary Compañía Minera Nevada SpA ("**CMN**") filed a self-reporting notice ("*Autodenuncia*") with the Chilean *Superintendencia del Medioambiente* (Environmental Superintendent, hereafter the "**SMA**"¹²), as appears from a copy of the original version of this document, filed as Exhibit **P-7**, and a French translation of this document (entitled "*Autodénonciation*"), filed as Exhibit **P-7A**;
- 2.17.2. In this self-reporting, CMN admitted to many violations of the RCA, including the following:
- 2.17.2.1. An outlet which was part of a system of canals meant to maintain all non-contact water (water not used for the Pascua-Lama project) clear of the Pascua-Lama project had been built in the wrong place;
- 2.17.2.2. In December 2012, a large flow of water and of colluvial matter damaged this outlet;
- 2.17.2.3. In January 2013, a second large flow of water and colluvial material ruptured the outlet and caused a mudslide that damaged a nearby flood plain;
- 2.17.2.4. A series of relief structures ("*ouvrages de retenue*") were not authorized by the RCA¹³;
- 2.17.3. Following this self-reporting, the SMA ordered CMN to adopt interim measures to prevent further incidents and launched an investigation into the project, which included inspections carried out by Chilean officials on January 24, 25, 29 and 30, 2013¹⁴;
- 2.17.4. When the SMA examined CMN's representative Guillermo Caló on January 28, 2013, he stated that Barrick built the unauthorized outlet and relief structures around April 2012, as appears from a copy of the original transcript of the examination, filed as Exhibit **P-8**, and a

¹² The Chilean administrative body charged with the oversight of the country's environmental law and regulations.

¹³ Exhibit P-7A, section 3 ("*Manquements*") at pp. 3-5.

¹⁴ Exhibit P-11A at para. 36.

copy of the French translation of this examination, filed as Exhibit P-8A¹⁵;

2.17.5. The SMA notably charged CMN with the following violations of the RCA:

- 2.17.5.1. Construction of the engineering structure outlet of the Lower North Perimeter Channel in an inadequate place, because it was not constructed at the end of an extension of said channel. Likewise, the construction of relief works, related to engineering structures No. 1 and 5 of the Lower North Perimeter Channel, which were not approved under the RCA, or the project of watercourse modification approved by the General Department of Water by means of Resolution DGA No. 163 of March 2008, of the Regional Division of Water of the Atacama Region. Water through said relief works is conveyed to the contact-water system, specifically to the North Nevada waste dump and they do not secure the hydraulic conductivity of the non-contact water system;
- 2.17.5.2. Failure to construct the hydrogen peroxide oxidation unit at the Acid Mine Drainage Treatment Plant;
- 2.17.5.3. Failure to construct the Reverse Osmosis Plant;
- 2.17.5.4. Failure to have an infiltrated acid water containment system related to a battery of underground water wells which may allow having always one operating and another one stand-by;
- 2.17.5.5. Failure to contain infiltrated acid water coming from the North Nevada waste dump during January 2013;
- 2.17.5.6. The unjustified discharge e into Estrecho River coming from the Acid Mine Drainage Treatment Plant;
- 2.17.5.7. Discharge of contact water into the Estrecho River;
- 2.17.5.8. The use of a non-authorized methodology to calculate water quality warning levels that uses more permissive levels than those provided under the RCA;
- 2.17.5.9. Failure to activate in January 2013 the Water Quality Response Plan upon verifying the existence of

¹⁵ Exhibit P-8A at p.4.

emergency levels, as per the water quality early warning levels provided under the RCA¹⁶;

- 2.17.6. On April 29th, 2013, Derek Riehm, a senior executive at CMN, wrote to the SMA and accepted all of the SMA's charges listed above¹⁷;
- 2.17.7. The SMA classified all of the RCA offences at the highest level of severity under Chilean environmental law¹⁸;
- 2.17.8. The SMA's Inspection Division further found that the January 10, 2013 landslide that CMN self-reported, had caused irreversible damage to the pasture lands adjacent to Pascua-Lama¹⁹;
- 2.17.9. The RCA required CMN to build the hydrogen peroxide oxidation unit at the Acid Mine Drainage Treatment Plant and the Reverse Osmosis Plant before it began pre-stripping – the process of removing waste rock known as the overburden from an open-pit mine to gain access to an ore body that lies beneath – activities at Pascua-Lama;
- 2.17.10. The Respondents were well aware that these facilities were of crucial importance to Pascua-Lama's acid mine drainage treatment and management system, as appears for example from a May 2013 letter accepting a tender to construct the reverse osmosis plant by Charles A. Cappello, identified as Pascua-Lama project manager, filed as Exhibit **P-9**;
- 2.17.11. CMN began pre-stripping around May 2012, and the Respondents subsequently falsely announced that these facilities had been built;²⁰
- 2.17.12. It follows that the Respondents' representations regarding environmental compliance and the feasibility of the project were false;
- 2.17.13. The Respondents also knew that these omissions would take a long time to correct. In a May 8, 2013 letter addressed to the SMA, CMN's Riehm estimated that construction of the Oxidation Unit and the Reverse Osmosis Plant would take seven months, the whole as appears from a copy of the original Spanish version of this letter, filed as Exhibit **P-10**, and a French translation of this letter, filed as Exhibit **P-10A**²¹;

¹⁶ Exhibit P-11 A, table at para. 59.1, bullet points 1, 4-9, 11-12.

¹⁷ See Exhibit P-11A at para. 64.

¹⁸ *Ibid.* at para. 93 a), p. 37.

¹⁹ *Ibid.* at para. 93 a), subpara. x), pp. 39-40;

²⁰ See Exhibit P-4 gg, p. 6; Exhibit P-16A, para 9.3 d)

²¹ Exhibit P-10A at s. III.

2.17.14. As a result of its investigation, on May 24, 2013, the SMA rendered an administrative decision against Barrick entitled “Exempt Resolution No. 477”, as appears from a copy of the original Spanish version of this decision, filed as Exhibit **P-11**, and an English translation of this decision, filed as Exhibit **P-11A**. In this decision, the SMA ordered the halt of all construction of the Pascua-Lama mine until the project’s water management system had been brought in line with the RCA²² and assessed CMN a fine of 16 000 “Annual Tax Units”, approximately \$ 16 M USD²³;

Chile’s Second Environmental Court quashed the SMA’s Resolution for failing to fully reflect the severity of Pascua-Lama’s violations of the RCA.

2.17.15. In June 2013, an indigenous group and a number of farmers living in the vicinity of the Pascua-Lama project challenged the SMA’s Resolution (Exhibit P-11/P-11A) before Chile’s Second Environmental Court (“*Segundo Tribunal Ambiental*”, the “**Environmental Court**”) as not going far enough. These groups alleged that the SMA had not considered evidence to the effect that Pascua-Lama’s operations had contaminated nearby waterways and that the Resolution was thus null and void;

2.17.16. In its March 3, 2014 decision, the Environmental Court partially admitted the claims brought before it, annulled the SMA’s Resolution (except for the provisional remedial measures it had ordered), and remanded matters for further consideration back to the SMA, as appears from a copy of the original Spanish version of its decision, filed as Exhibit **P-12**, and an English translation of this decision, filed as Exhibit **P-12A**²⁴;

2.17.17. On the basis of data compiled by Barrick’s subsidiary itself, the Environmental Court found that from the beginning of construction in October 2009 until construction was halted in December 2012²⁵, Pascua-Lama had repeatedly violated the RCA’s provisions relative to the prevention of waterway contamination;

2.17.18. The Environmental Court rejected CMN’s contention that Chilean authorities had agreed to the adoption of a more permissive methodology for monitoring water contamination. It rather found that the new methodology accepted by Chilean authorities did not apply to the Construction Phase of Pascua-Lama²⁶;

²² Exhibit P-11A at p. 58.

²³ *Ibid.* at pp. 56-57; Barrick’s Q2 Report for 2013, Exhibit P-4 ggg at numbered p. 78.

²⁴ See Exhibit P-12A at p. 111

²⁵ Construction had been suspended as of December 2012, pursuant to an order by Chilean authorities, due to concerns about control of dust particulates: see Exhibit P-4 bbb at p. 41.

²⁶ Exhibit P-12A, 79th to 81st “Whereas”, at pp. 55-58.

2.17.19. In December 2014, Chile's Supreme Court dismissed CMN's appeal, rendering the Environmental Court's decision final and remitting the matter back to the SMA, as appears from a copy of a Barrick Gold Press Release dated December 31, 2014, filed as Exhibit **P-13**;

2.17.20. These findings are further indication that the Respondents' environmental compliance representations were undoubtedly false and misleading from October 2009 onwards;

Chile's Water Authority also concluded that Pascua-Lama breached the RCA

2.17.21. On June 27, 2013, Chile's Dirección General de Aguas (General Waters' Administration, the "**DGA**") published a study on indicators of acid mine drainage in the Cholloy River into which the Estrecho River flows, as appears from a copy of the original version of the study, filed as Exhibit **P-14**, and a translation of the study minus its Annexes, filed as Exhibit **P-14A**;

2.17.22. On the basis of data compiled independently by the DGA, the P-14 study concluded that from 2011 to 2013, indicators of acid mine drainage in the Cholloy River repeatedly exceeded the warning levels established by the RCA²⁷;

2.17.23. The DGA also concluded that construction activities at Pascua-Lama had caused these indicators to significantly increase²⁸;

2.17.24. The DGA further noted Pascua-Lama's failure to keep roads wet and the resulting heavy accumulation of dust on glaciers when it inspected the project on March 28, 2012, as appears from a copy of the original Spanish version of the DGA's December 11, 2012 Notice ("Avis") n° 770, filed as Exhibit **P-15**, and a French translation of this notice, filed as Exhibit **P-15A**²⁹;

2.17.25. The DGA also highlighted in this Notice, among other infractions, that Pascua-Lama had a five-month backlog on the monthly reports on the glaciers' albedo it was obliged to submit under the RCA³⁰;

2.17.26. The Notice led to another administrative decision against Pascua-Lama, rendered by the Atacama Environmental Evaluation Commission (the "**Atacama Commission**") on February 25th, 2013,

²⁷ Exhibit P-14A at p. 8, para 19.

²⁸ *Ibid.* at p. 8, para. 19, and p. 11.

²⁹ Exhibit P-15A at pp. 6-7.

³⁰ *Ibid.* at p. 9.

as appears from a copy of this decision, filed as Exhibit **P-16**, and a French translation of the decision, filed as Exhibit **P-16A**;

2.17.27. Thus, the DGA's findings further confirm that Pascua-Lama repeatedly failed to comply with the RCA throughout the mine's construction, from 2011 to 2013;

Parallel proceedings before Chile's Court of Appeal for Copiapó also reveal that Barrick violated the RCA throughout the class period

2.17.28. As explained above, the RCA imposed strict controls on Pascua-Lama's dust emissions due to their high potential of damaging nearby glaciers³¹;

2.17.29. In September 2012, four different Diaguita indigenous communities filed a constitutional rights protection action against CMN before Chile's Court of Appeal for Copiapó;

2.17.30. The communities alleged that Pascua-Lama was operating in violation of the RCA, and was thus infringing upon their rights under Chile's constitution. The communities emphasized Pascua-Lama's effects on the "Toro" and "Esperanza" glacier systems, claiming that this threatened their only source of water;

2.17.31. On April 10, 2013, the Court of Appeal for the Chilean province of Copiapó issued a preliminary injunction in favour of the groups ordering Barrick to halt construction at the Pascua-Lama project based on environmental infractions, as appears from copies of two press releases Barrick issued on that date, filed as Exhibit **P-3**;

2.17.32. Barrick reported this event in a Material Change Report issued June 3rd, 2013, filed as Exhibit **P-3.1**;

2.17.33. On July 15th, 2013, the Court of Appeal partially granted the communities' action on the merits. It confirmed the suspension of all construction activities at Pascua-Lama, as appears from a copy of the original Spanish version of the judgment, filed as Exhibit **P-17**, and a French translation of it, filed as Exhibit **P-17A**³²;

2.17.34. The Court found Pascua-Lama repeatedly failed to comply with environmental regulations and listed many decisions by Chilean administrative bodies that had reached similar conclusions;

2.17.35. On the basis of evidence before it and previous administrative decisions, it concluded that Pascua-Lama posed a serious threat to

³¹ See Exhibit R-6A at paras 4.4.3 b), 4.4.8, 6.2.

³² Exhibit P-17A at p. 41.

nearby water resources and glaciers and had failed to put in place the mandatory dust suppression measures imposed by the RCA;

- 2.17.36. The conclusions of the Court of Appeal and the administrative decisions to which it refers, including those of the DGA referred to above, further establish that as of March 2012 at the latest, the Respondents' representations that Pascua-Lama complied with its environmental conditions and was protecting glaciers were false and misleading;

Testimony of an ex-worker at the Pascua-Lama project before the Environmental Court provides further corroboration that Barrick was in violation of the RCA during the class period

- 2.17.37. Articles 6.1 and 9.22 of the RCA provide that Barrick's access to minerals was to take place without any "removal, displacement, destruction or an any other interference" with the glaciers;³³
- 2.17.38. However, an ex-worker at the Pascua-Lama project testified before Chile's Second Environmental Court in February of 2014 that he saw debris from dynamiting of glaciers and also witnessed a visible change in colour of the glaciers, from white to brown. A copy of the official recording of the testimony of Claudio Paez Morales is filed as Exhibit **P-18**, a transcript of his testimony is filed as Exhibit **P-18A**, a French translation of the transcript is filed as Exhibit **P-18B** and a Certificate (in Spanish) from the Second Environmental Court certifying the authenticity of recording P-16 is filed as Exhibit **P-18C**;
- 2.17.39. Mr. Paez Morales worked as a heavy machinery operator for a sub-contractor of CMN's at Pascua-Lama from 2009 to 2011³⁴;

Admission of Barrick's CEO regarding Pascua-Lama's environmental compliance

- 2.17.39 In a document entitled Responsibility Report issued in 2014, CEO Jamie C. Sokalsky admitted Barrick had failed to comply with environmental standards in its Pascua-Lama project:

I'm also disappointed with the company's environmental compliance issues at the Pascua Lama project. While we are working to make things right, we did not live up to the high standards I expect of our company.

as appears from a copy of the report, filed as Exhibit **P-19**;

³³ Exhibit P-6A at arts. 6.1, 9.22.

³⁴ Exhibit P-18B at p. 3.

2.17.40 From all of the above, it is apparent that the Respondents' representations that Pascua-Lama complied with environmental conditions and was not affecting glaciers were false and misleading;

[...]

2.18 - 2.29 [...]

2.30. On October 31, 2013, Barrick announced it was indefinitely suspending the Pascua-Lama project and it would only proceed if a more effective, phased approach was developed, as appears from a copy of Barrick's 2013 third quarter report for 2013, Exhibit **P-3.2**;

2.31. After the close of trading that day, Barrick announced a \$3 billion offering of its shares and indicated that the proceeds would be used to pay down debt, strengthen its balance sheet and cover general corporate expenses, including the ongoing operating and capital costs of Barrick's mines;

The Respondents' misrepresentations

[...]

2.32. [...]

2.33. The Respondents' misrepresentations, as detailed above, were contained in the following documents and public statements :

- a. May 7, 2009 press release titled "Barrick Announces Go-Ahead of Pascua Lama";
- b. May 7, 2009 conference call titled "Barrick Gold update on the Pascua-Lama project Conference Call";
- c. June 4, 2009 presentation at the Goldman Sachs Basic Materials Conference;
- d. July 30, 2009 earnings conference call for Q2 2009 (presentation and transcript);
- e. July 31, 2009 press release, interim financial statements and management's discussion & analysis ("MD&A") for Q2 2009;
- f. September 8, 2009 press release titled "Barrick Announces Silver Sale Agreement";

- g. September 8, 2009 preliminary short form prospectus and amendment on September 9, 2009, including documents incorporated by reference;
- h. September 15, 2009 final short form prospectus, including documents incorporated by reference;
- i. October 13, 2009 earnings conference call for Q3 2009;
- j. October 30, 2009 press release, interim financial statements and MD&A for Q3 2009;
- k. November 6, 2009 final short form prospectus, including documents incorporated by reference;
- l. December 10, 2009 statements at the Bank of America-Merrill Lynch 2009 Global Industries Conference;
- m. January 2010 statements at the CIBC Whistler Institutional Investor Conference;
- n. February 18, 2010 earnings conference call for Q4 2009 (presentation and transcript);
- o. March 23, 2010 , annual report, annual financial statements and MD&A for 2009;
- p. March 29, 2010 annual information form;
- q. April 1, 2010 amended annual report;
- r. April 28, 2010 earnings conference call for Q1 2010 (presentation and transcript);
- s. April 29, 2010 interim financial statements and MD&A for Q1 2010;
- t. June 4, 2010 statements at the 2010 Goldman Sachs Basic Materials Conference;
- u. July 29, 2010 earnings conference call for Q2 2010;
- v. July 29, 2010 press release, interim financial statements and MD&A for Q2 2010;
- w. October 28, 2010 earnings conference call for Q3 2010;
- x. October 28, 2010 press release, interim financial statements and MD&A for Q3 2010;

- y. February 17, 2011 earnings conference call for Q4 2010 (presentation and transcript);
- z. February 17, 2011 press release, annual financial statements and MD&A for 2010;
- aa. March 1, 2011, amended MD&A for 2010;
- bb. March 22, 2011 annual report for 2010;
- cc. March 31, 2011 annual information form;
- dd. March 31, 2011 NI43-101 technical report for the Pascua-Lama project;
- ee. April 27, 2011 earnings conference call for Q1 2011 (presentation and transcript);
- ff. April 27, 2011 press release, interim financial statements and MD&A for Q1 2011;
- gg. May 25, 2011 statements at Goldman Sachs Basic Materials Conference;
- hh. June 27, 2011, registration statement, as amended on August 3, 2011 and filed on SEDAR on August 4, 2011, including documents incorporated by reference;
- ii. July 28, 2011 earnings conference call for Q2 2011 (presentation and transcript);
- jj. July 28, 2011 press release, interim financial statements and MD&A for Q2 2011;
- kk. September 7, 2011 Investor Day presentation;
- ll. October 27, 2011 earnings conference call for Q3 2011 (presentation and transcript);
- mm. October 27, 2011 press release, interim financial statements and MD&A for Q3 2011 ;
- nn. December 14, 2011 statement in response to outside concerns regarding the impact on glaciers of the Pascua-Lama project;
- oo. February 16, 2012 earnings conference call for Q4 2011 (presentation and transcript) ;
- pp. February 16, 2012 press release, annual financial statements and MD&A for 2011;

- qq. March 27, 2012 annual report for 2011;
- rr. April 20, 2012 registration statement, as amended on May 9, 2012 and filed on SEDAR on May 9, 2012, including documents incorporated by reference;
- ss. May 2, 2012 earnings conference call for Q1 2012 (presentation and transcript);
- tt. May 2, 2012 press release, interim financial statements and MD&A for Q1 2012;
- uu. July 26, 2012 press release and earnings conference call for Q2 2012 (presentation and transcript);
- vv. July 26, 2012 press release, interim financial statements and MD&A for Q2 2012;
- ww. November 1, 2012 earnings conference call for Q3 2012 (presentation and transcript);
- xx. November 1, 2012 press release, interim financial statements and MD&A for Q3 2012;
- yy. January 23, 2013 statements at the CIBC World Markets Whistler Institutional Investor Conference;
- zz. February 14, 2013 earnings conference call for Q4 2012 (presentation and transcript);
- aaa. February 14, 2013 press release, annual financial statements and MD&A for 2012;
- bbb. March 25, 2013 annual report for 2012;
- ccc. March 28, 2013 annual information form;
- ddd. April 24, 2013 earnings conference call for Q1 2013 (presentation and transcript);
- eee. April 24, 2013 press release, interim financial statements and MD&A for Q1 2013;
- fff. June 28, 2013 press release regarding update on the Pascua-Lama project; and
- ggg. August 1, 2013 press release, interim financial statements and MD&A for Q2 2013.

The documents referred to above are filed *en liasse* as Exhibit **P-4**;

2.34. For the reasons detailed above, these documents and public oral statements contained material misrepresentations and omitted material facts regarding the environmental compliance of Pascua-Lama;

2.34.1. [...]

2.35. The Respondents also failed to make timely disclosure of material changes relating to the environmental compliance, progress, cost, and feasibility of the Pascua-Lama project;

2.36. The Respondents knew or ought to have known of the misrepresentations and failures to disclose at the time they were made;

2.36.1. The Plaintiff attaches as **Schedule A (Amended)** a table outlining these various misrepresentations;

The misrepresentations and failures to disclose listed in the present motion caused the value of Barrick's stock to be overvalued, thus causing damages to class members

2.37. The misrepresentations and failures to disclose listed in the present motion caused the value of Barrick's stock to be overvalued during the entirety of the class period;

2.38. During the class period, the price of Barrick's stock fell as difficulties which had been known to Barrick, and should have been disclosed earlier, became public. A chart of Barrick's stock price on the Toronto and New York stock exchanges for the class period is filed as Exhibit **P-20**, *en liasse*;

2.38.1. The Plaintiff attaches as **Schedule B (Amended)** a table listing the Respondents' partial corrective disclosures, and as **Exhibit P-21A**, *en liasse*, charts depicting the variations in Barrick's stock price in the ten trading days following each of these partial corrective disclosures;

3. The composition of the Class makes the application of articles 59 and 67 C.C.P. difficult or impracticable in that:

3.1 The size of the Class is conservatively estimated to include thousands of Quebecers;

3.2 It is impossible for the Petitioner to contact and obtain mandates from every class member;

4. If this Court grants authorization for an action in damages under Division II of Chapter II of Title VIII of the *Securities Act*, the Petitioner seeks to have the following questions of fact and law, which are identical, similar or related and unite each member of the Class, decided by a class action:

- 4.1 Did the Respondents fail to make timely disclosures of material changes pertaining to Barrick's Pascua-Lama project?
- 4.2 Did the Respondents make misrepresentations pertaining to Barrick's Pascua-Lama project?
- 4.3 Are the Respondents liable to the class members under [...] the Quebec *Securities Act* and/or the *Civil Code of Quebec*?
- 4.4 Are the class members entitled to compensatory damages, and if so, to how much?

5. The questions of fact and law individual to each member of the Class are the following:

- 5.1 What amount must the Respondents reimburse to each class member?

6. It is appropriate to authorize a class action on behalf of the class members for the following reasons:

- 6.1 A class action will provide the class members with reasonable access to justice;
- 6.2 The cost of bringing each individual action would disproportionately exceed the amount sought by each against the Respondents;
- 6.3 If class members actually exercised their rights, the sheer number of victims would lead to a multitude of individual actions instituted in various jurisdictions, which could lead to contradictory rulings on questions of fact and law that are for all intents and purposes identical to all the class members;
- 6.4 A class action would help deter the Respondents and other issuers and corporate directors and senior officers from ignoring their legal obligations under the Quebec *Securities Act*;

7. The nature of the action that the Petitioner seeks to institute is:

- 7.1 An action in damages;

8. The conclusions that the Petitioner seeks are the following:

DECLARE that the Respondents failed to make timely disclosures of material changes and made misrepresentations pertaining to the Pascua-Lama project;

ORDER the Respondents to pay each member of the Class their respective claims, plus interest at the legal rate as well as the additional indemnity provided for by law in virtue of article 1619 C.C.Q.;

ORDER the collective recovery of the damages awarded to class members;

THE WHOLE with costs, including the cost of experts and notices;

9. The Petitioner is apt to assume an adequate representation of the class members that he intends to represent for the following reasons:

- 9.1 The Petitioner is a class member;
- 9.2 The Petitioner has the time, energy, will and determination to assume all the responsibilities incumbent upon him in order to diligently carry out the action;
- 9.3 The Petitioner cooperates and will continue to fully cooperate with his attorneys;
- 9.4 The Petitioner is represented by two law firms that specialize in class actions;

10. The Petitioner requests and proposes that the class action be brought before the Superior Court, sitting in the district of Montreal, for the following reasons:

- 10.1 The Petitioner resides in Quebec, in the district of Montreal;
- 10.2 Counsel for the Petitioner practice in the district of Montreal;
- 10.3 It is likely that a high proportion of class members reside in Montreal;

11. The Petitioner attaches as **Schedule C, as required by art. 225.4 of the *Securities Act*, his project statement of claim;**

FOR THESE MOTIVES, MAY IT PLEASE THE COURT:

GRANT the Petitioner's Motions;

GRANT the Petitioner's motion for authorization to bring an action for damages under Division II of Chapter II of Title VIII of the *Securities Act*;

GRANT the Petitioner's Motion to obtain the Status of Representative of class members;

AUTHORIZE the class action hereinafter described as:

All natural persons and legal persons, which in the 12 months previous to April 30, 2014 had fewer than 50 employees, who reside in Quebec and acquired securities of Barrick Gold Corporation from May 7, 2009 to November 1, 2013, except the Respondents, all officers and directors of Barrick Gold Corporation during the class period, members of their immediate families and their legal representatives, heirs, successors or assigns, and any entity in which the excluded persons have a controlling interest now or during the class period;

Toutes les personnes physiques et les personnes morales qui, au cours des 12 mois précédent le 30 avril 2014, avaient moins de 50 employés, qui résident au Québec et qui ont acquis des valeurs mobilières de Barrick Gold Corporation entre le 7 mai 2009 et le 1^{er} novembre 2013, sauf les Intimés, tout administrateur ou dirigeant de Barrick Gold Corporation durant la période visée par le Recours, ainsi que leurs représentants légaux et ayants droit, ou toute entité liée ou contrôlée par une personne exclue ou dans laquelle une personne exclue est un initié;

IDENTIFY as follows the principle questions of fact and law to be determined collectively:

Did the Respondents fail to make timely disclosures of material changes pertaining to Barrick's Pascua-Lama project?

Did the Respondents make misrepresentations pertaining to Barrick's Pascua-Lama project?

Are the Respondents liable to the class members under [...] the Quebec *Securities Act* and/or the *Civil Code of Quebec*?

Are the class members entitled to compensatory damages, and if so, to how much?

IDENTIFY as follows the conclusions sought in relation thereof:

DECLARE that the Respondents failed to make timely disclosures of material changes and made misrepresentations pertaining to the Pascua-Lama project;

ORDER the Respondents to pay each member of the Class their respective claims, plus interest at the legal rate as well as the additional indemnity provided for by law in virtue of article 1619 C.C.Q.;

ORDER the collective recovery of the damages awarded to class members;

THE WHOLE with costs, including the cost of experts and notices;

DECLARE that, unless excluded, the class members will be bound by all judgments to be rendered with respect to the class action in accordance with the law;

FIX the delay for exclusion from the Class at sixty (60) days from the date of the notice to the members, after which those members which did not avail themselves of their option to be excluded shall be bound by all judgments to be rendered with respect to the class action;

ORDER the publication of a summary notice (in accordance with article 1046 C.C.P.) to the members of the Class according to the terms to be determined by the Court;

REFER the present file to the Chief Justice for determination of the district in which the class action should be brought and to designate the Judge who shall preside over the hearing;

THE WHOLE with costs, including the cost of all notices;

MONTREAL, May 17th, 2019.

TRUDEL JOHNSTON & LESPÉRANCE
Counsel for the Petitioner

CLASS ACTIONS
SUPERIOR COURT
DISTRICT OF MONTREAL

ANAS NSEIR

Petitioner

v.

BARRICK GOLD CORPORATION

-and-

AARON REGENT

-and-

JAMIE SOKALSKY

-and-

AMMAR AL-JOUNDI

-and-

PETER KINVER

Respondents

Our file: 1319-1 BT-1415

RE-RE-AMENDED (MAY 17TH, 2019) CONSOLIDATED
MOTION FOR AUTHORIZATION
TO PURSUE AN ACTION IN DAMAGES UNDER THE
SECURITIES ACT, AND FOR AUTHORIZATION TO
INSTITUTE A CLASS ACTION AND
OBTAIN THE STATUS OF REPRESENTATIVE

(Securities Act art. 225.4 and C.C.P. art. 1002 et seq.)

ORIGINAL

Name of attorney: Jean-Marc Lacourcière

TRUDEL JOHNSTON & LESPERANCE, S.E.N.C.
750, Côte de la Place d'Armes, Suite 90
Montréal (Québec) H2Y 2X8
Tel : 514 871-8385
Fax : 514 871-8800