



COURT FILE NUMBER 2001-05630
 COURT COURT OF QUEEN'S BENCH OF ALBERTA
 JUDICIAL CENTRE CALGARY

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 Justice Eidsvuk

IN THE MATTER OF THE COMPANIES' CREDITORS
 ARRANGEMENT ACT, RSC 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.

APPLICANTS AD HOC COMMITTEE OF BONDHOLDERS (DDJ CAPITAL
 MANAGEMENT, LLC, BARINGS LLC and BRIGADE CAPITAL
 MANAGEMENT, LP)

PARTY FILING THIS DOCUMENT AD HOC COMMITTEE OF BONDHOLDERS (DDJ CAPITAL
 MANAGEMENT, LLC, BARINGS LLC and BRIGADE CAPITAL
 MANAGEMENT, LP)

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
 Torys LLP
 4600 Eighth Avenue Place East
 525 - Eighth Ave SW
 Calgary, AB T2P 1G1

Attention: Kyle Kashuba
 Telephone: + 1 403.776.3744
 Fax: +1 403.776.3800
 Email: kkashuba@torys.com
 File No. 2001-05630

AFFIDAVIT OF ERIC HOFF
Sworn on May 6, 2020

I, Eric Hoff, of the City of Waltham, in the State of Massachusetts, Senior Research Analyst of DDJ Capital Management, LLC, **MAKE OATH AND SAY THAT:**

1. I have personal knowledge of the matters and facts hereinafter deposed to, except where stated to be based on information and belief, and where so stated I believe the same to be true.

A handwritten signature in black ink, appearing to be "E. Hoff".

2. DDJ Capital Management, LLC (“**DDJ**”) is a Waltham, Massachusetts-based investment adviser registered with the U.S. Securities and Exchange Commission. DDJ manages funds and accounts for corporate pension plans, state and local pension plans, Taft-Hartley plans and other institutional investors. It is organized as a limited liability company formed pursuant to the laws of the Commonwealth of Massachusetts.
3. In that capacity, the funds and/or accounts managed by DDJ, at DDJ’s direction, regularly provide funding to public and private businesses through the purchase of original issue notes and other credit investments. Accordingly, DDJ serves as an important source of debt capital to borrowers seeking funding for ordinary course or transactional purposes.
4. This Affidavit is being sworn in support of an application by the ad hoc committee (the “**Note Committee**”) of holders of the 7.125% senior secured second lien notes owed the equivalent of approximately CAD\$800,000,000 by Dominion Diamond Mines ULC (“**Dominion Diamond**” or the “**Company**”) for an order directing payment and reimbursement of reasonable out-of-pocket legal and financial advisory expenses incurred and expected to be incurred by the Note Committee during this critical early stage of the *Companies’ Creditors Arrangement Act* (“**CCAA**”) proceedings for Dominion Diamond and certain of its affiliates.
5. For the reasons stated in this Affidavit, I believe that such an order is necessary and appropriate for both (a) the effective representation of Note holder interests in these CCAA proceedings, and (b) the fairness and integrity of the CCAA process.

The Notes

6. The Notes were issued in 2017 to largely fund the acquisition of Dominion Diamond by its current owner, Washington Diamond Investments LLC (“**Washington Diamond**”), and are governed by a trust indenture dated as of October 23, 2017 (as amended or supplemented, the “**Trust Indenture**”) among Dominion Diamond, as successor to Northwest Acquisition ULC, and Dominion Finco Inc., as co-issuers, and Wilmington Trust, National Association, as trustee
7. The Notes constitute senior secured second lien obligations of Dominion Diamond and certain of its affiliates, enjoying rights and privileges typically associated with secured debt indebtedness and ranking senior to the rights of various unsecured trade, surety bond and other creditors.

Handwritten signature or initials in the bottom right corner of the page.

8. More specifically, to secure the obligations under the Trust Indenture the holders of Notes enjoy the benefit of security granted by Dominion Diamond, Dominion Diamond Canada ULC, Washington Diamond, Dominion Diamond Holdings, LLC (“**Dominion Holdings**”), and Dominion Finco Inc. (“**Dominion Finco**”) (collectively, the “**Diamond Group**”), including the following:
 - a) a second ranking security interest in all of the Diamond Group’s present and future personal property pursuant to various general security agreements and trademark and copyright security agreements;
 - b) a guarantee by each of Dominion Delaware, Dominion Diamond Canada ULC, Dominion Finco, Washington Diamond and Dominion Holdings, guaranteeing the obligations of Dominion Diamond under the Trust Indenture;
 - c) a pledge by Washington Diamond of its shares in Dominion Holdings pursuant to a pledge agreement;
 - d) a pledge by Diamond Mines ULC of its shares in Dominion Diamond Delaware Company, LLC pursuant to a pledge agreement; and
 - e) a pledge by Dominion Diamond Delaware Company, LLC of its shares in Dominion Diamond Canada ULC pursuant to a pledge agreement.
9. Washington Diamond is, directly or indirectly, the parent of all the other members of the Diamond Group.
10. On May 1, 2020, following commencement of these CCAA proceedings, the Applicants failed to make a semi-annual interest payment due in respect of the Notes. Accordingly, when the defaulted interest payment is added to the US\$550,000,000 in principal amount of the Notes, the total amount owing to the Note holders is now the equivalent of approximately CAD\$800,000,000 based on today’s exchange rate.

DDJ and the Note Committee

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11. Funds and/or accounts managed by DDJ hold more than US\$134,000,000 (approximately CAD\$190,000,000) in principal amount of the issued and outstanding Notes.
12. The other members of the Note Committee, Barings LLC and Brigade Capital Management, LP, are also large, well-known investment institutions that, similar to DDJ, manage client accounts with significant Note holdings. Collectively, the three members of the Note Committee hold or otherwise control more than 50% of the issued and outstanding Notes.
13. Neither DDJ nor, to my knowledge, any other member of the Note Committee was notified or consulted in advance regarding the commencement of CCAA proceedings by Dominion Diamond and certain of its affiliates on April 22, 2020. The Note Committee has only in the last several days, through its advisors, gained access to material non-public information regarding those companies. Given the fact that those companies are privately held by Washington Diamond, there is minimal public information available on them.
14. As soon as DDJ learned of these proceedings, it diligently set out to identify other Note holders with a view to organizing themselves for proper representation of the Note holders' collective interests in these CCAA proceedings.
15. Ad hoc noteholder committees have become customary front-line participants in major insolvency proceedings. They are an effective way to facilitate the direct involvement by the holders of notes in the proceedings as well as all associated consultations, negotiations, diligence, reviews and negotiations and transactions. Both DDJ, and I personally, have experience participating on such ad hoc noteholder committees.
16. Note indentures typically involve the use of a trustee in an intermediary and administrative role, as is the case with these Notes. Trustees, however, do not hold notes, have limited decision-making abilities, and are not generally institutionally equipped to contribute to insolvency proceedings in the ways possible for the underlying holders of notes (including by way of conducting diligence, assessing alternatives, making commitments of support, and putting forward funding or transactional proposals). While the Note Committee is in close communication with the Trustee, it intends to take the leading role in representing the interests of actual Note holders in an effort to maximize recovery on the Notes and lead to a successful outcome.

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Initial Activities of the Note Committee

17. Although DDJ and the other members of the Note Committee started from a disadvantaged position given their lack of prior involvement and notice, these institutions have diligently worked towards ensuring the proper representation of the Note holders in these CCAA proceedings since first learning of them following their April 22, 2020 commencement.
18. As is typical, there was no pre-existing framework and construct for the functioning of the Note Committee. Accordingly, the Note Committee's initial priorities included organizational matters as to how best to organize itself, communicate and move forward with representation in proceedings that typically require fast and effective response times.
19. Quickly following its initial organization, the Note Committee sought to engage experienced Canadian restructuring counsel. It proceeded to interview, select and engage the law firm of Torys LLP and, pursuant to this engagement, has incurred and will continue to incur legal fees.
20. The Note Committee then proceeded to engage experienced financial advisors. It interviewed, selected and engaged the firm of Houlihan Lokey, Inc. and, pursuant to this engagement, has incurred and will continue to incur financial advisory fees.
21. The Note Committee initiated communications with representatives of Dominion Diamond and its affiliates to seek access to information and documents not previously made available to them. As an initial step in this regard, the Note Committee negotiated, settled and executed confidentiality agreements with Dominion Diamond and its representatives for the members of the Note Committee and its advisors.
22. The Note Committee instructed its counsel to attend and participate in the May 1, 2020 "comeback" hearing in these proceedings to, among other things, apprise the Court of preliminary issues and concerns associated with the commencement of the CCAA proceedings by the Company that have become apparent to the Note holders.
23. Upon the delivery of the confidentiality agreements, the Note Committee, through its advisors, immediately began to review and assess the limited amounts of confidential information and documents made available to it by Dominion Diamond and its representatives, including pursuant to a data site compiled by their financial advisor, Evercore. The Note Committee and

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its advisors have been diligently engaged in this process over the last several days since gaining access.

24. As a result of restrictions imposed by the Company and its representatives, most of the Company's confidential information is available only to the Note Committee's legal and financial advisors and not to the members of the Note Committee themselves. Accordingly, the Note Committee's advisors are playing a crucial role in the diligence and communications process.
25. The Note Committee has also, directly and through its advisors, engaged in multiple discussions with representatives of Dominion Diamond, the court-appointed Monitor, their respective advisors, and other major stakeholders in these proceedings.

Proposed DIP Funding

26. Dominion Diamond and its affiliates that are subject to these proceedings have advised this Court and interested parties of their intention to seek debtor-in-possession ("DIP") financing to fund its activities during the CCAA proceedings.
27. The Note Committee is of the view that any such DIP funding, and the terms and conditions attached thereto, may critically impact the direction of these proceedings and the ability of all stakeholders to ensure a fair and reasonable process and outcome. Notable preliminary concerns are raised by, among other things, the disclosure by Dominion Diamond of its receipt of a DIP funding proposal from its current equity owner that would be conditional on an agreement to essentially re-sell itself to an affiliate of the owner.
28. On behalf of the funds and/or accounts managed by DDJ, I believe that any such proposal should be carefully and thoroughly scrutinized by Dominion Diamond, the court-appointed Monitor, the stakeholders and this Court. I believe that the other members of the Note Committee strongly share this view.
29. The proposed funding and re-purchase by equity owners who, by definition of these insolvency proceedings, no longer hold an economic interest in Dominion Diamond and its affiliates and who are in an advantaged position by virtue of their longstanding privileged access to

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confidential information, is highly unusual and can lead to abuses and inequities without proper checks and balances.

30. The Note Committee is working diligently to ensure that Dominion Diamond has DIP funding alternatives. In an effort to facilitate this objective, it has engaged with the Company and its advisors, and has advised them of its intention to offer its own alternate DIP funding facility. Finalizing the terms of such an alternative DIP funding facility will be a substantial focus of the Note Committee's activities in the near term before this Court approves any DIP facility for the Company.

Effective Participation and Substantial Contribution to the Within Proceedings

31. As the largest creditors in these proceedings, the Note holders may be at risk of being most materially affected by them. Their proper representation is critical not only to their own interests, but to ensuring the fairness and integrity of these proceedings and all activities related to them.
32. These issues are heightened in this situation in view of the disclosure by the current ownership group, which no longer holds an economic interest in Dominion Diamond and its affiliated applicants in these proceedings, that it intends to tie its proposed DIP funding to its re-purchase of Dominion Diamond and its affiliates on currently undisclosed terms as to the treatment of the Notes and other stakeholders. Particularly in a debtor-in-possession process, in which the very board of directors appointed by the current ownership group will be reviewing, assessing and selecting alternative paths for the Company, serious process and conflict of interest issues are raised.
33. Moreover, the Note Committee is also starting from a disadvantaged position, not having been notified or consulted in advance about these proceedings and the issues that gave rise to them. Other persons, including the current ownership group, have had preferential access to the Company's confidential information for a far longer period of time.
34. The logistical challenges inherent in the nature of ad hoc committees can also give rise to relative disadvantages. Multi-party groups need to overcome issues of coordination, information flow, and sharing of costs. For investment institutions of the kind represented by

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the members of the Note Committee, access to funding for the benefit of their managed funds and/or accounts can be a highly complex, administratively burdensome and uncertain task.

35. In my experience, the expenses incurred by ad hoc note holder committees to engage its professional advisors are very often funded by debtors in insolvency proceedings. Regrettably, Dominion Diamond has denied repeated requests made by the Note Committee, through its advisors, for reasonable arrangements regarding payment of its out-of-pocket legal and financial advisory expenses. The ultimate source of the decision to deny these requests is unknown to me.
36. Although I recognize that the Company's liquidity must be managed prudently during the course of the CCAA proceedings, Dominion Diamond's disclosure reveals sufficient cash-on-hand to fund the Note Committee's reasonable out-of-pocket advisory expenses for the period up to the date on which the proposed DIP facility is approved by the Court.
37. In addition to the matters that I raised above, the Note Committee would be further disadvantaged if it was denied the requested funding even though other parties will be paid large professional costs from cash-on-hand that forms part of the Note holders' security. Specifically, I note that a very large provision of CAD\$11.645 million has been made in Dominion Diamond's cash flow projections for funding the costs that are expected to be incurred by various other professionals during the initial thirteen weeks of these proceedings alone.
38. I also note that, in the initial CCAA order made in these proceedings, Dominion Diamond is authorized to pay the costs not only of the Company and the court-appointed Monitor, but also of other stakeholders. I do not have full information in this respect, but I am concerned that the Company has committed to pay the costs of, among other things, certain other secured creditors in these proceedings and has thereby created yet another disadvantage and inequity for the Note holders.
39. Aside from the inherent importance of effective Note holder representation and the inequities that would otherwise arise, I believe that the Note Committee is also well-positioned to make a critically important contribution to these proceedings and to a hopefully successful restructuring outcome. As noted, we are currently intensively engaged in efforts to develop a

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DIP funding proposal to Dominion Diamond. Looking ahead, we are also well-positioned to play a direct role in supporting or backstopping any potential restructuring or sales process.

40. The members of the Note Committee are sophisticated institutions whose direct engagement in these proceedings will be of extensive benefit to this Court and to all stakeholders. We have engaged highly experienced, well-regarded and capable advisors that will also make a similarly positive contribution.
41. The Note Committee is asking only for payment of its reasonable out-of-pocket advisory expenses up to the date on which the proposed DIP facility is approved by this Court. This is a critically important period of time that may determine the direction of these proceedings.
42. It is very important that the Note holders be effectively represented in this critical stage, and the limited time period inherently imposes parameters around the costs burden. I also note that this early stage in the proceedings is a period during which any use-of-funds restrictions that might be contained in a future DIP facility do not apply so that the Company is not contractually restricted from making these payments.
43. I believe that the funding of the Note Committee, in the manner requested, will promote the fairness and integrity of this process. Particularly given the uniquely sensitive issues being raised at an early stage in these proceedings, I believe that it would be of great benefit and would enhance both the fact and appearance of fairness for involved parties and market observers.
44. I respectfully ask that the Court grant the request of the Note Committee so that we can continue to move diligently towards a successful resolution to these proceedings.
 - a. Due to the circumstances of the COVID-19 pandemic, I am unable to be physically present to swear in this Affidavit. I, however, was linked by way of video technology to the Notary Public notarizing this document.
45. I swear this Affidavit in support of an application by the Note Committee for an Order directing and authorizing Dominion Diamond and its affiliates who are subject to these proceedings to promptly pay and reimburse the reasonable legal and financial advisory expenses incurred in

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these proceedings by the Note Committee for the period up to the date on which a DIP facility is approved by the Court.

46. I make this Affidavit for no improper purpose.

SWORN BEFORE ME at Calgary, Alberta,)
this 6th day of May, 2020.)
)
)
)
)



Notary Public or Commissioner for Oaths in)
and for the Province of Alberta)

ERIC HOFF

COURT FILE NUMBER 2001-05630

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 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.

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PARTY FILING THIS DOCUMENT AD HOC COMMITTEE OF BONDHOLDERS (DDJ CAPITAL MANAGEMENT, LLC, BARINGS LLC and BRIGADE CAPITAL MANAGEMENT, LP)

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4600 Eighth Avenue Place East
525 - Eighth Ave SW
Calgary, AB T2P 1G1

Attention: Kyle Kashuba
Telephone: + 1 403.776.3744
Fax: +1 403.776.3800
Email: kkashuba@torys.com
File No. 2001-05630

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Sworn on May 6, 2020

I, Eric Hoff, of the City of Waltham, in the State of Massachusetts, Senior Research Analyst of DDJ Capital Management, LLC, **MAKE OATH AND SAY THAT:**

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4. This Affidavit is being sworn in support of an application by the ad hoc committee (the “**Note Committee**”) of holders of the 7.125% senior secured second lien notes owed the equivalent of approximately CAD\$800,000,000 by Dominion Diamond Mines ULC (“**Dominion Diamond**” or the “**Company**”) for an order directing payment and reimbursement of reasonable out-of-pocket legal and financial advisory expenses incurred and expected to be incurred by the Note Committee during this critical early stage of the *Companies’ Creditors Arrangement Act* (“**CCAA**”) proceedings for Dominion Diamond and certain of its affiliates.
5. For the reasons stated in this Affidavit, I believe that such an order is necessary and appropriate for both (a) the effective representation of Note holder interests in these CCAA proceedings, and (b) the fairness and integrity of the CCAA process.

The Notes

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9. Washington Diamond is, directly or indirectly, the parent of all the other members of the Diamond Group.
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Initial Activities of the Note Committee

17. Although DDJ and the other members of the Note Committee started from a disadvantaged position given their lack of prior involvement and notice, these institutions have diligently worked towards ensuring the proper representation of the Note holders in these CCAA proceedings since first learning of them following their April 22, 2020 commencement.
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its advisors have been diligently engaged in this process over the last several days since gaining access.

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Proposed DIP Funding

26. Dominion Diamond and its affiliates that are subject to these proceedings have advised this Court and interested parties of their intention to seek debtor-in-possession ("DIP") financing to fund its activities during the CCAA proceedings.
27. The Note Committee is of the view that any such DIP funding, and the terms and conditions attached thereto, may critically impact the direction of these proceedings and the ability of all stakeholders to ensure a fair and reasonable process and outcome. Notable preliminary concerns are raised by, among other things, the disclosure by Dominion Diamond of its receipt of a DIP funding proposal from its current equity owner that would be conditional on an agreement to essentially re-sell itself to an affiliate of the owner.
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Effective Participation and Substantial Contribution to the Within Proceedings

31. As the largest creditors in these proceedings, the Note holders may be at risk of being most materially affected by them. Their proper representation is critical not only to their own interests, but to ensuring the fairness and integrity of these proceedings and all activities related to them.
32. These issues are heightened in this situation in view of the disclosure by the current ownership group, which no longer holds an economic interest in Dominion Diamond and its affiliated applicants in these proceedings, that it intends to tie its proposed DIP funding to its re-purchase of Dominion Diamond and its affiliates on currently undisclosed terms as to the treatment of the Notes and other stakeholders. Particularly in a debtor-in-possession process, in which the very board of directors appointed by the current ownership group will be reviewing, assessing and selecting alternative paths for the Company, serious process and conflict of interest issues are raised.
33. Moreover, the Note Committee is also starting from a disadvantaged position, not having been notified or consulted in advance about these proceedings and the issues that gave rise to them. Other persons, including the current ownership group, have had preferential access to the Company's confidential information for a far longer period of time.
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36. Although I recognize that the Company's liquidity must be managed prudently during the course of the CCAA proceedings, Dominion Diamond's disclosure reveals sufficient cash-on-hand to fund the Note Committee's reasonable out-of-pocket advisory expenses for the period up to the date on which the proposed DIP facility is approved by the Court.
37. In addition to the matters that I raised above, the Note Committee would be further disadvantaged if it was denied the requested funding even though other parties will be paid large professional costs from cash-on-hand that forms part of the Note holders' security. Specifically, I note that a very large provision of CAD\$11.645 million has been made in Dominion Diamond's cash flow projections for funding the costs that are expected to be incurred by various other professionals during the initial thirteen weeks of these proceedings alone.
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DIP funding proposal to Dominion Diamond. Looking ahead, we are also well-positioned to play a direct role in supporting or backstopping any potential restructuring or sales process.

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43. I believe that the funding of the Note Committee, in the manner requested, will promote the fairness and integrity of this process. Particularly given the uniquely sensitive issues being raised at an early stage in these proceedings, I believe that it would be of great benefit and would enhance both the fact and appearance of fairness for involved parties and market observers.
44. I respectfully ask that the Court grant the request of the Note Committee so that we can continue to move diligently towards a successful resolution to these proceedings.
 - a. Due to the circumstances of the COVID-19 pandemic, I am unable to be physically present to swear in this Affidavit. I, however, was linked by way of video technology to the Notary Public notarizing this document.
45. I swear this Affidavit in support of an application by the Note Committee for an Order directing and authorizing Dominion Diamond and its affiliates who are subject to these proceedings to promptly pay and reimburse the reasonable legal and financial advisory expenses incurred in

these proceedings by the Note Committee for the period up to the date on which a DIP facility is approved by the Court.

46. I make this Affidavit for no improper purpose.

SWORN BEFORE ME at Calgary, Alberta,)
this 6th day of May, 2020.)



_____)
Notary Public or Commissioner for Oaths in)
and for the Province of Alberta)

MIHAI TOMOS
BARRISTER AND SOLICITOR

_____) **ERIC HOFF**

AFFIDAVIT OF EXECUTION

C A N A D A) I, Mihai Tomos, of the
PROVINCE OF ALBERTA) City of Calgary in the Province of Alberta,
TO WIT:)
)
) MAKE OATH AND SAY THAT:

1. Due to the circumstances brought upon by the COVID-19 pandemic, I was personally in attendance by video technology and did see Eric Hoff, named in the within Affidavit, who on the basis of identification provided to me, I believe to be the person named therein, duly sign and execute the Affidavit for the purposes named therein.
2. I satisfied that the process of notarizing the Affidavit by video technology was necessary because it was impossible or unsafe, for medical reasons, for the deponent and the commissioner to be physically present together.
3. That the Affidavit was executed at the City of Wellesley, in the State of Massachusetts, and that I am the subscribing witness thereto.
4. I believe the person whose signature I witnessed is at least eighteen years of age.

SWORN BEFORE ME at the City of)
Calgary in the Province of Alberta,)
this 6th day of May, 2020.)
)
)
)
)
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)

Commissioner for Oaths and Notary
Public in and for the Province of Alberta

MIHAI TOMOS
BARRISTER AND SOLICITOR