



VANCOUVER REGISTRY
185674/VA98

Form 40

REPORT OF TRUSTEE ON PROPOSAL
(Section 59(1) and paragraph 58(d) of the said Act)

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY

IN THE MATTER OF THE PROPOSAL OF
RICHARD WILLIAM WARKE

We, Barnes & Kissack Inc., the Trustee acting in the Proposal of Richard William Warke, hereby report to the Court as follows:-

1. That a Proposal was filed with us on the 14th day of September, 1998, a copy of which is attached and marked as Exhibit A, and that we filed a copy of the Proposal with the Official Receiver on the 15th day of September, 1998.
2. That on the 18th day of September, 1998, we gave notice to the debtor, the Division Office, and to every known creditor affected by the Proposal, whose names and addresses are shown in Exhibit B to this report, of the calling of a meeting of creditors to be held on the 29th day of September, 1998, to consider the Proposal.
3. That with the notice was included a condensed statement of the assets and liabilities of the debtor, a list of the creditors affected by the Proposal who have claims of \$250 or more and showing the amounts of their claims, a copy of the Proposal, a form of Proof of Claim and Proxy in blank and a Voting Letter. Copies of the notice, the condensed statement and the list of creditors are attached hereto and marked as Exhibits C1, C2, and C3, respectively.
4. That prior to the meeting of creditors we made a detailed and careful inquiry into the liabilities of the debtor, the debtor's assets and their value, the debtor's conduct and the causes of the debtor's insolvency.

5. That the meeting of creditors was held on the 29th day of September, 1998, and was presided over by Willem Bil, Official Receiver. That meeting was adjourned until October 13, 1998, postponed until October 28, 1998 and postponed again until November 24, 1998 at which time an informal meeting of the creditors was held and at that informal meeting the adjourned meeting was set for December 8, 1998.
6. The numerous postponements of the first meeting of creditors occurred so that Mr. Warke could provide Revenue Canada directly with further documentation and information and to negotiate revised terms of the Proposal. During that time informal meetings were held between Revenue Canada and Warke and also between the creditors and the Trustee.
7. The December 8, 1998 meeting was postponed indefinitely pending completion of the Revenue Canada investigation.
8. On January 22, 1999 we called a meeting for March 11, 1999 at 10:00 A.M. That meeting was put forward to 2:00 P.M. on March 11, 1999 to allow time for further negotiations.
9. That the meeting of creditors was held on March 11, 1999 and was presided over by Stephen Barnes, the nominee of the Official Receiver. The Proposal was amended by Richard Warke at the meeting and as such was accepted by the required majority of creditors. The Proposal As Amended is attached hereto and marked Exhibit D.
10. That a copy of the Minutes of the Meeting is attached hereto and marked as Exhibit E.
11. That we are of the opinion that:-

- a) The assets of the debtor and their fair realizable value are as follows:

Household furniture & effects (exempt in part)	\$ 7,500
Personal effects (exempt)	2,500
Augusta Capital Corporation (100% ownership)	124,000
Augusta Financial Corporation (100% ownership)	NIL
Tatiana Investment Corporation (25% ownership)	NIL
Nesbitt Burns RRSP	<u>7,450</u>

TOTAL \$ 141,450

In arriving at the values of the shares in the 3 companies we have accepted the debtor's valuation for the reasons set out in paragraphs 7, 9 and 10, reprinted in italics, of our report to the creditors of September 18, 1998.

- 7) *The principal assets are the shares which are owned, directly, or indirectly in the family of public companies with which Mr. Warke has been associated. He owns 100% of Augusta Capital Corp., a personal holding corporation, which in turn owns shares in the following public companies:-*

<i>Augusta Gold Corp.</i>	-	<i>1,362,000 shares</i>	-
<i>Augusta Metals Inc.</i>	-	<i>192,200 shares</i>	
<i>Augusta Resource Corp.</i>	-	<i>674,900 shares</i>	

We understand that these shares represent de facto control of the companies. However Mr. Warke is Chief Executive Officer and Director of Augusta Gold Corp. and Augusta Metals Inc., and a director of Augusta Resource Corp. These public companies trade on the Vancouver Stock Exchange with the exception of Augusta Resource Corp. which trades on the Canadian Dealers Network, although none appear recently to trade actively or in substantial quantities. Based on recent trading figures, the shares of these public companies would be worth \$154,810 before brokerage commissions. However, Mr. Warke has emphasized to us that, in the event his Proposal is rejected by the creditors causing an automatic bankruptcy, he would be ineligible to act as a director of a public company, and thus he believes that his absence from these public companies would have an adverse effect on the share prices and liquidity for his shares. In consequence, the realizable value of these shares in a bankruptcy could be worth significantly less than the above value, or even worthless if the market for these shares were effectively eliminated.

- 9) *Mr. Warke owns a 25% investment in Tatiana Investments Corp., a private company. We do not know what restrictions there may*

be concerning the transfer of minority shares in this company, in the event of a bankruptcy. Mr. Warke believes that his investment in Tatiana is valueless. Based on the most recent financial information available to us, we doubt that there would be any recovery from this source, in a bankruptcy.

- 10) *The debtor's 100% shareholding in Augusta Financial Corp. is also estimated to be valueless according to the sworn Statement of Affairs. The assets in this corporation are believed to be mostly investments in the family of public companies referred to above, as well as escrow shares in West Coast Forest Products Ltd. We have no financial information concerning Augusta Financial Corp. since the last financial statements dated January 31, 1997. Based on the information available, we assume that any recovery from Augusta Financial Corporation would be negligible in relation to Mr. Warke's total debt, in the event of bankruptcy, as a result of income taxes and other debts owed by Augusta Financial Corp.*

- b) The liabilities of the debtor as declared on the Statement of Affairs are as follows:

Secured creditors	NIL
Preferred creditors	NIL
Unsecured creditors	992,600
Contingent creditors	<u>275,000</u>
 TOTAL	 \$ 1,267,600

12. That we are also further of the opinion that:

- a) The causes of the insolvency of the debtor are as follows:

- i) the reclassification of capital gains to income gains resulting in tax. The debtor estimates this very roughly at \$200,000 plus;
- ii) the failure to pay tax, in part due to dispute as to liability and in part due to lack

of cash flow, which the debtor estimates very roughly at \$200,000 plus;

- iii) penalties and interest on outstanding tax;
 - iv) personal guarantee given in 1984 for a Royal Bank loan to Templar Mining Co., now a defunct company;
- b) The conduct of the debtor is not subject to censure.
- c) The following facts, mentioned in Section 173 of the Act, may be proved against the debtor:
- i) the assets of the debtor are not of a value equal to fifty cents on the dollar on the amount of the debtors unsecured liabilities, however, this has arisen from circumstances beyond his control.
13. That we are further of the opinion that the debtor's Proposal as Amended is an advantageous one for the creditors as there is clearly a higher recovery projected to the creditors under the Proposal, both as originally filed which provided a payment of \$300,000 over time and As Amended which provides a payment of \$400,000 over time secured by a mortgage on the debtor's spouse's residence.
14. That we forwarded a copy of this Report to the Official Receiver on this day.

DATED at Vancouver, B.C., this 17th day of March, 1999.

BARNES & KISSACK INC., TRUSTEE

Per: 

Stephen H. Barnes, CGA, FCIP
Chartered Insolvency Practitioner