



This is the 3<sup>rd</sup> Affidavit of Tim Swendseid  
in this case and was made on September 19, 2024

NO. S- 245121  
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, AS AMENDED

AND

IN THE MATTER OF *THE BUSINESS CORPORATIONS ACT*,  
S.B.C. 2002, C. 57, AS AMENDED

AND

IN THE MATTER OF ELEVATION GOLD MINING CORPORATION, ECLIPSE GOLD  
MINING CORPORATION, ALCMENE MINING INC., GOLDEN VERTEX CORP.,  
GOLDEN VERTEX (IDAHO) CORP., and HERCULES GOLD USA, LLC

**AFFIDAVIT**

I, Tim Swendseid, of 15889 W. 62<sup>nd</sup> Pl., in the City of Arvada, in the State of Colorado, United  
States of America, SWEAR THAT:

1. I am the Chief Executive Officer and a Director of the Petitioner, Elevation Gold Mining Corporation ("**Elevation Gold**"), and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be made upon information and belief, in which case the source of information is disclosed and I verily believe the same to be true.
2. I am also the sole director and an officer of each of Eclipse Gold Mining Corporation, Golden Vertex Corp. ("**Golden Vertex**"), and Golden Vertex (Idaho) Corp. ("**Golden Vertex Idaho**"). By virtue of my positions with these Petitioners, I have personal knowledge of the facts and matters deposed to herein with respect to these entities.
3. Capitalized terms used herein and not otherwise defined have the meaning given to them in my 1<sup>st</sup> Affidavit sworn on July 29, 2024 (the "**First Affidavit**") or my 2<sup>nd</sup> Affidavit, sworn August 8, 2024 (the "**Second Affidavit**").

**I. INTRODUCTION / OVERVIEW**

4. This Affidavit is made in support of an application by the Petitioners for:

- (a) an order, amongst other things:
- (i) approving an interim financing facility (the “**Interim Financing Facility**”) in the maximum principal amount of \$2,000,000 USD to be made available to Elevation Gold, Golden Vertex and Golden Idaho (collectively, the “**Borrowers**”) by KIA II LLC in its capacity as an interim lender to the Borrowers (in such capacity, the “**Interim Lender**”) pursuant to an interim lending term sheet (the “**Interim Financing Term Sheet**”);
  - (ii) granting an “**Interim Lender’s Charge**” as security for the Borrowers’ obligations to the Interim Lender pursuant to the Interim Financing Term Sheet; Borrowers
  - (iii) approving a key employee retention program (the “**KERP**”);
  - (iv) granting a “**KERP Charge**” over the Property to secure the Petitioners’ obligations under the KERP;
  - (v) providing for the relative priority of the Interim Lender’s Charge and KERP Charge in relation to the court-ordered priority charges set out defined in the ARIO (as defined herein); and
  - (vi) removing Alcmene Mining Inc. (“**Alcmene Mining**”) and Hercules Gold USA, LLC (“**Hercules Gold**”) as Petitioners in these proceedings, terminating these proceedings with respect to those entities, and amending the style of cause of these proceedings accordingly;
- (b) an order sealing the Confidential 4<sup>th</sup> Affidavit of Tim Swendseid sworn on September 19, 2024 (the “**Confidential Swendseid Affidavit**”) on the Court file; and
- (c) such further and other relief as counsel may request and this Honourable Court may deem just.

## II. RECENT ACTIVITIES

### A. The SISP

5. As detailed in the Second Affidavit, the SISP is divided into two phases, each with various interim steps and associated deadlines, as follows:

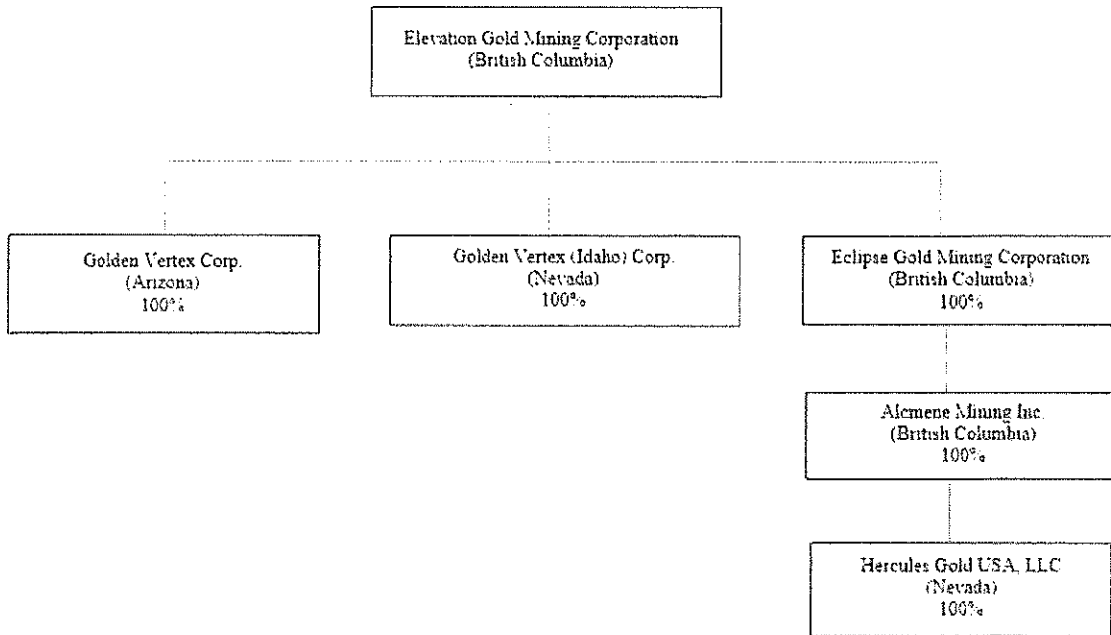
PHASE	STEPS	TARGET DATES
Phase 1	SISP to commence	August 12, 2024
	LOI Deadline	September 13, 2024
Phase 2	Final Bid Process Commences	September 19, 2024

PHASE	STEPS	TARGET DATES
	Final Bid Deadline	October 18, 2024
	Determination of Successful Bidder	October 25, 2024

6. In connection with the SISP, INFOR prepared a teaser, which it then circulated with a confidentiality agreement to 47 potential purchasers and investors, including publicly traded mining companies, privately held mining companies, and various private equity firms and investment funds. Interested parties were required to sign a confidentiality agreement to obtain access to a virtual data room that was set up by the Petitioners.
7. The Petitioners and INFOR responded to numerous due diligence requests from interested parties and facilitated two onsite visits to the Moss Mine. Multiple offers were received in Phase 1 of the SISP and Phase 2 has now commenced.

**B. Sale of the Hercules Property**

8. Throughout the summer of 2024, the Petitioners were engaged in conversations with Strikepoint Gold Inc. (“**Strikepoint**”) about the potential purchase of the Hercules Gold.
9. At the time of the First Affidavit, the corporate structure for the Petitioners was as follows:



10. In August 2024, the Petitioners received an offer from Strikepoint to purchase 100% of the shares of Alcmene Mining for \$250,000 (the “**Hercules Transaction**”). Subsequently, the Petitioners:

- (a) received approval for the Hercules Transaction from the Elevation Gold Board of Directors on August 27, 2024;
  - (b) consulted with INFOR who advised that the Hercules Transaction would not impact the SISP or the marketability of the Petitioners' main assets; and
  - (c) advised the Monitor of the Hercules Transaction and obtained its approval for the same.
11. Eclipse Gold then entered into a Share Purchase Agreement with Strikepoint dated August 29, 2024, pursuant to which Eclipse Gold sold 100% of the shares of Alcmene Mining to Strikepoint for \$250,000 CAD. On or around September 3, 2024 the TSX Venture Exchange provided its approval for the Hercules Transaction.
12. As part of the Hercules Transaction, Strikepoint assumed the obligation of Hercules Gold to pay annual fees to the US Bureau of Land Management of approximately \$258,000 USD in order to preserve the various unpatented mining claims with respect to the Hercules Property.
13. As Strikepoint now owns the shares of Alcmene Mining, the Petitioners wish to remove Alcmene Mining and Hercules Gold from these proceedings and understand that the Monitor is in support of this.

#### **C. Chapter 15 Proceedings**

14. At a hearing held on August 27, 2024, the United States Bankruptcy Court for the District of Arizona held that this CCAA proceeding should be recognized as a foreign main proceeding under chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532. An order to that effect was entered on September 16, 2024.

#### **D. General Operations**

15. As discussed in the First Affidavit, to enable the Petitioners to remain cash flow positive throughout these proceedings without interim financing, Elevation Gold's management determined that an interim cessation of active mining from the open pits at the Moss Mine should take place, and that operation of the beneficiation facilities would allow the Petitioners to continue to produce gold and silver from the ore held in the leach pads at the Moss Mine.
16. As part of this process the Petitioners have worked with their employees and vendors to stabilize operations following the cessation of active mining. This has involved re-assigning some employees to different tasks and engaging with certain vendors who are important to the beneficiation process.
17. Since the commencement of these proceedings, the Petitioners have focused on the beneficiation process. This includes:
- (a) organizing the removal of explosives and contaminated infrastructure associated with explosives;

- (b) organizing, planning and commencing the reshaping the leach pad to improve the recovery of additional gold and silver and prepare for ultimate reclamation;
  - (c) removing pre-crusher stockpiled ore, crushing the same, and placing the resulting product on the leach pad to recover additional gold and silver; and
  - (d) organizing and conducting maintenance of the access road to the mine for the purpose of safety and dust control.
18. Additionally, the Petitioners managed their relationships with key stakeholders, including by engaging with their senior secured lender Maverix in order to provide updates and seek their consent to the Interim Financing Facility and the KERP (discussed below), and meeting with local, state and federal authorities to discuss the ongoing CCAA proceedings.

**III. INTERIM FINANCING**

19. Prior to the commencement of the CCAA proceeding, Maverix advised the Petitioners that it would not provide additional funding by way of an interim financing facility or otherwise. INFOR, in its capacity as the Petitioners’ financial advisor, also contacted more than 10 parties who were believed to have the expertise and resources necessary to provide interim financing. These parties declined to provide such financing.
20. The Petitioners have remained cash flow positive thus far with the cessation of active mining operations. The most recent cash flow indicates that the Petitioners should be able to continue to operate until at least the end of November 2024. This, however, assumes the continued cessation of active mining at the Moss Mine. If the Petitioners were to re-start active mining operations, they would require additional capital. The Petitioners may also require additional capital if they have operational issues resulting in additional costs that are not presently in the cash flow or if the actual revenues projected in the cash flow are less than forecasted.
21. To provide a contingency in the event of operational issues and lower than forecasted revenues, as well as a source of funding if the Petitioners were to recommence acting mining operations, the Petitioners have agreed with the Interim Lender on the terms of an Interim Financing Term Sheet pursuant to which the Interim Lender will make the necessary Interim Financing available to the Petitioners.
22. The terms of the proposed Interim Financing Term Sheet are summarized as follows (with capitalized terms not otherwise defined in this affidavit having the meanings ascribed to them in the Interim Financing Term Sheet):

<b>Borrowers</b>	Elevation Gold, Golden Vertex, and Golden Idaho (collectively, and on a joint and several basis, the “ <b>Borrowers</b> ”, and each a “ <b>Borrower</b> ”).
<b>Lender</b>	KIA II LLC.
<b>Purpose</b>	To fund working capital and general corporate needs of the Borrowers during, as well professional fees, costs and expenses incurred by the

	Borrowers in connection with, the CCAA Proceedings.
<b>Interim Facility</b>	A non-revolving loan up to the maximum principal amount of \$2,000,000 USD (the “ <b>Maximum Amount</b> ”).
<b>Maturity Date</b>	The earlier of: (a) March 31, 2025; (b) the date on which the CCAA proceedings or Stay of Proceedings is terminated; (c) the closing of a sale or similar transaction for all or substantially all of the assets and business of the Borrowers pursuant to the SISP; (d) the implementation of a plan of compromise or arrangement within the CCAA proceedings; or (f) the occurrence of an Event of Default.
<b>Interest Rate</b>	15% per annum.
<b>Fees</b>	<ol style="list-style-type: none"> <li>1. A commitment fee equal to 2% of the Maximum Amount which shall be fully earned upon the granting of an Order (the “<b>Interim Financing Order</b>”) (i) approving the Interim Financing Term Sheet, (ii) authorizing the Borrowers to borrow up to the Maximum Amount, and (iii) granting the Interim Lender’s Charge.</li> <li>2. An exit fee equal to 2% of the outstanding amounts under the Interim Financing as at the Maturity Date or at the time all amounts owed under the Interim Financing Term Sheet (the “<b>Obligations</b>”) are to be repaid.</li> <li>3. Reasonable and documented legal fees of the Interim Lender to a maximum amount of \$20,000 USD incurred by the Interim Lender in connection with the Interim Financing Term Sheet.</li> </ol>
<b>Interim Financing Charge</b>	All Obligations shall be secured by the Interim Lender’s Charge which shall rank after the Administration Charge, the Sales Agent Charge and any other charge or encumbrance which the Interim Lender, in its sole discretion, agrees may rank ahead of the Interim Lender’s Charge.
<b>Conditions Precedent</b>	(1) by no later than October 15, 2024, the Interim Financing Order shall be granted; (2) by no later than November 15, 2024, the United States Bankruptcy Court District of Arizona shall grant an order recognizing and giving effect to the Interim Financing Order, in the United States; (3) the cash flow projection shall be acceptable to the Interim Lender; (4) the ARIO shall be in force; (5) the representations and warranties within the Interim Financing Term Sheet shall be true; and (6) no event of default shall have occurred.

23. The Petitioners’ management believes that the terms of the Interim Financing Term Sheet are reasonable and appropriate in the circumstances given (a) the Petitioners’ need for an additional source of funding to implement their restructuring efforts if they were recommence active mining, encounter operational issues, or lower than forecasted revenue; and (b) the consent to the Interim Financing Term Sheet by Maverix, the Petitioners’ senior secured creditor.

24. In the circumstances, I believe that the approval of the Interim Financing Facility will provide the Petitioners with needed capital in the event that the Petitioners, in consultation with the Monitor, determine that resuming active mining operations is in the best interest of the Petitioners and their stakeholders. The Interim Financing Facility will also provide the Petitioners with capital in the event of negative cash flow variances and to address unplanned operational issues that arise during these proceedings.
25. I do not believe that any creditor will be materially prejudiced because of the approval of the Interim Financing Facility or the granting of the Interim Lender's Charge.

#### **IV. THE KEY EMPLOYEMENT RETENTION PROGRAM**

##### **A. The need for the KERP**

26. The Petitioners have made significant strides towards their restructuring goals since the Initial Order was granted. As is described in greater detail in the Second Affidavit, these efforts have included the development of the SISP to solicit offers to purchase, or invest in, the Petitioners or their assets, and the engagement of INFOR to conduct the SISP.
27. In the weeks since the Petitioners obtained CCAA protection, their employees and officers have been working diligently to consider and implement the steps required to both stabilize and restructure the Petitioners business with the assistance of the Monitor. In particular, certain key employees (the "**Key Employees**") have recently expended significant time and effort in demanding circumstances to stabilize the Petitioners business and preserve value for their stakeholders.
28. The Petitioners have had to lay-off approximately 38 employees involved in active mining and crushing operations at the Moss Mine. After the lay-offs, six employees, representing 12% of the total remaining employees have resigned. As with any company in CCAA protection, there is significant concern about the uncertainty surrounding the employment future of current employees the Petitioners or a prospective purchaser of their business.
29. Challenges facing the Petitioners include: (i) the continued need to manage and operate a complex business in strained financial circumstances; (ii) the cross border aspects of the Petitioners' business and operations; and (iii) the significant work required to guide the Petitioners' restructuring efforts in addition to day-to-day business operations.
30. The Petitioners have determined it is in the Petitioners' and their stakeholders' best interests that steps be taken to facilitate the continued retention of the Key Employees. The Petitioners have identified ten Key Employees who will participate in the proposed KERP.
31. The Key Employees are drawn from a broad range of various teams and departments within the Petitioners' business and include members of their senior management, operations, human resources, environmental, and finance teams. They collectively provide critical leadership, experience, and day-to-day operational oversight of the Petitioners' business operations. They have historical knowledge of, and familiarity with, the Petitioners' business and operations, and significant experience and expertise.

32. In particular, amongst other things, the Key Employees: (i) interact with potential suitors and provide them information on the Petitioners' business; (ii) ensure all financial and accounting aspects of the CCAA proceedings and operations are monitored and managed; (iii) are responsible for various corporate governance matters; and (iv) are critical to ongoing operations and transitioning to new ownership in the event of a sale of the Petitioners' assets.
33. The Petitioners have also considered the roles of the Key Employees in both their ongoing business operations and their restructuring efforts in light of the roles played by both the Monitor and the proposed Sales Agent and do not believe there is any unwarranted duplication of roles. The Petitioners believe the retention of the Key Employees will reduce the costs of the professionals involved in these proceedings. For example, a loss of financial staff may require additional involvement by the Monitor.
34. It is the Petitioners' view that while not only will the Key Employees face a significantly increased workload during these CCAA proceedings, they will also have other, more certain employment opportunities available to them with other companies due to their experience and expertise. Without the benefit of the KERP, the Petitioners are highly concerned that the Key Employees would consider accepting other employment opportunities.
35. The departures of additional key employees would be costly, disruptive, and detrimental to the Petitioners' restructuring efforts. Most of the Key Employees have irreplaceable knowledge with respect to the Petitioners' business operations. Even if it were possible to replace any of the Key Employees externally, which is highly uncertain, it would be expensive and time consuming to do so. Further departures are also likely to result in additional challenges on the Petitioners in terms of work and morale at a time that the Petitioners are most in need of stability and continuity, and the Petitioners believe that retention of the Key Employees will help to ensure a supportive work environment and avoid an exodus of employees more generally.

**B. The KERP Terms and Charge**

36. The "**Retention Bonus**" paid to the Key Employees under the KERP will be paid in two parts, upon the occurrence of the following events (each a "**Completion Event**"):
  - (a) 20% of the Retention Bonus will be paid on November 15, 2024; and
  - (b) 80% of the Retention Bonus will be paid no later than 60 days following the completion of a transaction or concurrently with the termination of the Petitioners proceedings under the CCAA.
37. A Key Employee's entitlement to receive the Retention Bonus is contingent on each Key Employee meeting certain eligibility and payment criteria, namely:
  - (a) the Petitioners have determined that such employee is essential to the stability of the Petitioners' business and/or will enhance the effectiveness of the SISP;



- (b) the Monitor has consented to such employee participating in the KERP and to the terms on which such employee may receive payment under the KERP; and
  - (c) Key Employees must be actively employed with the Petitioners until the applicable bonus payment date, must be performing their duties and responsibilities through to such payment date; or are terminated without cause before the applicable bonus is due and payable.
38. A Key Employee is not eligible for a Retention Bonus payment if, before a Completion Event, they are terminated for cause or if they resign.
  39. It is anticipated that the Retention Bonus amounts payable under the KERP will be funded out of the Petitioners' cash flow. However, to ensure that the Key Employees receive reasonable assurances that their entitlements under the KERP are secure given the Petitioners' insolvency, the Petitioners' request a charge (the "KERP Charge") in respect of their obligations under the KERP in an amount of no more than US \$870,417 on account of anticipated Retention Bonus payments.
  40. The proposed KERP Charge would rank after the Administration Charge, the Sales Agent Charge, the Interim Lender's Charge and the D&O Charge (but before the Intercompany Advances Charge).
  41. In the above circumstances, the Petitioners believe that the amounts payable to the Key Employees under the KERP and the provision of the KERP Charge are reasonable and appropriate in the circumstances.
  42. The Board of Directors of Elevation Gold has approved of the terms of the KERP, the identity of the Key Employees, and the amounts payable to the Key Employees under the KERP.
  43. As mentioned above, the Monitor has been involved with the development of the KERP. It is my understanding that the Monitor is supportive of this Court's approval of the KERP and KERP Charge.
  44. Maverix consents to the terms of the KERP and the identity of the Key Employees, and the Interim Lender is also supportive of the KERP. The Interim Lender's support is relevant because an entity related to it is a prospective purchaser in the SISF, and believes the KERP will improve the likelihood of retaining key employees following the completion of a purchase and sale transaction.
- C. The need for confidentiality**
45. The KERP is attached to the Confidential Swendseid Affidavit as Exhibit "A". Attached as Schedule A to the KERP is a list of the Key Employees, their salaries, their Retention Bonus, the timelines for payment of the Retention Bonuses, and a short summary of each Key Employee's role in and importance to the Petitioners' business and restructuring efforts.

- 46. Disclosure of the information contained in the Confidential Swendseid Affidavit could be prejudicial to the Petitioners, the Key Employees, and others. Among other issues, disclosure of the information in the Confidential Swendseid Affidavit could (a) create concerns among the Key Employees with respect to the disclosure of particularly sensitive personal information; (b) allow the Petitioners' business competitors and others to attempt to induce the Key Employees to depart from their employment for more lucrative opportunities; and (c) make it more difficult for the Petitioners to negotiate employment terms for replacement employees if required. In addition, and generally speaking, salary and compensation levels for employees is a particularly personal and private matter to employees.
- 47. These issues and disruptions would be prejudicial to the Petitioners at a time that they are most in need of stability and continuity. As the information found in the Confidential Swendseid Affidavit is not of a nature that would normally be made public, I don't believe that anyone would be prejudiced by it remaining sealed from public view.
- 48. For these reasons, the Petitioners seek an order that the Confidential Swendseid Affidavit be filed under seal and kept confidential.

**V. CONCLUSION**

- 49. I swear this Affidavit in support of the Petitioners' application pursuant to the CCAA, and for any other proper purpose in connection with these restructuring proceedings.

SWORN BEFORE ME at the City of Denver, )  
 in the State of Colorado, U.S.A. this 19th day )  
 of September, 2024. )

Camille Linn-Curnow )  
 A Notary Public in and for the State of Colorado, )  
 U.S.A. )

Tim Swendseid  
 TIM SWENDSEID

CAMILLE LINN-CURNOW  
 Notary Public  
 State of Colorado  
 Notary ID # 20054005845  
 My Commission Expires 02-11-2025

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**3<sup>rd</sup> AFFIDAVIT OF  
TIM SWENDSEID**

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