

Calgary

November 11, 2020

Marc Wasserman
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Our Matter Number: 1210529

Toronto

Montréal

Sent By Electronic Mail

Ottawa

Court of Appeal of Alberta
Registry Office
2600, 450 – 1 Street SW
Calgary, AB T2P 5H1

Vancouver

New York

My Lord or My Lady:

Re: In the Matter of the Companies' Creditors Arrangement Act (the "CCAA") and In the Matter of a Plan of Compromise or Arrangement of Dominion Diamond Mines ULC, Dominion Diamond Delaware Company, LLC, Dominion Diamond Canada ULC , Washington Diamond Investments, LLC, Dominion Diamond Holdings, LLC, Dominion Finco Inc., and Dominion Diamond Marketing Corporation (collectively, the "CCAA Applicants" or "Dominion") (QB Court File No. 2001-05630)

Re: Application by Diavik Diamond Mines (2012) Inc. ("DDMI") for Leave to Appeal and Stay of Certain Provisions of an Order pronounced by the Honourable Madam Justice K.M. Eidsvik on November 4, 2020 (the "Order") - Request for Expedited Emergency Application

We are counsel to Credit Suisse AG, Cayman Islands Branch (the "Agent"), as administrative agent for various first lien lenders under a Revolving Credit Agreement between the Agent, various of the CCAA Applicants, and other lenders from time to time party thereto. We write further to Mr. Collins' and Mr. Rubin's correspondence of November 9 and 10, 2020.

The Agent agrees with the concerns raised by Mr. Rubin on behalf of the CCAA Applicants. In addition to such concerns, the Agent notes that:

1. Mr. Collins' continued requests for the hearing to be scheduled for November 13, 2020 ignores the Court's correspondence of yesterday advising that "[Appellant/Applicant counsel] have also been advised that the potential/tentative hearing on November 13, 2020 will not proceed on that date. Note that date had only been tentatively set based on an understanding, which it appears may have been wrong, that was a date that worked for all parties." It also ignores the fact that we have not been consulted on any dates and we have not consented to any date. We enclose a copy of that correspondence for your reference.
2. The Agent was not, and is not, in agreement with DDMI's request for an expedited hearing on November 13 or 16, 2020. DDMI's application materials were served

yesterday afternoon as 3:35 p.m. Accounting for the Remembrance Day statutory holiday, the Agent will have 1 business day to respond to DDMI's application if the hearing is scheduled for November 13th, and 2 business days to respond if the hearing is scheduled for November 16th. Such urgency is both unwarranted (for the reasons discussed in Mr. Rubin's correspondence and further below) and prejudicial to the ability of the Agent to respond.

3. The urgency and alleged irreparable harm asserted by DDMI is manufactured and baseless. DDMI incorrectly asserts that the draft form of Order circulated by the Agent and the CCAA Applicants permits Dominion to "immediately sell Diamonds" to the irreparable prejudice of DDMI. DDMI neglects to advise that:
 - a. It has opposed the inclusion of any monetization right in the form of Order and has advised the CCAA Applicants, the Agent, and other interested stakeholders that the issue will have to be determined by Justice Eidsvik. No date for that hearing has been scheduled;
 - b. In any event, even if granted, the proposed form of Order expressly provides that Dominion "shall secure and segregate such proceeds from all of its other Property, and shall hold such proceeds pending further order of this Honourable Court;" and
 - c. DDMI has not delivered any diamonds to Dominion. There is nothing for Dominion to monetize.

The Agent and Dominion's other stakeholders must be given a fair and reasonable opportunity to respond to DDMI's application. Subject to this Honourable Court's availability, the Agent supports Mr. Rubin's suggestion of a hearing the week of November 23rd or 30th. DDMI will suffer no prejudice, much less irreparable harm, if the application is heard on a reasonable timeline which protects the participatory rights of all interested stakeholders.

The real urgency in this matter is trying to achieve a going concern outcome for Dominion (and its employees and other stakeholders), which the remainder of its stakeholders are tirelessly pursuing.

Yours truly,



Marc Wasserman

c: Service List

From: Crilly, Morgan <morgan.crilly@blakes.com>
Sent: Tuesday, November 10, 2020 2:40 PM
To: Rubin, Peter; Rogers, Linc; Bychawski, Peter; Crilly, Morgan; Hildebrand, Claire; Fperlman@mwe.com; deryck.helkaa@fticonsulting.com; tom.powell@fticonsulting.com; lindsay.shierman@fticonsulting.com; dustin.olver@fticonsulting.com; craig.munro@fticonsulting.com; robert.kleebaum@fticonsulting.com; simardc@bennettjones.com; selnesm@bennettjones.com; mbuttery@cassels.com; Wasserman, Marc; Paplawski, Emily; jlevitin@cahill.com; boneill@goodmans.ca; bwiffen@goodmans.ca; mpartridge@goodmans.ca; jcitron@goodmans.ca; Robert.Fitzgerald@skadden.com; Ron.Meisler@skadden.com; Vicki.Tickle@mcmillan.ca; wmacleod@mccarthy.ca; scollins@mccarthy.ca; ataylor@mccarthy.ca; tdemarinis@torys.com; kakashuba@torys.com; quinlm3@telus.net; JPawlyk@bmlp.ca; Ross.Johnson@ca.ey.com; Neil.Narfason@ca.ey.com; KBarr@blg.com; JVallis@blg.com; jordan.schultz@dentons.com; john.sandrelli@dentons.com; miriam.dominguez@dentons.com; alexandre.larouche@justice.gc.ca; kanderson@millerthomson.com; twarner@millerthomson.com; snorris@millerthomson.com; gunnar.benediktsson@nortonrosefulbright.com; ARaven@ravenlaw.com; AAstritis@ravenlaw.com; cvanasseldonk@ravenlaw.com; EHussein@fieldlaw.com; DNishimura@fieldlaw.com; lwilliams@cassels.com; sdanielisz@cassels.com; De Lellis, Michael; nicholsonc@jssbarristers.ca; kathlerd@bennettjones.com; j.pringle@mckercher.ca; sam.alberts@dentons.com; john.salmas@dentons.com; jmaclellan@blg.com; john.regush@dentons.com; Brandi.Swift@fticonsulting.com; chrisjennings66@me.com; ataylor@stikeman.com; navis@stikeman.com; jbellissimo@cassels.com; dbudd@cassels.com; MYiu@connectlaw.ca; kurtis.letwin@dentons.com; dean.hitesman@dentons.com; mark.freake@dentons.com; Paterson, Mary; MSakamoto@blg.com; zrodgers@ravenlaw.com; sarcher@goldblattpartners.com; Pratt, Elena; nmaaswinkel@blg.com; dmills@blg.com; shill@blg.com; jnantes@torys.com; wday@rpaadvisors.com; jrooney@rpaadvisors.com; jpolicano@rpaadvisors.com; afshan.naveed@dentons.com; cperkins@eckertseamans.com; dmckenzie@jml.ca; marie.lasnier@osfi-bsif.gc.ca; Jeff.Bowman@osfi-bsif.gc.ca; jmlee@mltaikins.com; cbuchanan@mross.com; Michael_Woodward@gov.nt.ca; meyerk@bennettjones.com; agray@torys.com; KFellowes@stikeman.com; jmaslowski@stikeman.com; ggalati@dv-law.com; dpeat@dv-law.com; crussell@mross.com; RYehia@blg.com; endersbya@bennettjones.com
Subject: FW: In the Matter of a Plan of Compromise or Arrangement of Dominion Diamond Mines ULC, et al., ABQB Action No. 2001-05630

To the Service List:

Please see the below correspondence from the Court of Appeal Registry of today's date.

Best,

Morgan Crilly
Associate
morgan.crilly@blakes.com
Dir: 403-260-9657

From: Calgary Registry <Calgary.Registry@albertacourts.ca>
Sent: Tuesday, November 10, 2020 1:32 PM
To: Alambre, Jennifer <jennifer.alambre@blakes.com>; KDORAN@mccarthy.ca
Cc: Rubin, Peter <peter.rubin@blakes.com>
Subject: Re: In the Matter of a Plan of Compromise or Arrangement of Dominion Diamond Mines ULC, et al., ABQB Action No. 2001-05630

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Good Afternoon,

Can I please ask one of you to forward this email to everyone on the "Service List"

The Case Management Officer (CMO) has asked me to respond to advise you that a hearing date cannot be unilaterally set by any one party and that any date set must work for all parties. In addition, whether the application will be heard on an expedited basis and, if so, on what date, will be entirely within the discretion of the relevant Duty Judge.

The CMO also indicated that, given the delay in getting the necessary appeal and application materials filed, Appellant/Applicant counsel has now been advised that their new request for a hearing on November 16, 2020 cannot be sent to a Duty Judge or considered until their appeal and application materials are filed. They have also been advised that the potential/tentative hearing on November 13, 2020 will not proceed on that date. Note that date had only been tentatively set based on an understanding, which it appears may have been wrong, that was a date that worked for all parties.

Once the appeal and application materials are filed, the Appellant/Applicant's request will be sent to the Duty Judge, as will your responding letters and any other responding letters that may be sent.

Thank you,

The Court of Appeal Registry.

>>> "Alambre, Jennifer" <jennifer.alambre@blakes.com> 2020-11-10 01:57 PM >>>
Good afternoon

Please see the attached letter of today's date from Mr. Peter Rubin.

Regards,

Jennifer Alambre
Legal Administrative Assistant to
Peter Rubin*, Karine Russell and Devon Luca
jennifer.alambre@blakes.com
Dir: 604-631-5244
**Law Corporation*



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