

CLERK'S STAMP

COURT FILE NUMBER 2001-05630
COURT COURT OF QUEEN'S BENCH OF ALBERTA
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 THE
ADMINISTRATION OF THE DOMINION
RESIDUAL ASSET TRUST

DOCUMENT **ORDER (CCAA TERMINATION,
DISCHARGE OF MONITOR, ANCILLARY
RELIEF)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
BENNETT JONES LLP
Barristers and Solicitors
4500 Bankers Hall East
855-2nd Street S.W.
Calgary, Alberta T2P 4K7

Attention: Chris Simard and Kelsey Meyer
Telephone No.: 403-298-4485 / 403-298-3323
Fax No.: 403-265-7219
Client File No.: 76142.10

DATE ON WHICH ORDER WAS PRONOUNCED: **Friday, February 4, 2022**

LOCATION OF HEARING OR TRIAL: **Calgary Courts Centre**

NAME OF MASTER/JUDGE WHO MADE THIS ORDER: **The Honourable Justice K. M. Eidsvik**

UPON the application of FTI Consulting Canada Inc. in its capacity as the Court-appointed monitor (the "**Monitor**") of Dominion Diamond Mines ULC ("**DDM**"), 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**"), for an Order pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 as amended (the "**CCAA**"); AND UPON having read the application filed January 24, 2022, the Seventeenth Report of the Monitor dated January 24, 2022, (the "**Seventeenth Report**"), and the Supplemental Report to the Seventeenth Report of the Monitor, dated February 2, 2022 (the "**Supplemental Report**"), both filed; AND UPON hearing from counsel for the Monitor and from any other interested parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this Order, the Monitor's Seventeenth Report and the Supplemental Report is hereby abridged and is deemed good and sufficient.

APPROVAL OF ACTIVITIES

2. The Seventeenth Report and the activities and conduct of the Monitor as described in the Seventeenth Report are hereby approved.

APPROVAL OF FEES AND DISBURSEMENTS

3. The fees and disbursements of the Monitor for the period from April 22, 2020 to December 31, 2021 and the Monitor's estimated fees and disbursements to complete its remaining duties and the administration of these CCAA proceedings ("**CCAA Proceedings**"), as set out in the Seventeenth Report, are hereby approved.

4. The fees and disbursements of Bennett Jones LLP, in its capacity as counsel to the Monitor for the period from April 22, 2020 to December 31, 2021 and the estimated fees and disbursements of Bennett Jones LLP in connection with the completion by the Monitor of its remaining duties and the administration of the CCAA Proceedings, as set out in the Seventeenth Report, are hereby approved.

DISCHARGE OF THE MONITOR AND TERMINATION OF CCAA PROCEEDINGS

5. Upon the Monitor filing with the Clerk of the Court a certificate in the form attached hereto as **Schedule "A"** (the "**Monitor's Termination Certificate**") evidencing that all steps required to complete these CCAA Proceedings have been completed (including but not limited to making the distribution to Wilmington Trust, National Association, in its capacity as ~~the notes collateral agent~~ (Trustee, Notes Collateral Agent, Payment Agent, Transfer Agent and Registrar (collectively, the "2L Trustee")) under an indenture dated October 23, 2017 related to 7.125% Senior Secured Second Lien Notes due 2022 between Northwest Acquisition ULC, as Issuer, Dominion Finco Inc., as Co-Issuer, the Guarantors named therein and the 2L Trustee (as amended, the "2L Indenture"), on behalf of the senior secured second lien noteholders ~~(the "Second Lien Lenders") that was authorized by the~~ in accordance with the terms of the 2L Indenture (the "2L Trustee Distribution Order granted herein on January 28, 2022")):

- (a) the Monitor will have satisfied all of its duties and obligations pursuant to the CCAA and the Orders of the Court in respect of the CCAA Proceedings relating to the Applicants save and except as set out in paragraph 8 hereof;
- (b) FTI Consulting Canada Inc. shall be discharged as Monitor of the Applicants and as Trustee of the Creditor Trust (as defined in the Reverse Vesting Order granted November 16, 2021 in these CCAA Proceedings) and it shall have no further duties, obligations or responsibilities as Monitor or Trustee from and after such time, save and except as set out in paragraph 8 hereof;
- (c) these CCAA Proceedings will be deemed terminated without further Order of this Court;
- (d) the Monitor and its respective affiliates and officers, directors, partners, employees and agents (collectively the "**Released Parties**") shall be released and discharged from any and all claims that any person may have or be entitled to assert against the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or

in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the date of this Order in any way relating to, arising out of, or in respect of the CCAA Proceedings, or with respect to its conduct in the CCAA Proceedings (collectively, the "**Released Claims**"), and any such Released Claims are hereby released, stayed, extinguished and further barred and the Released Parties shall have no liability in respect thereof, provided that the Released Claims shall not include any claim or liability arising out of any gross negligence or willful misconduct on the part of the Released Parties; and

- (e) no action or other proceedings shall be commenced against any of the Released Parties in any way arising from or related to the CCAA Proceedings, except with prior leave of this Court on at least seven days' prior written notice to the Released Parties.

6. The Monitor shall deliver a filed copy of the Monitor's Termination Certificate to the service list maintained in the CCAA Proceedings.

7. Notwithstanding any provision of this Order and termination of the CCAA Proceedings, nothing herein shall affect, vary, derogate from, limit or amend any of the protections in favour of the Monitor at law or pursuant to the CCAA, the Initial Order or any other Order of this Court in the CCAA Proceedings.

8. Notwithstanding the discharge of FTI Consulting Canada Inc. as Monitor of the Applicants and the termination of the CCAA Proceedings upon the Monitor filing the Monitor's Termination Certificate, the Court shall remain seized of any matter arising from the CCAA Proceedings, and FTI Consulting Canada Inc. shall have the authority from and after the date of this Order to apply to this Court to address matters ancillary or incidental to the CCAA Proceedings, notwithstanding the termination thereof. FTI Consulting Canada Inc. is authorized to take such steps and actions as it deems necessary to address matters ancillary or incidental to its capacity as Monitor following the termination of the CCAA Proceedings, and in completing or addressing any such ancillary or incidental matters, FTI Consulting Canada Inc. shall continue to have the benefit of the provisions of the CCAA and provisions of all Orders made in the

CCAA Proceedings in relation to its capacity as Monitor, including all approvals, protections and stays of proceedings in favour of FTI Consulting Canada Inc. in its capacity as Monitor.

9. The Monitor is hereby authorized to destroy the Applicants' books and records no earlier than 30 days after filing the Monitor's Termination Certificate, subject to preserving any records as required by statute.

AUDIT PROTOCOL

10. The Audit Protocol (including the two forms of non-disclosure agreements) attached as **Schedule "B"** to this Order is hereby approved and the parties to the Audit Protocol are authorized and directed to perform their respective obligations thereunder.

11. For the avoidance of doubt, the existence and terms of the Audit Protocol do not and shall not i) impose any obligation on the 2L Trustee, ii) affect or alter the 2L Indenture or iii) affect, reduce or otherwise serve as a basis for disgorgement of any amounts paid pursuant to the 2L Trustee Distribution from any person or entity, including the 2L Trustee and its counsel and other professionals.

AID AND RECOGNITION

12. ~~11.~~ This Court hereby requests the aid and recognition of any Court, tribunal, regulatory or administrative body having jurisdiction in Canada, to give effect to this Order and to assist the Monitor in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such Orders and to provide such assistance to the Monitor as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

SERVICE OF ORDER

13. ~~12.~~ The Monitor shall serve this Order ~~on the persons listed on the service list in the CCAA Proceedings~~ by any of email, facsimile, courier, registered mail, regular mail, or personal delivery, and no persons other than those on the service list are required to be served with a copy of this Order.

J.C.Q.B.A.

SCHEDULE "A"

CLERK'S STAMP:

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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 THE
ADMINISTRATION OF THE DOMINION
RESIDUAL ASSET TRUST

DOCUMENT **MONITOR'S TERMINATION**
CERTIFICATE

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT: **BENNETT JONES LLP**
Barristers and Solicitors
4500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4K7

Attention: Chris Simard / Kelsey Meyer
Telephone No.: 403-298-4485 / 403-298-3323
Fax No.: 403-265-7219
Client File No.: 76142.10

RECITALS

A. 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**") sought and obtained protection from their creditors under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**") pursuant to the Initial Order of the Honourable Madam Justice

K. M. Eidsvik of the Court of Queen's Bench of Alberta (the "**Court**") dated April 22, 2020 (as amended and restated, the "**Initial Order**"). The Initial Order also appointed FTI Consulting Canada Inc. as monitor (the "**Monitor**") of the Applicants. The proceedings commenced by the Applicants under the CCAA will be referred to herein as the "**CCAA Proceedings**".

- B. Pursuant to paragraph 5 of the Order of the Honourable Justice K. M. Eidsvik made in these CCAA Proceedings on February 4, 2022 (the "**CCAA Termination Order**"), the Monitor shall be discharged and the CCAA Proceedings shall be terminated upon the Monitor filing this Monitor's Termination Certificate with the Court.

THE MONITOR CERTIFIES the following:

1. Pursuant to paragraph 5 of the CCAA Termination Order, and subject to paragraph 8 of the CCAA Termination Order, the Monitor hereby certifies that all steps required to complete the CCAA Proceedings have been completed.
2. This Monitor's Termination Certificate is dated _____.

FTI CONSULTING CANADA INC., in its capacity as Court-appointed Monitor of the Applicants, and not in its personal capacity

Per: _____

Deryck Helkaa
Senior Managing Director

SCHEDULE "B"
AUDIT PROTOCOL

Document comparison by Workshare 10.0 on Thursday, February 3, 2022
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Padding cell	

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