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METALS

Timminco customers terminate sales contracts

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MINING REPORTER

Silicon producer Timminco Ltd.'s TIM-T spectacular fall from grace continued yesterday after the former market darling said customers are terminating sales agreements because the company failed to fulfill its contractual obligations.

Toronto-based Timminco, which became a lightning rod for investor debate in 2008, said it is in talks with some customers who "have asserted that their contracts have been terminated due to non-compliance."

It also disclosed it may have to refund these customer's deposits and is hoping to raise $15-million through a private share sale to shore up its financial position. According filings with securities regulators, Timminco received $45.5-million in deposits from customers in 2008. It also had $51-million in bank debt.

Robert Dietrich, Timminco's chief financial officer, would not comment on why the customers are claiming the contracts have been violated. "I can't talk about specifics. In a situation when market conditions in an industry change dramatically, the interests of various parties change and you end up in discussions with your customers," Mr. Dietrich said in an interview.

The stunning development has raised fresh questions about Timminco's ability to produce large quantities of silicon pure enough to be used to make solar cells. Timminco's already battered shares lost almost 38 per cent of their value yesterday as the company conceded it is talking to each of the customers about "future relationships, including quality, quantity and pricing."

Timminco shot to prominence in 2007 after claiming it had developed a "breakthrough" process to cheaply upgrade metallurgical grade silicon to purity levels high enough for use by solar cell makers.

The controversial claims helped Timminco become one of the top performers on the TSX, soaring from less than $1 a share to more than $30 as it unveiled a string of sales contracts with customers including Q-Cells SE, the world's largest producer of solar cells. The company also attracted high-profile shareholders including Eric Sprott and his firm Sprott Asset Management, which owns nearly 17 per cent of Timminco, as well as Fidelity Investments, which owns 14 per cent.

But Timminco also attracted a group of outspoken detractors, including hedge funds and short sellers who cast doubt on the company's technology claims. At its annual meeting last year, chairman and chief executive officer Heinz Schimmelbusch warned detractors that "idiotic" or "bizarre" comments about Timminco would go "straight to the courts." Indeed, the company filed libel suits against Ravi Sood and his Toronto firm Lawrence Asset Management Inc., as well as Manuel Asensio, a New York-based fund manager who publicly criticized the company on his website Asensio.com.

Mr. Sood and Mr. Asensio recently won a legal victory against Timminco when an Ontario judge ordered the company to turn over copies of its customer contracts for use in the preparation of a statement of defence in the libel cases. Mr. Asensio's lawyer, Lorne Honickman, said Timminco has not yet complied with the ruling.

Timminco also disclosed that Jay Kellerman, a lawyer with Stikeman Elliot in Toronto, will not be standing for re-election to the company's board. When contacted, Mr. Kellerman said he is leaving the board "due to other commitments."

TIMMINCO (TIM)

Close: $2.36, down $1.44