

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE:

CYPRUS MINES CORPORATION,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-10398 (LSS)

Hearing Date: May 5, 2021, at 10:00 a.m. ET  
Obj. Deadline: April 28, 2021, at 4:00 p.m. ET

**DEBTOR’S MOTION FOR AN ORDER APPOINTING  
ROGER FRANKEL AS THE LEGAL REPRESENTATIVE FOR  
FUTURE PERSONAL INJURY CLAIMANTS, EFFECTIVE AS OF APRIL 8, 2021**

Cyprus Mines Corporation (the “Debtor”), as debtor and debtor-in-possession in the above-captioned chapter 11 case (this “Chapter 11 Case”), through its undersigned counsel, submits this motion (this “Motion”) for the entry of an order, pursuant to sections 105(a), 524(g)(4)(B)(i), and 1109(b) of title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”), appointing Roger Frankel (“Mr. Frankel”), effective as of April 8, 2021,<sup>2</sup> as the legal representative (the “Future Claimants’ Representative” or “FCR”) for the purpose of protecting the rights of persons who might subsequently assert personal injury claims (including Demands, as such term is defined in section 524(g)(5) of the Bankruptcy Code) that will be channeled to a personal injury compensation trust in this Chapter 11 Case (such persons collectively, “Future Claimants”). In support of this Motion, the Debtor submits the *Declaration of Roger Frankel*, a copy of which is attached as **Exhibit A** (the “Frankel Declaration”), and the *Declaration of D. J. (Jan) Baker, Independent Director of the Debtor, in Support of Chapter 11 Petition and First Day Pleadings* [D.I. 7] (the “Baker First Day Declaration”), and respectfully states as follows:

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<sup>1</sup> The last four digits of the Debtor’s taxpayer identification number are 0890. The Debtor’s address is 333 N. Central Ave., Phoenix, AZ 85004.

<sup>2</sup> On April 8, 2021, at the Debtor’s request, Mr. Frankel agreed to serve as the FCR in this Chapter 11 Case if appointed by the Court.

### **JURISDICTION**

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this Chapter 11 Case, the Debtor, property of the Debtor’s estate, and this matter under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

2. Pursuant to Local Rule 9013-1(f), the Debtor consents to the entry of a final judgment or order with respect to this Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

3. Venue is proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory predicates for the relief requested herein are sections 105(a), 524(g)(4)(B)(i), and 1109(b) of the Bankruptcy Code.

### **BACKGROUND**

5. On February 11, 2021 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the Court.

6. The Debtor continues in the management of its property as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this Chapter 11 Case.

7. On March 4, 2021, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed the Official Committee of Tort Claimants (the “TCC”). *See* D.I. 96.

8. Information regarding the Debtor and this Chapter 11 Case, including the Debtor's former mining business, corporate structure, financial condition, and the reasons for and objectives of this Chapter 11 Case, is set forth in the Baker First Day Declaration and incorporated herein by reference.

**A. Talc-Related Personal Injury Claims**

9. The Debtor's most significant alleged liabilities are the numerous talc-related personal injury claims asserted against it. From 1992 until 2010, talc-related lawsuits against the Debtor were rare. In the last decade, however, the number of lawsuits against the Debtor have greatly increased. In these cases, two types of allegations have predominated: in many cases, plaintiffs allege injuries from asbestos contamination in talc-based personal care products, and in other cases, exposure to talc products that are not alleged to be contaminated with asbestos.

10. Today, the Debtor and its parent company, Cyprus AMAX Minerals Company ("CAMC") are among the defendants named in hundreds of actions brought before several U.S. federal and state courts by which plaintiffs assert personal injuries resulting from exposure to talc products that were manufactured and distributed by others using talc mined and sold by the Debtor or its former subsidiaries (the "Talc-Related Personal Injury Claims").

11. As of February 16, 2021, there were 436 suits pending that allege Talc-Related Personal Injury Claims against the Debtor. Additional suits were pending against CAMC. Had the Debtor remained in the tort system, it would have expected to be subject to additional suits alleging Talc-Related Personal Injury Claims.

12. The main purpose of this Chapter 11 Case is to enable the Debtor to reorganize and to establish a trust to manage and resolve in a fair and comprehensive manner existing and future Talc-Related Personal Injury Claims pursuant to sections 105(a) and 524(g) of the Bankruptcy

Code. To achieve this goal the Debtor entered a settlement agreement with CAMC, the Imerys debtors and other parties in the Imerys chapter 11 case (referred to below). The settlement agreement is subject to approval by this Court and the Court in the Imerys chapter 11 case. The proposed FCR has taken no position on the settlement agreement.

**B. Motion To Appoint James L. Patton, Jr. As FCR And Subsequent Withdrawal Thereof**

13. On February 18, 2021, the Debtor filed the *Debtor's Motion for an Order Appointing James L. Patton, Jr., as Legal Representative for Future Talc Claimants, Effective as of the Petition Date* [D.I. 52] (the "Patton FCR Motion").

14. On March 22, 2021, the U.S. Trustee and certain of the Debtors' historical excess insurers objected to the Patton FCR Motion due to, among other things, Mr. Patton's current and continuing role as the FCR in *In re Imerys Talc America, Inc.*, No. 19-10289 (LSS) (Bankr. D. Del.). *See* D.I. 149 and 165.

15. After considered discussion, Mr. Patton advised the Debtor that he wished to withdraw from consideration as the FCR in this Chapter 11 Case. The Debtor concurred with Mr. Patton's decision and has filed a notice of withdrawal contemporaneously herewith.

**RELIEF REQUESTED**

16. By this Motion, the Debtor respectfully requests entry of an order authorizing the appointment of Mr. Frankel as the FCR, effective as of April 8, 2021, for the purpose of protecting the rights of Future Claimants. The Debtor has conferred with proposed counsel to the TCC, who has advised that the TCC supports the Debtor's request to appoint Mr. Frankel as the FCR.

**BASIS FOR RELIEF**

**I. THE APPOINTMENT OF AN FCR IS APPROPRIATE AND NECESSARY TO ACHIEVE THE GOALS OF THE DEBTOR'S RESTRUCTURING.**

17. The purpose of this Chapter 11 Case is to confirm a plan of reorganization under sections 105(a), 524(g), and 1129 of the Bankruptcy Code, reorganize the Debtor, and implement a channeling injunction pursuant to which all current and future Talc-Related Personal Injury Claims are channeled to a funded trust for processing and resolution. *See, e.g.*, 11 U.S.C. § 524(g).

18. The Bankruptcy Code broadly defines a “claim” as:

(A) [a] right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (B) right to an equitable remedy for breach of performance if such breach gives rise to a right of payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

11 U.S.C. § 101(5). In the Third Circuit, “a ‘claim’ arises when an individual is exposed pre-confirmation to a product or other conduct giving rise to an injury . . . .” *Wright v. Owens Corning*, 679 F.3d 101, 107 (3d Cir. 2012).

19. The Debtor recognizes that there are a number of potential individual holders of Talc-Related Personal Injury Claims (within the meaning of section 101(5) of the Bankruptcy Code) who are unable to assert their claims and protect their interests during this Chapter 11 Case, whether such individuals are currently suffering injuries but not yet aware that they have a claim or the injuries alleged to arise from the products manufactured with talc mined by the Debtor or its former subsidiaries have not yet manifested. As a result, it is critically important that the Court appoint a FCR to represent the interests of such Future Claimants in connection with this Chapter 11 Case.

20. While the TCC has been appointed to represent the interests of individuals presently asserting Talc-Related Personal Injury Claims, the interests of parties currently able to assert Talc-Related Personal Injury Claims in this Chapter 11 Case are not necessarily aligned in all respects with those of Future Claimants. It is therefore necessary and appropriate for the Court to appoint a separate representative to advocate for the interests of Future Claimants. *See In re Amatex Corp.*, 755 F.2d 1042-43 (3d Cir. 1985) (“[N]one of the parties currently involved in the reorganization proceedings have interests similar to those of future claimants, and therefore future claimants require their own spokesperson.”); *In re Johns-Manville Corp.*, 552 B.R. 221, 245 (Bankr. S.D.N.Y. 2016) (explaining that the future claimants’ representative was appointed to avoid “a conflict of interest between future asbestos claimants and present asbestos health claimants”); *In re UNR Indus., Inc.*, 46 B.R. 671, 675 (Bankr N.D. Ill. 1985) (recognizing that the interests of future claimants were not adequately represented by the debtors or by the official committees of unsecured creditors).

21. Section 1109(b) of the Bankruptcy Code gives a bankruptcy court the authority to appoint a representative to protect the interests of future tort claimants as “part[ies] in interest.” *See Fogel v. Zwell*, 221 F.3d 955, 961-62 (7th Cir. 2000) (collecting cases); *see also In re Johns-Manville Corp.*, 36 B.R. 743, 749 (Bankr. S.D.N.Y. 1984) (“Future claims are undeniably parties in interest to these reorganization proceedings pursuant to the broad, flexible definition of that term enunciated by the foregoing authorities. The drafting of ‘party in interest’ as an elastic concept was designed for just this kind of situation.”). Without a representative, future tort claimants cannot participate in a bankruptcy case, even by proxy. Thus, “due process considerations are often addressed by the appointment of a representative to receive notice for and

represent the interests of a group of unknown creditors.” *Jones v. Chemetron Corp.*, 212F.3d 199, 209 (3d Cir. 2000).

22. Courts in this district and others presiding over mass tort bankruptcy cases have regularly appointed future or unknown claimants’ representatives to represent claimants that were unable to identify their injury at the time of the bankruptcy case. *See, e.g., In re Mallinckrodt plc, et al.*, Case No. 20-12522 (JTD) (Bankr. D. Del. Mar. 16, 2021) (D.I. 1747) (appointing future claimants’ representative for opioid-related personal injury claimants, initially on a provisional basis during case mediation); *In re Boy Scouts of America and Delaware BSA, LLC*, Case No. 20-10343 (LSS) (Bankr. D. Del. Apr. 24, 2020) (D.I. 486) (appointing future claimants’ representative for victims of sexual abuse); *In re Imerys Talc America*, Case No. 19-10289 (LSS) (Bankr. D. Del. June 3, 2019) (D.I. 647) (appointing future claimants’ representative for talc-related personal injury claims); *In re TK Holdings Inc.*, Case No. 17-11375 (BLS) (Bankr. D. Del. Sept. 6, 2017) (D.I. 703) (appointing a future claimants’ representative to represent holders of future airbag inflator-related personal injury claims under section 105(a)); *In re Motors Liquidation Co.*, Case No. 09-50026 (Bankr. S.D.N.Y. Apr. 9, 2010) (D.I. 5509) (granting, pursuant to sections 105(a) and 1109, the debtors’ motion to appoint a future claimants’ representative to resolve future asbestos claims outside of the section 524(g) framework); *In re Met-Coil Sys. Corp.*, Case No. 03-12676, (Bankr. D. Del. Oct. 20, 2003) (D.I. 205) (appointing future claimants’ representative to represent holders of future trichloroethylene-related personal injury claims).

23. In addition, the appointment of a FCR under section 524(g)(4)(B)(i) of the Bankruptcy Code is well-established in chapter 11 cases involving the reorganization of debtors facing current and future asbestos-related personal injury claims. In this case, the appointment of a FCR to represent the interests of Future Claimants is necessary for the Debtor to successfully

pursue and achieve confirmation of a plan of reorganization under sections 105(a) and 524(g) of the Bankruptcy Code. Indeed, the effectiveness of any channeling injunction rests in part on whether “as part of the proceedings leading to issuance of such injunction, the court appoints a legal representative for the purpose of protecting the rights of persons that might subsequently assert demands of such kind.” 11 U.S.C. § 524(g)(4)(B)(i).<sup>3</sup>

24. Because this Chapter 11 Case involves talc-related personal injury claims alleging injury (principally, mesothelioma) from exposure to talc alleged to be contaminated with asbestos *and* claims alleging injury (principally, ovarian cancer) from the use of talc personal care products regardless of any alleged asbestos contamination, the Debtor requests that the Future Claimants’ Representative be appointed to advocate on behalf of Future Claimants, under section 105(a), in accordance with the cases cited above, *and* under section 524(g)(4)(B)(i), so that all present and future Talc-Related Personal Injury Claims can be addressed and treated fairly and consistent with due process in this Chapter 11 Case.

## **II. THE APPOINTMENT OF MR. FRANKEL TO SERVE AS FUTURE CLAIMANTS’ REPRESENTATIVE IS IN THE BEST INTERESTS OF FUTURE CLAIMANTS AND THE DEBTOR’S ESTATE.**

25. As set forth in the Frankel Declaration, Mr. Frankel has extensive experience in the field of mass tort bankruptcy matters. Mr. Frankel has practiced in the areas of business reorganization and creditors’ rights since 1972, and has been involved in mass tort bankruptcy

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<sup>3</sup> Notably, even prior to the enactment of section 524(g), bankruptcy courts appointed future claimant representatives in chapter 11 cases addressing significant asbestos liabilities. *See, e.g., In re Johns-Manville Corp.*, 36 B.R. at 748-49 (Bankr. S.D.N.Y. 1984) (quoted in *In re Amatex Corp.*, 755 F.2d 1034, 1042-43 (3d Cir. 1985) (reversing lower court’s denial of debtor’s application to appoint futures representative for future asbestos victims, concluding that future claimants are sufficiently impacted by the reorganization proceedings to require a voice through their own representative, given the adverse interests of other parties)).



cases for over 20 years. Mr. Frankel has been appointed to serve as a future claimants' representative in other chapter 11 cases and represents others who serve in that role as well.

26. Mr. Frankel's experience in serving as a future claimants' representative, and in representing future claimants' representatives, include the following: his appointment as future claimants' representative in *In re Mallinckrodt Plc, et al.*, Case No. 20-12522 (JTD) (Bankr. D. Del.) (opioid-related claims); his appointment as future claimants' representative in *In re TK Holdings Inc.*, Case No. 17-11375 (BLS) (Bankr. D. Del.) (Takata airbag inflator claims); his appointment as future claimants' representative in *In re W.R. Grace & Co.*, Case No. 01-01139 (Bankr. D. Del.) (asbestos-related claims); and his representation of the future claimants' representatives appointed in *In re Combustion Engineering*, Case No. 03-10495 (Bankr. D. Del.) and in *In re Congoleum Corporation*, Case No. 03-51524 (Bankr. D.N.J.) (both involving asbestos-related claims).

27. Mr. Frankel's many years of experience and involvement with mass tort-related bankruptcy cases, as well as his experience directly related to the representation of the interests of future claimants and of future claimants' representatives, makes him well qualified to competently and effectively represent the interests of the Future Claimants here.

28. The benefits of retaining an experienced FCR in mass tort bankruptcies and reorganizations involving the channeling of future claims cannot be overstated. The intricacies regarding the protection of Future Claimants' due process rights, the scope of a channeling injunction, appropriate plan of reorganization provisions addressing future claims, the structure and timing of trust contributions, the technical requirements of section 542(g) of the Bankruptcy Code, and procedures governing trust distributions are largely unique to mass tort bankruptcies. An FCR requires a significant and substantive understanding of the unique provisions governing

mass tort chapter 11 proceedings and practical, real-world experience addressing those provisions in the context of negotiations, plan design, and plan confirmation proceedings. *See, e.g.,* S. Elizabeth Gibson, *Fed. Judicial Ctr., Judicial Management of Mass Tort Bankruptcy Cases* 67 (2005) (“In deciding whom to appoint, judges should look for persons with the training and experience needed to deal competently with the tort, bankruptcy, corporate, financial, and constitutional issues that will be involved in representing the interests of future claimants.”).

29. Appointing an experienced FCR here is critical to ensure that the interests of Future Claimants will be properly represented in negotiations and will have a zealous advocate in, among other things, establishing and negotiating appropriate trust governance documents, trust distribution procedures, and related documentation that will govern any trust created pursuant to a confirmed plan of reorganization. Appointment of an experienced FCR also minimizes the potential for missteps that could prolong the reorganization process, delay payments to claimants, and result in substantially increased professional fees and other bankruptcy-related expenses.

### **III. MR. FRANKEL MEETS THE STANDARD FOR APPOINTMENT OF A FUTURE CLAIMANTS’ REPRESENTATIVE.**

#### **A. Mr. Frankel Is Independent And Has Undivided Loyalties To Future Claimants.**

30. Mr. Frankel satisfies the standard recently applied by the Court to the appointment of a Future Claimants’ Representative, which is akin to the standard for appointment of a guardian *ad litem*. *See* Bench Ruling on Motion to Appoint James L. Patton, Jr. as the Legal Representative for Future Talc Personal Injury Claimants, *In re Imerys Talc America, Inc.*, Case No. 19-10289 (LSS), at 10 (Bankr. D. Del. May 8, 2019) (“Imerys Bench Ruling”) (concluding that the legal representative is “much more like a guardian *ad litem* than those persons in the Code subject to the disinterestedness standard”) (citing to the opinion in *In re Fairbanks Co.*); *see also In re Fairbanks Co.*, 601 B.R. 831, 839 (Bankr. N.D. Ga. 2019) (relying on the guardian *ad litem*

standard in appointing a legal representative for future asbestos claimants). In *Imerys*, the Court held that a future claimants' representative must "be independent of the debtors and other parties-in-interest in the case and be able to effectively speak for this constituency" and his or her "loyalties must lie with the demand holders for whom he acts as a fiduciary, that is—the future claimants." *Imerys Bench Ruling*, at 10. The *Fairbanks* court similarly held that a future claimants' representative must "not only be disinterested and qualified" but "capable of acting as an objective, independent, and effective advocate for the best interests of the future claimants." *In re Fairbanks Co.*, 601 B.R. at 841 ("The Court must be satisfied that, like a guardian ad litem, an FCR will provide representation that is diligent, competent, and loyal.").

31. As set forth more fully in the Frankel Declaration, Mr. Frankel is disinterested, independent, has undivided loyalty to Future Claimants, is qualified to serve as the Future Claimants' Representative, and has no interests that adversely affect his ability to carry out his duties as the Future Claimants' Representative to effectively represent the interests of Future Claimants in this Chapter 11 Case. *See* Frankel Decl. ¶¶ 7, 13.

**B. Mr. Frankel Is Disinterested.**

32. Other courts within this District and the Third Circuit have determined that the applicable standard for assessing the proposed appointment of a Future Claimants' Representative is that of "disinterestedness" under section 101(14) of the Bankruptcy Code. *See In re Duro Dyne Nat'l Corp.*, 2019 WL 4745879, at \*8 (D.N.J. Sep. 30, 2019) ("The legislative history of § 524(g) supports the disinterestedness standard."). Recently, the disinterestedness test was applied in *In re Maremont Corp.*, Case No. 19-10118 (KJC) (Bankr. D. Del.). *See* Maremont Tr. at 98:5-8; 101:20-24 (recognizing that "the majority of recent decisions by bankruptcy courts have

determined the appropriate standing [sic] for assessing the proposed appointment of an FCR is that of disinterestedness”).

33. Chief Judge Sontchi has stated that the disinterestedness standard is the “highest level of duty or standard in the Bankruptcy Code for the appointment of anybody.” *In re Leslie Controls, Inc.*, Case No. 10-12199 (CSS) (Bankr. D. Del. Aug. 9, 2010), Transcript at 70:15-71:4 (D.I. 146); *see also In re Thorpe Insulation Co.*, Case No. 2:07-19271-BB (Bankr. C.D. Cal. Dec. 12, 2007), Transcript at 44:17-45:4 (applying the disinterestedness standard to appointment of a future claimant’s representative and recognizing that disinterestedness is “a pretty high standard”).<sup>4</sup>

34. As set forth more fully in the Frankel Declaration, Mr. Frankel is not a creditor of the Debtor, nor does he have an interest materially adverse to the Debtor, its estate, or the Future Claimants. *See* Frankel Decl. ¶¶ 7, 13. Thus, Mr. Frankel is “disinterested” as such term is defined in section 101(14) of the Bankruptcy Code.

35. Accordingly, Mr. Frankel has the necessary experience and independence to serve as the FCR in this Chapter 11 Case and meets both the guardian *ad litem* and disinterestedness standards applied by courts. The Debtor respectfully requests that the Court appoint Mr. Frankel to serve as the FCR.

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<sup>4</sup> The *UNR* court specifically instructed the parties to propose “a *disinterested* party to serve as Legal Representative.” *In re UNR Indus., Inc.*, 46 B.R. 671, 677 (Bankr. N.D. Ill. 1985) (emphasis added). Although Congress has amended section 524 of the Bankruptcy Code, against the backdrop of this uniform approach, it has never amended section 524(g)(4)(B)(i)’s procedures for appointment of a FCR or otherwise suggested any disagreement with the disinterestedness standard. *See Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230, 239-40 (2009).

#### IV. THE ROLE OF THE FUTURE CLAIMANTS' REPRESENTATIVE

36. The Debtor submits that an order appointing Mr. Frankel as the Future Claimants' Representative should confer upon him, in that capacity, the following rights in this Chapter 11 Case:

- a. Standing: The Future Claimants' Representative shall have standing under section 1109(b) of the Bankruptcy Code to be heard as a party-in-interest in all matters relating to this Chapter 11 Case and shall have such powers and duties of a committee, as set forth in 11 U.S.C. § 1103, as are appropriate for a Future Claimants' Representative;<sup>5</sup>
- b. Engagement of Professionals: The Future Claimants' Representative may, with prior approval from the Court pursuant to section 105(a) of the Bankruptcy Code and consistent with the treatment afforded other fiduciaries in this Chapter 11 Case, retain attorneys and other professionals;
- c. Compensation: The Future Claimants' Representative and his professionals shall apply for compensation in accordance with the Bankruptcy Code, the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), and any order entered by the Court establishing procedures for interim compensation and reimbursement of expenses of professionals. Subject to Court approval, Mr. Frankel shall be compensated at his hourly rate of \$1,100, subject to periodic adjustment, plus reimbursement of reasonable expenses; and
- d. Right to Receive Notices: The Future Claimants' Representative and any professionals retained by him and approved by the Court shall have the right to receive all notices and pleadings that are required to be served upon the TCC, its counsel, and any other statutory committee and its counsel pursuant to applicable law or an order of the Court.

#### NOTICE

37. Notice of this Motion has been provided to the entities identified on the Master Service List established in this Chapter 11 Case and proposed counsel to the TCC. The Debtor

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<sup>5</sup> See, e.g., *In re Johns-Manville Corp.*, 52 B.R. at 942 (legal representative for future claimants was authorized to exercise powers and perform duties of a committee under section 1103 of the Bankruptcy Code); *In re UNR Indus., Inc.*, 71 B.R. at 478 (stating that the future claimants' representative was granted the powers and responsibilities of a committee).

submits that, in light of the nature of the relief requested herein, no other or further notice is necessary.

**NO PRIOR REQUEST**

38. On February 18, 2021, the Debtor filed the Patton FCR Motion, but has withdrawn the Patton FCR Motion contemporaneously with filing this Motion. No prior request for the appointment of Mr. Frankel as FCR in this Chapter 11 Case has been made to the Court or any other court.

WHEREFORE, the Debtor respectfully requests that the Court enter an order, substantially in the form hereto as **Exhibit B**, granting the relief requested herein and such other and further relief as the Court may deem proper.

Dated: April 16, 2021  
Wilmington, Delaware

Respectfully submitted,

REED SMITH LLP

By: /s/ Kurt F. Gwynne  
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*Counsel to Debtor and Debtor-in-  
Possession*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE:

CYPRUS MINES CORPORATION,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-10398 (LSS)

Hearing Date: May 5, 2021, at 10:00 a.m. ET  
Obj. Deadline: April 28, 2021, at 4:00 p.m. ET

**NOTICE OF DEBTOR'S MOTION FOR AN ORDER APPOINTING  
ROGER FRANKEL, AS THE LEGAL REPRESENTATIVE FOR FUTURE  
PERSONAL INJURY CLAIMANTS, EFFECTIVE AS OF APRIL 8, 2021**

PLEASE TAKE NOTICE that, on April 16, 2021, Cyprus Mines Corporation (the "Debtor"), debtor-in-possession in the above-captioned chapter 11 case, filed the *Debtor's Motion for an Order Appointing Roger Frankel as the Legal Representative for Future Personal Injury Claimants, Effective as of April 8, 2021* (the "Motion") with the United States Bankruptcy Court for the District of Delaware (the "Court").

PLEASE TAKE FURTHER NOTICE that responses or objections to the Motion must be in writing, filed with the Clerk of the Court, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801, and served upon the undersigned attorneys for the Debtor so as to be received on or before **April 28, 2021, at 4:00 p.m. (Eastern)**.

PLEASE TAKE FURTHER NOTICE that, if any objections to the Motion are received, the Motion and such objections shall be considered at a hearing before The Honorable Laurie Selber Silverstein, United States Bankruptcy Judge for the District of Delaware, at the Court, 824 North Market Street, 6th Floor, Courtroom #2, Wilmington, Delaware 19801 on **May 5, 2021, at 10:00 a.m. (Eastern)**.

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<sup>1</sup> The last four digits of the Debtor's taxpayer identification number are 0890. The Debtor's address is 333 N. Central Ave., Phoenix, AZ 85004.



PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED AND SERVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: April 16, 2021  
Wilmington, Delaware

Respectfully submitted,

REED SMITH LLP

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*Counsel to the Debtor and the Debtor-in-Possession*

**EXHIBIT A**

Declaration of Roger Frankel

(Attached)

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE:

CYPRUS MINES CORPORATION,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-10398 (LSS)

**DECLARATION OF ROGER FRANKEL IN SUPPORT OF THE DEBTOR’S MOTION  
FOR AN ORDER APPOINTING ROGER FRANKEL AS THE LEGAL  
REPRESENTATIVE FOR FUTURE PERSONAL INJURY  
CLAIMANTS, EFFECTIVE AS OF APRIL 8, 2021**

I, Roger Frankel, state the following in support of the *Debtor’s Motion for an Order Appointing Roger Frankel as the Legal Representative for Future Personal Injury Claimants, Effective as of April 8, 2021* (the “Motion”):<sup>2</sup>

**Professional Qualifications and Experience**

1. I am a partner in the law firm of Frankel Wyron LLP (“Frankel Wyron” or the “Firm”), which maintains offices at 2101 L Street, N.W. Washington, DC 20037. I am a member of the District of Columbia bar and am duly admitted to practice in the courts of the District of Columbia, the United States Bankruptcy Court and United States District Court for the District of Columbia, and other courts.

2. I have practiced in the areas of business reorganization and creditors’ rights since 1972. Prior to founding the Firm in 2014, I was a partner and co-chair of the Global Restructuring Group at Orrick, Herrington & Sutcliffe LLP.

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<sup>1</sup> The last four digits of the Debtor’s taxpayer identification number are 0890. The Debtor’s address is 333 N. Central Ave., Phoenix, AZ 85004.

<sup>2</sup> Capitalized terms used but not defined in this declaration have the meanings given in the Motion.

3. My practice includes significant experience in complex bankruptcy and restructuring matters. For over twenty years, I have both counseled clients and been appointed to fiduciary positions in complex mass tort bankruptcy cases involving the rights of future claimants.

The following are examples of my mass tort bankruptcy engagements and appointments:

- (a) I serve as the court-appointed legal representative for future personal injury claimants in *In re Mallinckrodt plc, et al.*, Case No. 20-12522 (JTD) (Bankr. D. Del.).<sup>3</sup>
- (b) I served as the court-appointed legal representative for the future personal injury claimants in *In re TK Holdings Inc., et al.*, Case No. 17-11375 (BLS) (Bankr. D. Del.). The plan of reorganization in those cases, which was confirmed and became effective in April 2018, established a qualified settlement fund with over \$125 million in cash plus additional assets in trust for the benefit of present and future personal injury claimants injured by defective Takata airbag inflators. I continue to serve as the future claimants' representative in connection with the trust established under the confirmed plan in the *TK Holdings* cases.
- (c) I represented David Austern as the legal representative for the future personal injury claimants in *In re W.R. Grace & Co., et al.*, Case No. 01-01139 (Bankr. D. Del.), from the time of Mr. Austern's appointment in 2004 until his death in 2013. Following Mr. Austern's death, I was appointed as the successor future claimants' representative in the *W.R. Grace* cases by the Bankruptcy Court for the District of Delaware. The plan of reorganization in those cases, which was confirmed and became effective in February 2014, established a qualified settlement fund with over \$3 billion in assets in trust for the benefit of present and future asbestos personal injury claimants. I continue to serve as the future claimants' representative in connection with the trust established under the confirmed plan in the *W.R. Grace* cases.
- (d) I also represented Mr. Austern as the legal representative for future personal injury claimants in the chapter 11 cases of *Combustion Engineering*, Case No. 03-10495 (Bankr. D. Del.), in connection with the negotiation and successful confirmation of Combustion Engineering's plan of reorganization, which resulted in the establishment of a qualified settlement fund with more than \$1 billion in assets in trust for the benefit of present and future asbestos personal injury claimants. Following Mr. Austern's death, I was appointed to serve as the future claimants' representative in connection with the trust established under Combustion Engineering's confirmed plan and continue to serve in that capacity today.

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<sup>3</sup> On March 16, 2021, the Court in *Mallinckrodt* appointed me as the legal representative for future personal injury claimants, effective as of the petition date, to serve on a provisional basis during case mediation, subject to further court order following the conclusion of the mediation process.

- (e) I represent R. Scott Williams as the court-appointed legal representative for future personal injury claimants in the chapter 11 cases of *Congoleum Corporation*, Case No. 03-51524 (Bankr. D.N.J.). The plan of reorganization confirmed in those cases established a qualified settlement fund of over \$200 million in trust for the benefit of present and future asbestos personal injury claimants. I continue to represent Mr. Williams as the future claimants' representative in connection with the trust established under Congoleum's confirmed plan.
- (f) I represented the debtors in *Shook & Fletcher Insulation Company*, Case No. 02-2771 (Bankr. N.D. Ala), in one of the first successful pre-packaged section 524(g) bankruptcy cases. In 2002, under its confirmed plan, Shook & Fletcher established a qualified settlement fund (the "Shook Trust") with over \$100 million in trust for the benefit of present and future asbestos personal injury claimants. For many years, I represented the Shook Trust; following the death of the original trustee in early 2020, I was appointed to serve as the successor trustee of the Shook Trust.

4. Accordingly, I believe I am qualified to serve as the Future Claimants' Representative in the Debtor's Chapter 11 Case.

#### **Independence and Disinterestedness**

5. The Debtor has provided me with a list of names (collectively, the "Interested Parties"), a copy of which is attached as **Schedule 1**, of individuals or institutions whom the Debtor has identified as potentially interested parties in this Chapter 11 Case, including the following categories of persons identified by the Debtor:

- a. Debtor and affiliated entities;
- b. Debtor's restructuring and other significant professionals;
- c. Debtor's other professionals;
- d. current and former officers and directors (up to 3 years);
- e. law firms representing parties that have asserted asbestos claims against the Debtor;
- f. Debtor's bank;
- g. insurers and insurance agents;
- h. other parties;
- i. taxing and other governmental authorities;

- j. United States Bankruptcy Judges in the District of Delaware;
- k. United States Trustee for the District of Delaware (and key staff members);  
and
- l. Clerk of Court and Deputy Clerk or the Court for the District of Delaware.

6. I have reviewed Schedule 1 and searched my records and those of my Firm for connections with the parties listed on Schedule 1. This declaration discloses connections to persons identified on Schedule 1 in matters that are currently active or were active within the past three years, except as otherwise indicated.

(a) Schedule 1 lists Phillips Goldman McLaughlin & Hall PA among “Debtor’s Other Professionals.” John C. Phillips, Jr., then practicing with Phillips Goldman & Spence, PA, was one of the lawyers representing me in my capacity as the future claimants’ representative in the *W. R. Grace* bankruptcy proceedings and was co-counsel with my Firm in several asbestos-related bankruptcy cases in this Court. My connection with Mr. Phillips and his firm ended more than seven years ago.

(b) Schedule 1 lists the Lanier Law Firm, PLLC as a law firm representing parties who have asserted personal injury claims. I serve as the mediator in a matter in which the Lanier Law Firm represents a party to the mediation.

(c) Schedule 1 lists James L. Patton, Jr. and Young, Conaway Stargatt & Taylor, LLP (“Young Conaway”) as the prepetition future claimants’ representative and his professionals. Young Conaway is one of the law firms representing me in my capacity as the court-appointed future claimants’ representative in the *Mallinckrodt* matter noted above. Mr. Patton leads that engagement for Young Conaway.

All of the matters discussed in (a) through (c) above are unrelated to this Chapter 11 Case.

7. I and my Firm (a) have appeared, and may in the future appear, in cases unrelated to this Chapter 11 Case where one or more of the Interested Parties may be involved, (b) may represent in the future one or more of the Interested Parties in matters unrelated to this Chapter 11 Case, and (c) have worked, currently work, and may in the future work with and/or against one or more of the professional firms listed on Schedule 1.

8. To the best of my knowledge, information and belief, insofar as I have been able to ascertain after reasonable inquiry, I do not represent, and have not represented, any entity in matters related to this Chapter 11 Case and, other than in connection with this Chapter 11 Case, based upon the list of Interested Parties and, except as set forth in this Declaration, I have no connection with the Debtor, its creditors, the U.S. Trustee, or any other party with actual or potential interest in this Chapter 11 Case or its respective attorneys or accountants.

9. To the best of my knowledge, information and belief, insofar as I have been able to ascertain after reasonable inquiry, based on the list of entities set forth on **Schedule 1**, and except as set forth in this Declaration, I am a “disinterested person,” as defined in section 101(14) of the Bankruptcy Code, in that:

- a. I have no connection with the Debtor, its creditors, the U.S. Trustee, any person employed in the office of the U.S. Trustee, or any other party with an actual or potential interest in this Chapter 11 Case or their respective attorneys or accountants;
- b. I am not a creditor, equity security holder, or insider of the Debtor;
- c. I am not and was not, within two years of the Petition Date, a director, officer or employee of the Debtor; and
- d. I do not have an interest materially adverse to the Debtor, its estate or any class of creditors or equity security holders, or the Future Claimants, by reason of any direct or indirect relationship to, connection with or interest in the Debtor, or for any other reason.

**Terms of Compensation and Service**

10. Except as set forth in the Motion and this Declaration, I have neither received compensation in this Chapter 11 Case, nor have an agreement been made as to compensation to be paid in this Chapter 11 Case.

11. I have agreed to charge a rate of \$1,100 per hour for my incurred time, subject to periodic adjustment, plus reimbursement of actual and necessary out-of-pocket expenses.

12. No agreement or understanding exists between me and any other person for the sharing of compensation received or to be received for services rendered by me in connection with the Chapter 11 Case.

13. I understand that my service as the Future Claimants' Representative in connection with this Chapter 11 Case, subject to approval by the Court, would be on the following terms:

- a. Standing: The Future Claimants' Representative shall have standing under section 1109(b) of the Bankruptcy Code to be heard as a party-in-interest in all matters relating to this Chapter 11 Case and shall have such powers and duties of a committee, as set forth in 11 U.S.C. § 1103, as are appropriate for a Future Claimants' Representative;
- b. Engagement of Professionals: The Future Claimants' Representative may, with prior approval from the Court pursuant to section 105(a) of the Bankruptcy Code and consistent with the treatment afforded other fiduciaries in this Chapter 11 Case, retain attorneys and other professionals;
- c. Compensation: The Future Claimants' Representative and his professionals shall apply for compensation in accordance with the Bankruptcy Code, the Local Rules, and any order entered by the Court establishing procedures for interim compensation and reimbursement of expenses of professionals. Subject to Court approval, I shall be compensated at my hourly rate of \$1,100 subject to periodic adjustment, plus reimbursement of reasonable expenses; and
- d. Right to Receive Notices: The Future Claimants' Representative and any professionals retained by him and approved by the Court shall have the right to receive all notices and pleadings that are required to be served upon the TCC and its counsel pursuant to applicable law or an order of the Court.



14. I will review any order entered by the Court establishing procedures for interim compensation and reimbursement of expenses of professionals, and I agree to comply with the provisions thereof.

**The Foregoing Statements and Disclosures Support Appointment**

15. Based on the foregoing, I believe that (a) I am independent of the Debtor and the persons identified as Interested Parties; (b) none of the matters disclosed in this declaration has had or will have an adverse effect on my ability to carry out my duties as the FCR to loyally and effectively represent the interests of Future Claimants; and (c) pursuant to section 101(14), I am a “disinterested person” and do not have any interest that is materially adverse to the interests of Future Claimants.

16. If any new relevant facts or relationships bearing on the disclosures in this declaration are discovered or arise, I will use reasonable efforts to identify such further developments and will promptly file a further supplemental declaration.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Date: April 16, 2021

By: /s/ Roger Frankel  
Roger Frankel

## SCHEDULE 1

### Interested Parties List<sup>1</sup>

#### 1. Debtor and Affiliated Entities

Ajo Improvement Company	Corporation
Amax Arizona, Inc.	Climax Molybdenum Co.
Amax Energy Inc.	Climax Molybdenum Company
Amax Exploration, Inc.	Climax Molybdenum GmbH
Amax Metals Recovery, Inc.	Climax Molybdenum Marketing Corporation
Amax Nickel Overseas Ventures, Inc.	Climax Molybdenum U.K. Limited
Amax Research & Development, Inc.	Compania Exploradora de la Isla, S.A.
Amax Specialty Coppers Corporation	Company for Mining and Geology
Amax Specialty Metals (Driver), Inc.	Rakita Exploration Ltd. Beograd
Amax Zinc (Newfoundland) Limited	Copper Market, Inc.
American Metal Climax, Inc.	Copper Overseas Service Company
Ametalco Limited	Cyprus Amax Indonesia Corporation
Ametalco, Inc.	Cyprus Amax Minerals Company
Apache Nitrogen Products, Incorporated	Cyprus Climax Metals Company
Arguello Inc.	Cyprus Copper Marketing Corporation
Atlantic Copper, S.L.U.	Cyprus Copperstone Gold Corporation
AZ Big Sandy, LLC	Cyprus El Abra Corporation
Bagdad Fire and Rescue, Inc.	Cyprus Exploration and Development Corporation
Bisbee Queen Mining Co.	Cyprus Gold Company
Blackwell Zinc Company, Inc.	Cyprus Gold Exploration Corporation
Byner Cattle Company	Cyprus Metals Company
Cane River Development LLC	Cyprus Mines Corporation
Capital Gestao de Negocios Ltda.	Cyprus Pinos Altos Corporation
Chino Acquisition LLC	Cyprus Specialty Metals Company
Circle A of Mississippi, LLC	Cyprus Tohono Corporation
Climax Canada Ltd.	Drum Mountains Mineral Properties LLC
Climax Engineered Materials, LLC	Duplantier & Meric, Architects, L.L.C.
Climax Molybdenum Asia Corporation	
Climax Molybdenum B.V.	
Climax Molybdenum China	

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<sup>1</sup> This list (and the categories contained herein) are for purposes of a conflicts check only and should not be relied upon by any party as a list of creditors or for any other purpose. As listing a party once allows our conflicts specialists to run a check on such party, we have attempted to remove duplicate entries where possible. Accordingly, a party that otherwise would fall under multiple categories is likely to be listed under only one category.

Eastern Mining Company, Inc.  
 Enarotali Gold Project Limited  
 FCX Investment LLC  
 FCX Investment Ltd  
 FCX Oil & Gas LLC  
 FLOBARCO S.A. de C.V.  
 FM Chile Holdings Inc.  
 FM Services Company  
 FNS Holdings, LLC  
 Freeport Asia Holdings Pte. Ltd.  
 Freeport Azufre Limitada  
 Freeport Canadian Exploration  
 Company  
 Freeport Cobalt Americas LLC  
 Freeport Cobalt Europe GmbH  
 Freeport Cobalt Japan Inc.  
 Freeport Cobalt Oy  
 Freeport Cobalt Trading (Shanghai)  
 Co., Ltd.  
 Freeport Copper Company  
 Freeport Finance Company B.V.  
 Freeport International, Incorporated  
 Freeport Minerals Corporation  
 Freeport Overseas Service Company  
 Freeport Research and Engineering  
 Company  
 Freeport Sulphur Company  
 Freeport Warim Inc.  
 Freeport-McMoRan Americas  
 Freeport-McMoRan Australasia Inc.  
 Freeport-McMoRan Bagdad Inc.  
 Freeport-McMoRan Bulgaria B.V.  
 Freeport-McMoRan Chino Inc.  
 Freeport-McMoRan Chino Mines  
 Company  
 Freeport-McMoRan Cobalt Holdings  
 Limited  
 Freeport-McMoRan Copper & Gold  
 China Corporation  
 Freeport-McMoRan Copper & Gold  
 Energy Services LLC  
 Freeport-McMoRan Copper & Gold  
 Investment Co., S.A.  
 Freeport-McMoRan Energy LLC  
 Freeport-McMoRan Exploration &  
 Production LLC

Freeport-McMoRan Exploration  
 Australia Pty Ltd  
 Freeport-McMoRan Exploration  
 Corporation  
 Freeport-McMoRan Exploration  
 Corporation (03-19-2015)  
 Freeport-McMoRan Foundation  
 Freeport-McMoRan Inc.  
 Freeport-McMoRan Indonesia  
 Freeport-McMoRan Mercantile  
 Company Inc.  
 Freeport-McMoRan Miami Inc.  
 Freeport-McMoRan Mineral  
 Properties Canada Inc.  
 Freeport-McMoRan Mineral  
 Properties Inc.  
 Freeport-McMoRan Mining  
 Company  
 Freeport-McMoRan Morenci Inc.  
 Freeport-McMoRan Nevada LLC  
 Freeport-McMoRan of Canada  
 Limited  
 Freeport-McMoRan Oil & Gas Inc.  
 Freeport-McMoRan Oil & Gas LLC  
 Freeport-McMoRan Rod and  
 Refining  
 Freeport-McMoRan Safford Inc.  
 Freeport-McMoRan Sales Company  
 Inc.  
 Freeport-McMoRan Shelf Properties  
 LLC  
 Freeport-McMoRan Sierrita Inc.  
 Freeport-McMoRan Spain Inc.  
 Freeport-McMoRan Tyrone Inc.  
 Freeport-McMoRan Tyrone Mining  
 LLC  
 Gaviota Gas Plant Company  
 Grande Ecaille Land Company, Inc.  
 Habirshaw Cable and Wire  
 Corporation  
 Hidalgo Mining, LLC  
 International Administrative Services  
 Company  
 International Air Capital Inc.  
 International ASAZ LLC

International Mining Investments,  
LLC  
International Purveyors Inc.  
International Support LLC  
Inversiones de Cobre Chile Co. S.A.  
James Douglas Insurance Company,  
Ltd.  
Jenny East Holdings Ltd.  
K-Mc Venture I LLC  
KEMF FPMCC, LLC  
Khabarovsk Minerals, LLC  
Kisanfu Holdings Ltd.  
Koboltti Chemicals Holdings  
Limited  
Las Quintas Serenas Water Co.  
LHD Ventures, LLC  
Main Pass Energy Hub LLC  
McMoRan Exploration LLC  
McMoRan Oil & Gas LLC  
Midwest Land Acquisition Company  
LLC  
Minera Cobre Chile Co. S.A.  
Minera Cuicuilco S.A. de C.V.  
Minera Freeport-McMoRan South  
America Limitada  
Minera Freeport-McMoRan South  
America S.A.C.  
Missouri Lead Smelting Company  
MSS Properties, LLC  
Mt. Emmons Mining Company  
Nabire Bakti L.L.C.  
Nicaro Nickel Company  
Overseas Service Company  
Pacific Western Land Company  
PD Chile Holding Company  
Limitada  
PD Peru, Inc.  
PD Receivables LLC  
PDM Energy, L.L.C.  
PDRC Laurel Hill 9, LLC  
PDRC Laurel Hill Development,  
LLC  
Phelps Dodge Ajo, Inc.  
Phelps Dodge Congo S.A.R.L.  
Phelps Dodge Development  
Corporation

Phelps Dodge Hidalgo, Inc.  
Phelps Dodge High Performance  
Conductors of NJ  
Phelps Dodge Industries, Inc.  
Phelps Dodge Katanga Corporation  
Phelps Dodge Mining (Zambia)  
Limited  
Phelps Dodge Molybdenum  
Corporation  
Phelps Dodge of Africa, Ltd.  
Phelps Dodge Refining Corporation  
Plains Acquisition Corporation  
Pogo Partners, Inc.  
Point Arguello Natural Gas Line  
Company  
Point Arguello Pipeline Company  
PT Airfast Aviation Facilities  
Company  
PT Eksplorasi Nusa Jaya  
PT Freeport Indonesia  
PT Freeport Management Indonesia  
PT Indonesia Papua Metal Dan  
Mineral  
PT Irja Eastern Minerals  
PT Kencana Infra Nusakarya  
PT Kencana Wisata Nusakarya  
PT Mineserve International  
PT Mitradaya Petikemas  
Servicatama  
PT Mitradaya Vulkanisindo  
PT Nabire Bakti Mining  
PT Papua Utama Mitra  
PT Puncakjaya Power  
PT Smelting  
PXP Gulf Coast LLC  
PXP Louisiana L.L.C.  
PXP Louisiana Operations LLC  
PXP Producing Company LLC  
QTRDOG, LLC  
Rakita (BVI) Ltd.  
RCFPCREI Ranch, LLC  
RCFPMCC, LLC  
Red Metal Limited  
SCFPCREI Ranch, LLC  
SCFPMCC, LLC  
Servicios Especiales Nacionales,

S.A. de C.V.  
 Silver Springs Ranch, Inc.  
 Sociedad Contractual Minera El  
 Abra  
 Sociedad Minera Cerro Verde  
 S.A.A.  
 Southern Bayou Holdings LLC  
 Southern Pearl Holdings LLC  
 Stratus Properties Inc.  
 Sun Ranch - Palisades Partners LLC  
 Tank Barge LLC  
 The Apache Peaks Association

The Limited Liability Company  
 Amur Minerals  
 The Morenci Water & Electric  
 Company  
 Timok Metals doo Bor, Cara Lazara  
 bb, 19210 Bor  
 Tucson, Cornelia and Gila Bend  
 Railroad Company  
 United States Metals Refining  
 Company  
 Warren Company  
 Western Nuclear, Inc.

**2. Debtor's Restructuring and Other Significant Professionals**

Kasowitz Benson Torres LLP  
 Prime Clerk, LLC

Reed Smith LLP

**3. Debtor's Other Professionals**

Aaron & Gianna PLC  
 Alston & Bird LLP  
 Altep California LLC  
 Barber Law Firm PLLC  
 Bennett Bigelow & Leedom, P.S.  
 Browning Kaleczyc Berry & Hoven  
 PC  
 Coughlin Duffy LLP  
 Covington & Burling LLP  
 Day Pitney LLP  
 Dentons LLP  
 Dykema Gossett PLLC  
 Fisherbroyles LLP  
 Franden Farris Quillin Goodnight &  
 Roberts  
 Gallagher & Kennedy  
 Haynsworth Sinkler Boyd PA  
 Heyl Royster Voelker & Allen, PC  
 Husch Blackwell Sanders LLP  
 Litchfield Cavo LLP

McCarter & English LLP  
 Milligan Lawless PC  
 Moore & Jackson LLP  
 Onebane Law Firm  
 Phillips Goldman McLaughlin & Hall  
 PA  
 Rawle & Henderson LLP  
 Riley Bennett Egloff LLP  
 Robinson & McElwee PLLC  
 Sandberg Phoenix & Von Gontard  
 PC  
 Shapiro Blasi Wasserman &  
 Hermann PA  
 Sheppard Mullin Richter & Hampton  
 LLP  
 Steptoe & Johnson PLLC  
 Stroock & Stroock & Lavan LLP  
 Vinson & Elkins LLP

**4. Current and Former Officers and Directors (Up to 3 Years)**

Richard C. Adkerson  
 Michael J. Arnold  
 Cyprus Amax Materials Company  
 D. Jansing Baker  
 Deborah A. Ban  
 Robert R. Boyce

William E. Cobb  
 Douglas N. Currault II  
 Hugh O. Donahue  
 Dean T. Falgoust  
 Stephen T. Higgins  
 Daniel R. Hughes

Michele A. Hughes  
Jennifer L. Karns  
Francis R. McAllister, Jr.  
Richards L. McMillan, II  
Kathleen L. Quirk

Linda K. Scott  
K. Scott Statham  
Steven I. Tanner  
Claude D. Whitmire, Jr.

**5. Law Firms Representing Parties that Have Asserted Talc Claims Against the Debtor and Cyprus Amax Minerals Company**

Anapol Weiss  
Baggett, McCall, Burgess, Watson & Gaughan LLC  
Barnes Law Group LLC  
Beasley Allen Law Firm  
Belluck & Fox  
Bergman Draper Oslund, PLLC  
Brayton Purcell, LLP  
Brown Kiely LLP  
Buck Law Firm LLP  
Carey Danis & Lowe  
Chandler McNulty, LLP  
Cheek Law Firm  
Cheeley Law Group, LLC  
Chehardy, Sherman, Williams, Murray, Recile, Stakelum & Hayes, LLP  
Cohen, Placitella & Roth, P.C.  
Cooney and Conway  
Cory Watson, P.C.  
Cotthoff & Willen  
Dean Omar Branham Shirley, LLP  
Deaton Law Firm  
Dutton Daniels Hines Kalkhoff Cook & Swanson, PLC  
Early Law Firm  
Early Lucarelli Sweeney & Meisenkothen  
Edward O. Moody, P.A.  
Farris, Riley & Pitt, LLP  
Ferraro Law Firm, P.A.  
Ferrell Law Group  
Flint Law Firm LLC  
Gawthrop Greenwood, P.C.  
George & Farinas, LLP  
Gettys Law Group, APLC  
Goldberg Persky & White  
Goodman, Meagher & Enoch LLP

Gori Law Firm, P.C.  
Hale, Skemp, Hanson, Skemp & Sleik  
Holland Law Firm  
Horton Law Firm  
Hovde Dassow & Deets, LLC  
Kanuru Law Group, P.C.  
Karst & Von Oiste, LLP  
Kassel McVey  
Kazan McClain Satterley & Greenwood  
Keller Fishback & Jackson LLP  
King Firm  
Kohn Law, P.A.  
Kovacich Snipes, P.C.  
Landry & Swarr, LLC  
Lanier Law Firm, PLLC  
Levy Konigsberg, LLP  
Lipsitz & Ponterio, LLC  
Martin Law Firm  
Martzell, Bickford & Centola, APC  
Matthew L. Sharp, Ltd.  
Maune Raichle Hartley French & Mudd LLC  
McDermott & Hickey, LLC  
Meirowitz & Wasserberg, LLP  
Motley Rice LLC  
Moyers Law P.C.  
Mulinix Goerke & Meyer, PLLC  
Neblett, Beard, & Arseneault  
Nemeroff Law Firm  
O'Shea & Reyes, LLC  
Odegaard Kovacich Snipes  
Onder Law, LLC  
Peter Angelos, P.C.  
Phillips & Paolicelli, LLP  
Rebecca S. Vinocur, P.A.

Richardson, Patrick, Westbrook &  
Brickman  
Robert N. Wadington & Associates  
Ruckdeschel Law Firm LLC  
Satterley & Kelly, PLLC  
Schmidt, Sethi & Akmajian, PLLC  
Segal Law Firm  
Shrader & Associates, L.L.P.  
Sieben Polk P.A.  
Simmons Hanly Conroy, LLC  
Simon Greenstone Panatier P.C.  
Szaferman LaKind Blumstein &  
Blader, P.C.

Thomas J. Owens, Attorney  
Thornton Law Firm  
Vogelzang Law  
Wallace and Graham, PA  
Ward Black Law Firm  
Waters Kraus & Paul  
Watson McKinney LLP  
Weinstein Caggiano, PLLC  
Weitz & Luxenberg  
Wilentz, Goldman & Spitzer  
Worthington & Caron, P.C.  
Wylder Corwin Kelly LLP  
Zelbst, Holmes & Butler

**6. Prepetition Legal Representative for Future Talc-Related Personal Injury  
Claimants and Related Professionals**

James L. Patton, Jr.

Young Conaway Stargatt & Taylor,  
LLP

**7. Counsel to the Prepetition Ad Hoc Committee of Law Firms Representing Holders  
of Talc-Related Personal Injury Claims**

Gilbert LLP  
Robinson & Cole LLP

Willkie Farr & Gallagher LLP

**8. Debtor's Bank**  
Bank of America

**9. Insurers and Insurance Agents**

Aetna Casualty & Surety Co. (n/k/a  
Travelers Casualty and Surety  
Company of America)  
AIU Insurance Co.  
Central National Insurance Company  
of Omaha  
CNA Casualty of California  
Columbia Casualty Co.  
Continental Casualty Co.  
Employers Mutual Casualty  
Company  
Fireman's Fund Insurance Co.  
Granite State Insurance Co.  
Harbor Insurance Co. (n/k/a  
Greenwich Insurance Company)  
International Surplus Lines  
Company (n/k/a TIG Insurance  
Company)

Lexington Insurance Company  
Lloyds of London  
National Union Fire Insurance  
Company of Pittsburgh, PA  
Old Republic Insurance Company  
Stonewall Insurance Co. (n/k/a  
Berkshire Hathaway Specialty  
Insurance Company)  
The American Insurance Co.  
The Manhattan Fire and Marine  
Insurance Company (n/k/a Westport  
Insurance Corporation)  
The North River Insurance Company  
Truck Insurance Exchange  
Unigard Mutual Insurance Company  
(n/k/a Seaton Insurance Company)

**10. Taxing and Other Governmental Authorities**

City of Sault Ste. Marie  
City of Windham  
Colorado Park County  
Michigan Department of  
Environment, Great Lakes, and  
Energy  
New Jersey Department of  
Environmental Protection

New York State Department of  
Environmental Conservation  
State of New Jersey Dept. of  
Treasury Division of Revenue  
U.S. Environmental Protection  
Agency

**11. Other Parties**

Austwide Mining Title Management  
Pty Ltd.  
Concur American Express  
Conestoga-Rovers and Associates  
Dolan Xitco Consulting Group  
Exponent Inc.  
Fenn Consulting LLC  
GHD Services Inc.  
Golder Association Inc.  
Honigman LLP  
Hygiene Tech Inc.  
Imerys Talc America, Inc.  
Imerys Talc Canada Inc.  
Imerys Talc Vermont, Inc.  
Insight Exposure & Risk Sciences  
Inc.  
Johnson & Johnson  
Johnson & Johnson Baby Products  
Company  
Johnson & Johnson Consumer  
Companies, Inc.

Johnson & Johnson Consumer Inc.  
Johnson & Johnson Consumer  
Products, Inc.  
LDISC Holdings LLC  
Lighthouse Document Technologies,  
Inc. (f/k/a Discovia and Lifey  
Thames Group LLC)  
McElvain Oil and Gas Properties,  
Inc.  
Portfolio Media Inc.  
Ramboll US Corporation  
Recordtrak Inc.  
Ricoh USA Inc.  
Rim Operating Inc.  
RJ Lee Group Inc.  
Statistics Collaborative  
Teris-Phoenix LLC  
The Claro Group, LLC  
Toxico Logic Inc.

**12. United States Bankruptcy Judges in the District of Delaware**

Chief Judge Christopher S. Sontchi  
Judge Ashely M. Chan  
Judge John T. Dorsey  
Judge Karen B. Owens

Judge Brendan L. Shannon  
Judge Laure Selber Silverstein  
Judge Mary F. Walrath

**13. United States Trustee for the District of Delaware (and Key Staff Members)**



T. Patrick Tinker, Assistant U.S. Trustee  
Lauren Attix, Paralegal Specialist  
David Buchbinder, Trial Attorney  
Linda Casey, Trial Attorney  
Denis Cooke, Auditor (Bankruptcy)  
Holly Dice, Auditor (Bankruptcy)  
Shakima L. Dortch, Paralegal Specialist  
Timothy J. Fox, Jr., Trial Attorney  
Diane Giordano, Bankruptcy Analyst  
Christine Green, Paralegal Specialist  
Benjamin Hackman, Trial Attorney  
Nyanquoi Jones, Auditor (Bankruptcy)  
Jane Leamy, Trial Attorney  
Hannah M. McCollum, Trial Attorney  
Joseph McMahon, Trial Attorney  
James R. O'Malley, Auditor (Bankruptcy)  
Michael Panacio, Auditor (Bankruptcy)  
Linda Richenderfer, Trial Attorney  
Juliet Sarkessian, Trial Attorney  
Richard Schepacarter, Trial Attorney  
Edith A. Serrano, Paralegal Specialist  
Rosa Sierra, Trial Attorney  
Karen Starr, Auditor (Bankruptcy)  
David Villagrana, Trial Attorney  
Ramona Vinson, Paralegal Specialist  
Dion Wynn, Paralegal Specialist

**14. Clerk of Court and Deputy for the District of Delaware**

Una O'Boyle, Clerk of Court  
Stephen Grant, Chief Deputy Clerk

**EXHIBIT B**

Proposed Order

(Attached)

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE:

CYPRUS MINES CORPORATION,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-10398 (LSS)

Re: Docket No. \_\_\_\_

**ORDER APPOINTING ROGER FRANKEL AS THE LEGAL REPRESENTATIVE FOR  
FUTURE PERSONAL INJURY CLAIMANTS, EFFECTIVE AS OF APRIL 8, 2021**

Upon the *Debtor's Motion for an Order Appointing Roger Frankel as the Legal Representative for Future Personal Injury Claimants, Effective as of April 8, 2021* (the "Motion");<sup>2</sup> and the *Declaration of Roger Frankel in Support of the Debtor's Motion for an Order Appointing Roger Frankel as the Legal Representative for Future Personal Injury Claimants, Effective as of April 8, 2021*, filed in support of the Motion and the disclosures contained therein; and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having determined that notice of the Motion was good and sufficient under the circumstances and no other or further notice is or shall be required; and that good and sufficient cause exists for the appointment of a legal representative for future claimants, and that the relief requested in the Motion is in the best interest of the Debtor, its estate, creditors, other parties-in-interest, and future personal injury claimants; and after due deliberation thereon, and good cause appearing therefor;

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<sup>1</sup> The last four digits of the Debtor's taxpayer identification number are 0890. The Debtor's address is 333 N. Central Ave., Phoenix, AZ 85004.

<sup>2</sup> Capitalized terms used but not defined in this Order have the meanings given in the Motion.

**IT IS HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. All objections, if any, to the entry of this Order, to the extent not withdrawn or settled, are overruled.
3. Roger Frankel is hereby appointed, effective as of April 8, 2021, as the legal representative (the “Future Claimants’ Representative”) for the purpose of protecting the rights of all persons who might subsequently assert personal injury claims (including Demands, as such term is defined in section 524(g) of the Bankruptcy Code) that will be channeled to a personal injury compensation trust in this Chapter 11 Case (such persons collectively, “Future Claimants”). This definition of Future Claimants is without prejudice to the rights of the Debtor or the Future Claimants’ Representative to file a motion seeking entry of an order modifying the definition of Future Claimants or of the Court to modify such definition in connection with confirming a plan of reorganization of the Debtor.
4. The Future Claimants’ Representative is appointed subject to the following terms and conditions:
  - a. Standing: The Future Claimants’ Representative shall have standing under section 1109(b) of the Bankruptcy Code to be heard as a party-in-interest in all matters relating to this Chapter 11 Case and shall have such powers and duties of a committee, as set forth in 11 U.S.C. § 1103, as are appropriate for a Future Claimants’ Representative;
  - b. Engagement of Professionals: The Future Claimants’ Representative may, with prior approval from this Court pursuant to section 105(a) of the Bankruptcy Code and consistent with the treatment afforded other fiduciaries in this Chapter 11 Case, retain attorneys and other professionals;
  - c. Compensation: The Future Claimants’ Representative and his professionals shall apply for compensation in accordance with the Bankruptcy Code, the Local Rules, and any order entered by this Court establishing procedures for interim compensation and reimbursement of expenses of professionals. Subject to Court approval, Mr. Frankel shall be compensated at his hourly

rate of \$1,100, subject to periodic adjustment, plus reimbursement of reasonable expenses; and

- d. Right to Receive Notices: The Future Claimants' Representative and any professionals retained by him and approved by this Court shall have the right to receive all notices and pleadings that are required to be served upon the TCC and its counsel pursuant to applicable law or an order of the Court.

5. This Court shall retain jurisdiction to interpret, enforce, and implement the terms and provisions of this Order and to resolve any disputes arising hereunder.