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ID # 1

Court File No.: A-157-22

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**FEDERAL COURT OF APPEAL**

22-JUL-2022

**BETWEEN:**

Modelisa Hennessy

**PROCON MINING & TUNNELLING LTD.,**

VAN

-1-

**APPELLANT**

**AND**

**HER MAJESTY THE QUEEN,**

**RESPONDENT**

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**NOTICE OF APPEAL**

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TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Appellant. The relief claimed by the Appellant appears below.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the Appellant. The Appellant requests that this appeal be heard at 701 West Georgia Street, Vancouver, BC, V7Y 1B6. The appeal will be heard in English.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a Notice of Appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the Appellant's solicitor, or, if the Appellant is self-represented, on the Appellant, WITHIN 10 DAYS after being served with this Notice of Appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the *Federal Courts Rules* instead of serving and filing a Notice of Appearance.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: Fri, July 22, 2022

Issued by: Original Signed by Modelisa Hennessy  
(Registry Officer)

Address of local office:

Federal Court of Appel  
Pacific Centre  
P.O. Box 10065  
701 West Georgia Street  
Vancouver, BC V7Y 1B6

TO: Her Majesty the Queen by her counsel the Attorney General of Canada, c/o A. François Daigle, Deputy Minister of Justice and Deputy Attorney General, 284 Wellington Street, Ottawa, Ontario, K1A 0H8.

## APPEAL

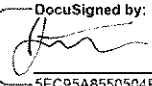
THE APPELLANT APPEALS to the Federal Court of Appeal from the order dated June 29, 2022 of the Honourable Justice Patrick Boyle of the Tax Court of Canada (the "TCC") by which the Appellant's appeal from the reassessment (the "Reassessment") made on September 14, 2017 under the *Income Tax Act* (Canada) (the "Act") for its 2013 taxation year was dismissed, with costs, 2022 TCC 71.

THE APPELLANT ASKS that the appeal be allowed and the Reassessment be referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that its loss of \$1,181,273 arising from the sale of its shares of Lincoln Mining Corporation and its loss of \$904,645 arising from the sale of its shares of Chieftain Metals Inc. were on income account rather than on capital account, with costs here and below.

THE GROUNDS OF APPEAL are as follows: Justice Boyle erred in law in failing to (a) identify the correct legal tests for determining inventory versus capital property and (b) apply those tests to the facts.


The Appellant requests the TCC to send a certified copy of the following material that is not in the possession of the Appellant but is in the possession of the TCC to the Appellant and to the Registry: all Exhibits filed at the hearing of the TCC appeal and a transcript of all Discovery questions read in or copies of all Discovery questions handed up.

July 22, 2022.

DocuSigned by:  
  
 5EC95A8550504F9

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 V6C 3R8

Telephone: 604-443-7115  
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 Email: joel.nitikman@dentons.com

I HEREBY CERTIFY that the above document is a true copy of the original <i>issued out of</i> the Court on <u>22/07/2022</u> Dated <u>25/07/2022</u>  <i>Modelisa Hennessy</i> Registry Officer
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