

COURT FILE NUMBER

2001-05630

COURT

COURT OF QUEEN'S BENCH OF ALBERTA IN
BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE

CALGARY

JS
June 19, 2020
Justice Eidsvik

APPLICANTS

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**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, and DOMINION FINCO INC.**

DOCUMENT

AFFIDAVIT

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

BLAKE, CASSELS & GRAYDON LLP
Barristers and Solicitors
3500 Bankers Hall East
855 – 2nd Street SW
Calgary, Alberta T2P 4J8

Attention: Peter L. Rubin / Peter Bychawski /
Claire Hildebrand / Morgan Crilly
Telephone No.: 604.631.3315 / 604.631.4218 /
604.631.3331 / 403.260.9657
Email: peter.rubin@blakes.com /
peter.bychawski@blakes.com /
claire.hildebrand@blakes.com /
morgan.crilly@blakes.com

Fax No.: 604.631.3309

AFFIDAVIT OF JOHN STARTIN
Sworn on June 12, 2020

I, John Startin, of New York, New York, MAKE OATH AND SAY THAT:

JS

CLERK'S STAMP

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morgan.crilly@blakes.com

Fax No.: 604.631.3309

AFFIDAVIT OF JOHN STARTIN
Sworn on June 12, 2020

I, John Startin, of New York, New York, MAKE OATH AND SAY THAT:

JS

1. I am a Senior Managing Director in Evercore Group L.L.C.'s ("**Evercore**") Corporate Advisory business, with responsibility for Evercore's global metals, minerals and mining practice. Prior to joining Evercore I was most recently a Managing Director, Head of Metals and Mining in the Americas, and a member of the Mergers and Acquisitions Group at Goldman Sachs. I have more than eighteen (18) years of corporate advisory experience.

2. I swore an affidavit in these *Companies' Creditors Arrangement Act* (Canada) ("**CCAA**") proceedings on May 21, 2020 (my "**May Affidavit**") in support of the Applicants' application filed May 22, 2020 (but served on May 21, 2020) (the "**Initial Application**") for the relief sought therein, including approval of an integrated restructuring proposal (the "**Restructuring Proposal**") that contains three (3) key interconnected components (with capitalized terms referenced below but not otherwise defined herein having the meanings ascribed to them in my May Affidavit):

- (a) the Stalking Horse Term Sheet (now replaced by a definitive stalking horse agreement of purchase and sale) which forms the basis of the proposed Stalking Horse Bid, which would in turn set the "floor price" for the acquisition of substantially all the Dominion Vendors' business and assets;
- (b) the SISP that provides for a process to identify potentially higher and better offers than provided for by the Stalking Horse Bid; and
- (c) the Interim Financing Term Sheet which provides the Applicants with funding required to meet their operational and administrative expenses through to the completion of the SISP.

3. I make this affidavit in support of the applicants' amended application (the "**Amended Application**") being filed concurrently with my affidavit in which the applicants seek approval of a modified form of Second ARIO (to be attached as Schedule "A" to the Amended Application) that, among other things, (a) seeks authorization for the Dominion Vendors to execute and enter into a definitive stalking horse agreement of purchase and sale among the Dominion Vendors, as sellers, and the Stalking Horse Bidder, as purchaser, which is to be substantially on the terms set out in the stalking horse agreement of purchase and sale (the "**Stalking Horse Bid**") attached as Schedule "C" to the proposed form of Second ARIO; and (b) adjusts the timelines of the SISP; and

4. For the reasons discussed in my May Affidavit, it remains Evercore's judgment that:

JS

- (a) a sale transaction with respect to the Applicants' business and assets is appropriate at this time in the context of the Applicants' restructuring objectives in these CCAA proceedings;
- (b) the integrated, comprehensive nature of the Restructuring Proposal provides material value to the Applicants and is the best currently available executable restructuring option available to the Applicants in the context of these CCAA proceedings; and
- (c) approval of the Stalking Horse Bid, SISP, and Interim Financing Term Sheet on the terms sought by the Applicants is appropriate and will support the Applicants in seeking value maximization for their stakeholders in the context of these CCAA proceedings.

5. With respect to the Stalking Horse Bid, which now takes the form of a definitive stalking horse agreement of purchase and sale, Evercore remains of the view that the Stalking Horse Bid will benefit the Applicants' efforts to maximize value through these CCAA proceedings by, among other things, (a) setting a "floor price" and commercial terms for the acquisition of the Dominion Vendors' assets; (b) helping to generate interest in the Dominion Vendors' assets among potential purchasers; and (c) providing a level of certainty, stability and efficiency during the SISP, both in terms of setting a baseline price and documentation for the SISP and assuring stakeholder groups that there will be a going concern sale of Dominion's business

6. Evercore similarly remains of the view that the timeline set out in the SISP that is subject to the Amended Application (a) is appropriate; (b) will allow potential investors to participate in the SISP; (c) will provide an appropriate test for whether the Stalking Horse Bid delivers the best possible result for all stakeholders; and (d) will result in a fair and reasonable process that will adequately canvass the market in order to maximize value for the Applicants' assets for the benefit of the Applicants' stakeholders.

7. While the formal approval of the SISP process is the subject of the Amended Application, Evercore has already taken certain steps to advance the process contemplated by the SISP.

8. Evercore began contacting potential bidders on April 27, 2020, either by phone or e-mail. In general, Evercore has provided potentially interested parties with a non-disclosure agreement (an "NDA") and a "teaser" that describes the Dominion Vendors' assets, the current status of

JS

Dominion's restructuring efforts, and instructions for participating in the proposed SISP process. As of June 11, 2020, Evercore has contacted thirty-eight (38) potential bidders including Washington. Excluding Washington and the Second Lien Lenders, two (2) third parties have executed NDAs. A further six (6) NDAs are in process.

9. Upon signing an NDA, potential bidders have received access to a virtual data room that contains a confidential information memorandum and some supplemental information. These disclosures are intended to provide a base level of information available to all potential bidders which they can utilize to formulate an indication of interest. In some cases, Evercore has received additional diligence requests, which Evercore has worked to respond to with the help of Dominion's management. Evercore has subsequently posted any resulting information to the data room to ensure that all parties can benefit from the additional information as they formulate their indications of interest.

10. As a result of this outreach program, the marketing process for the Dominion Vendors' assets has been under way for approximately seven (7) weeks and, while Evercore has not been able to provide potential bidders with a date by which they are to provide their preliminary indications of interest, potential bidders are progressing their diligence in a manner that is substantially consistent with how Evercore would expect them to progress their diligence if a preliminary bid deadline had been formally set through the SISP. Evercore is of the view that this is, in part, because the details of this process – including the proposed milestones of the SISP – are public and widely reported.

11. With respect to the timeline provided for by the Applicants' proposed amended SISP, it is Evercore's view that it is not necessary to move the preliminary bid deadline contemplated by the SISP as proposed in the Initial Application to a later date, but adjusting such deadline as proposed in the Amended Application does not harm the process either.

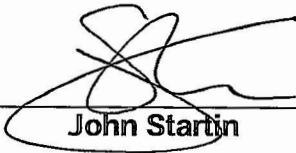
PROCESS FOR COMMISSIONING OF THIS AFFIDAVIT

34. I am not physically present before the Commissioner for Oaths (the "Commissioner") taking this affidavit, but I am linked with the Commissioner by video technology. The following steps have been or will be taken by me and the Commissioner:

JS

- (a) I have shown the Commissioner the front and back of my current government-issued photo identification ("ID") and the Commissioner has compared my video image to the information on my ID;
- (b) the Commissioner has taken a screenshot of the front and back of my ID to retain it;
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- (d) the Commissioner and I have reviewed each page of this affidavit to verify that the pages are identical and have initialed each page in the lower right corner;
- (e) at the conclusion of our review of the affidavit, the Commissioner administered the oath to me, and the Commissioner watched me sign my name to this affidavit; and
- (f) I will send this signed affidavit electronically to the Commissioner.

SWORN BEFORE ME by two-way video)
conference on June 12, 2020.)
)
)
_____)
A Commissioner for Oaths in and for the)
Province of Alberta)
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John Startin

JS.

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mc

1. I am a Senior Managing Director in Evercore Group L.L.C.'s ("**Evercore**") Corporate Advisory business, with responsibility for Evercore's global metals, minerals and mining practice. Prior to joining Evercore I was most recently a Managing Director, Head of Metals and Mining in the Americas, and a member of the Mergers and Acquisitions Group at Goldman Sachs. I have more than eighteen (18) years of corporate advisory experience.

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SWORN BEFORE ME by two-way video)
conference on June 12, 2020.)



A Commissioner for Oaths in and for the)
Province of Alberta)

Morgan Crilly
Barrister & Solicitor

John Startin

nc

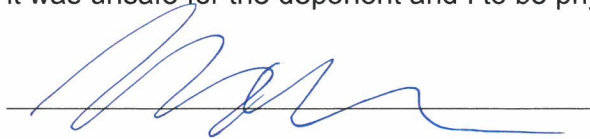
APPENDIX A

Certificate of Commissioning by Videoconference

I, ^{Morgan} Crilly Commissioner of Oaths in and for Alberta, took the affidavit of John Startin via videoconference on June 12, 2020 (the "Affidavit").

The affiant and I followed the process outlined by the Alberta Court of Queen's Bench in Notice to the Profession and Public #2020-02 dated March 25, 2020. In addition to the steps described in the Affidavit, I compared each page of the copy I received from the affiant with the initialed copy that was before me while I was linked by videoconference with the affiant. Upon being satisfied that the two copies were identical, I affixed my name to the jurat.

On March 17, 2020, the Government of Alberta declared a state of public health emergency pursuant to the Alberta *Public Health Act* in response to the COVID-19 pandemic. The Government of Alberta also strongly recommends that all individuals stay home and avoid contact with others whenever possible. Therefore, I am satisfied that this process was necessary because it was unsafe for the deponent and I to be physically present together.



Commissioner of Oaths in and for Alberta

Morgan Crilly
Barrister & Solicitor