

CLERK'S STAMP

COURT FILE NUMBER 2001-05630

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

JUDICIAL CENTRE CALGARY

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,
DOMINION FINCO INC. AND DOMINION DIAMOND MARKETING
CORPORATION**

DOCUMENT **APPLICATION (STAY EXTENSION)**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

BLAKE, CASSELS & GRAYDON LLP
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NOTICE TO RESPONDENTS:

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: October 30, 2020

Time: 10:00 am

Where: Calgary Courts Centre, 601 – 5th Street S.W., Calgary (Virtual Courtroom Via Webex)

Before: The Honourable Justice Eidsvik

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. This is an application by 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 (together, “**Dominion**” or the “**Applicants**”) for an order substantially in the form attached as **Schedule “A”** hereto extending the Stay Period (as defined in the Second Amended and Restated Initial Order of this Court dated June 19, 2019 (the “**SARIO**”)) from November 7, 2020 until and including December 15, 2020.

Grounds for making this application:

Capitalized terms

2. Capitalized terms not otherwise defined in this Notice of Application have the meanings ascribed to them in the SARIO and the affidavit of Brendan Bell sworn on October 23, 2020, as applicable.

Extension of the Stay Period is Necessary and Appropriate

3. Dominion has been working towards completing a going concern transaction since the commencement of these proceedings.
4. In furtherance of the Applicants’ restructuring objectives, on June 19, 2020, this Court granted the SARIO which, among other things, approved a SISP for the marketing and sale of the Applicants’ assets and a Stalking Horse Bid for the purpose of the SISP.

5. On October 5, 2020, after the implementation of the SISP, which did not result in any qualified bids other than the Stalking Horse Bid contemplated by the APA, Dominion served application materials in respect of a sale approval motion to be heard on October 14, 2020.
6. One of the material workstreams being undertaken in respect of the closing of the APA as of the filing of Dominion's sale approval application involved ongoing negotiations between the Stalking Horse Purchasers and Dominion's Surety Bond Issuers. Specifically, the APA contained a condition to closing that the Stalking Horse Purchasers and the Surety Bond Issuers enter into an agreement, in form and substance satisfactory to the Stalking Horse Purchasers, regarding the treatment of Dominion's existing surety bonds.
7. On October 9, 2020, five days before the October 14, 2020 hearing date for Dominion's sale approval application, Dominion issued a Press Release stating that there was no reasonable prospect of a satisfactory agreement among the Stalking Horse Purchasers and the Surety Bond Issuers regarding the surety bond closing condition in the APA and that as a result it was impractical to proceed with Dominion's application for court approval of the APA.
8. The break-down in negotiations between the Stalking Horse Purchasers and the Surety Bond Issuers had an obvious and significant impact on these CCAA proceedings.
9. With the transaction contemplated by the APA no longer an option, Dominion has been working diligently with the assistance of its legal counsel and Evercore, and in consultation with the Monitor and other stakeholders, to assess all of its available options at this time.
10. Over the course of the two week period since the issuance of the Press Release confirming the impasse between the Stalking Horse Purchasers and Dominion's Surety Bond Issuers, Dominion has engaged in discussions with numerous stakeholders including the First Lien Lenders, the Ad Hoc Group, the Government of the Northwest Territories, the Surety Bond Issuers, and others.

11. Dominion and its Independent Director remain of the view that Dominion's business has value, is deserving of being restructured and saved, and that a liquidation of Dominion's assets would not serve the interests of Dominion's stakeholders generally.
12. The Applicants' proposed stay extension from November 7, 2020 (which date coincided with the Outside Date under the SISP) up to and including December 15, 2020 is required to provide Dominion with the necessary time to continue discussions with stakeholders on a restructuring path that will benefit Dominion's stakeholders generally.
13. The Applicants have sufficient funds to fund their obligations and the cost of these CCAA proceedings through the end of the proposed Stay Period.
14. The Applicants have acted, and are continuing to act, in good faith and with due diligence in respect of these CCAA proceedings.

Material or evidence to be relied on:

15. The Applicants intend to rely upon the following materials:
 - (a) the affidavit of Brendan Bell sworn October 23, 2020;
 - (b) the Seventh Report of the Monitor, to be filed; and
 - (c) such further and other evidence as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

16. The Applicants will rely upon and refer to the following during the making of their Application:
 - (a) the CCAA;
 - (b) the Alberta *Rules of Court* (AR 124/2010); and
 - (c) such further and other Acts and regulations as counsel may advise.

Any irregularity complained of or objection relied on:

17. None.

How the application is proposed to be heard or considered:

18. Via WebEx before the Honourable Madam Justice K.M. Eidsvik.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes.

If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicants a reasonable time before the application is to be heard or considered

SCHEDULE "A"

Stay Extension Order

CLERK'S STAMP

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morgan.crilly@blakes.com
Fax No.: 604.631.3309

DATE ON WHICH ORDER WAS PRONOUNCED: October 30, 2020

LOCATION OF HEARING: Calgary

NAME OF JUDGE WHO MADE THIS ORDER: The Hon. Madam Justice K. Eidsvik

UPON the application 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 “**Applicants**”); **AND UPON** having read the notice of application of the Applicants, filed; and the Affidavit of Brendan Bell, sworn October 23, 2020, filed; **AND UPON** reading the Seventh Report of FTI Consulting Canada, Inc., filed; **AND UPON** hearing counsel for the Applicants, counsel for the Monitor, and any other counsel present;

IT IS HEREBY ORDERED AND DECLARED THAT:

Service

1. To the extent necessary the time for service of the notice of application for this order is hereby abridged and deemed good and sufficient and this application is properly returnable today.

Extension of Stay Period

2. The Stay Period (as defined in the Second Amended and Restated Initial Order of this Court dated June 19, 2020) is hereby extended until and including December 15, 2020.

Justice of the Court of Queen’s Bench of Alberta