No. S-263255
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
ARCTIC CANADIAN DIAMOND COMPANY LTD., AND
BURGUNDY DIAMONDS (CANADA) LIMITED

NOTICE OF APPLICATION

Name of applicant: FTI Consulting Canada Inc. ("**FTI**").

To: The Service List, a copy of which is attached hereto as Schedule "A".

TAKE NOTICE that an application will be made by FTI to the Honourable Mr. Justice P. Walker at the courthouse at 800 Smithe Street, Vancouver, B.C., on July 27, 2026, at 10:00 a.m. for the orders set out in Part 1 below.

FTI estimates that the application will take **10 minutes (if unopposed)**.

This matter is not within the jurisdiction of an associate judge. Mr. Justice P. Walker is seized of this matter. The time for this application has been set with Scheduling.

Part 1: ORDERS SOUGHT

1. An order substantially in the form attached hereto as Schedule "B" (the "**Fee Approval Order**"):

   (a) approving the fees and disbursements of FTI incurred in its capacity as Court appointed Monitor (in such capacity, the "**Monitor**") of Arctic Canadian Diamond Company Ltd. ("**ACDC**") and Burgundy Diamonds (Canada) Limited ("**BDC**", and together, the "**Debtors**"), in these proceedings (the "**CCAA Proceedings**"), which were formerly under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for the period from April 24, 2026, to July 12, 2026 (the "**FTI Fee Period**") in the amount of $529,733.43, inclusive of applicable taxes (collectively, "**FTI's Fees**");

(b) approving the fees and disbursements of the Monitor's legal counsel, Fasken Martineau DuMoulin LLP ("**Fasken**"), for the period from April 28, 2026, to July 15, 2026 (the "**Fasken Fee Period**"), in the amount of $94,722.94, inclusive of applicable taxes (collectively, "**Fasken's Fees**");

(c) approving FTI's estimated further fees and disbursements of approximately $25,000 to $50,000, inclusive of applicable taxes (the "**FTI Fee Estimate**"), for the period from July 13, 2026, to July 31, 2026; and

(d) approving Fasken's estimated further fees and disbursements of approximately $10,000, inclusive of applicable taxes (the "**Fasken Fee Estimate**"), for the period from July 16, 2026, to July 31, 2026.

Part 2: FACTUAL BASIS

Overview[1]

2. FTI seeks approval of its fees and those of its counsel pursuant to the Order Made After Application granted in the CCAA Proceedings on July 14, 2026 (the "**Receivership Order**"), as further described below.

Background

3. The Debtors are subsidiaries of Burgundy Diamond Mines Ltd. ("**Burgundy**"), a publicly traded company listed on the Australian Stock Exchange.[2]

4. The Debtors form part of a group of entities owned and operated by Burgundy (the "**Burgundy Group**"), the business of which is the mining, production and sale of diamonds. ACDC is the primary operating entity of the Burgundy Group and is Canada's largest independent producer of natural and responsibly mined diamonds. ACDC owns and

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[1] Capitalized terms used and not otherwise defined in this Notice of Application have the meanings given to them in the Second Report of the Monitor dated July 13, 2026 (the "**Second Report**").

[2] Pre-Filing Report of the Proposed Monitor dated May 1, 2026 (the "**Pre-Filing Report**"), paras. 2, 9-10.

operates the Ekati Mine in the Northwest Territories, which is Canada's first surface and underground diamond mine, and has been in operation since 1998.

5. ACDC's first-ranking secured creditor is Canada Enterprise Emergency Funding Corporation ("**CEEFC**"). The Government of the Northwest Territories ("**GNWT**") is also a major stakeholder of the Debtors, being the holder of significant security to fund the environmental remediation and reclamation of the Ekati Mine.[3]

Procedural History

6. On May 1, 2026, this Court granted an order (the "**Initial Order**") in the CCAA Proceedings by which, among other things, the Debtors were granted protection under the CCAA, and the stay of proceedings (the "**Stay**") was extended to Burgundy. FTI was appointed Monitor under the Initial Order. That same day, FTI filed the Pre-Filing Report of the Proposed Monitor of even date (the "**Pre-Filing Report**") in connection with the Debtors' application for the Initial Order.

7. On May 11, 2026, at the comeback hearing, the Court granted a series of orders, including:

   (a) an order (the "**ARIO**") amending and restating the Initial Order, and, among other things: (i) providing for an extension of the Stay; and (ii) authorizing the Debtors to borrow under a credit facility (the "**DIP Facility**") from the Interim Lender (CEEFC) subject to the terms and conditions set forth in the Interim Financing Term Sheet (as such capitalized terms are therein defined); and

   (b) an order (the "**SISP Order**") approving a sales and investment solicitation process ("**SISP**") in respect of the Debtors or the Ekati Mine, and authorizing the Monitor, ACDC, and related persons to carry out the SISP.

8. Also on May 11, 2026, the Monitor filed the First Report of the Monitor dated May 8, 2026 (the "**First Report**") in support of the ARIO and the SISP Order.

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[3] Pre-Filing Report, paras. 13, 15.

9. The SISP and the terms of the Interim Financing Term Sheet were intertwined. The SISP required Potential Bidders to deliver Qualified LOIs to the Monitor by July 10, 2026 (the "**LOI Deadline**"), and the Interim Financing Term Sheet provided that the second tranche under the DIP Facility would only be made available on the date of the commencement of Phase 2 of the SISP (as such capitalized terms are defined in those documents).[4]

10. On July 13, 2026, the Monitor filed the Second Report of the Monitor of even date (the "**Second Report**", and together with the Pre-Filing Report and the First Report, the "**Monitor's Reports**"), in which it reported, among other things, that:

    (a) no Qualified LOIs were received by the LOI Deadline, and therefore the Debtors terminated the SISP with the agreement of the Monitor and the Interim Lender;

    (b) while the Interim Lender had advanced the initial tranche of the DIP Facility, given the above, the Interim Lender was not expected to fund the second tranche; and

    (c) therefore, in the absence of alternative funding, the Debtors were expected soon to be unable to meet their ongoing operating and administrative costs as they came due.

11. Also on July 13, 2026, the GNWT filed a Notice of Application in the CCAA Proceedings returnable July 14, 2026, seeking the Receivership Order.

12. On July 14, 2026, the Court granted the Receivership Order, which, among other things, appointed PricewaterhouseCoopers Inc. ("**PwC**") as receiver of the Debtors (in such capacity, the "**Receiver**"), and terminated the amended and restated initial order made in the CCAA Proceedings on June 11, 2026 (the "**ARIO**").

13. Specifically, with respect to the Monitor, the Receivership Order provided, among other things, that:

    (a) FTI was discharged with immediate effect, subject to it being authorized to:

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[4] Second Report, paras. 5, 7; Affidavit #2 of J. Alambre made May 8, 2026 ("**Alambre #2**"), Exhibit "A", p. 4.

(i) complete its mandate as Monitor and address any ancillary or incidental matters related thereto;

(ii) along with its counsel, assist the Receiver with the transition of the CCAA Proceedings to receivership proceedings, or with respect to any other matters relating to these proceedings, within the Receiver's discretion ((i) and (ii) together, the "**Transitional Work**"); and

(iii) seek orders on notice to the Service List (as therein defined) approving its fees and disbursements and that of its legal counsel incurred in connection with the CCAA Proceedings; and

(b) the Receiver shall pay the reasonable fees and disbursements of the Monitor and its legal counsel in connection with the Transitional Work.[5]

14. FTI now seeks the Fee Approval Order pursuant to the Receivership Order.

Fees

15. The particulars of FTI's Fees and Fasken's Fees (collectively, the "**Fees**") are summarized in the Affidavit #1 of Thomas Powell made July 20, 2026, and Affidavit #1 of Lisa Hiebert made July 20, 2026.

16. During the FTI Fee Period, inclusive of applicable taxes, FTI's Fees totalled $529,733.43.[6]

17. During the Fasken Fee Period, inclusive of applicable taxes, Fasken's Fees totalled $94,722.94.[7]

18. FTI, in its capacity as Monitor, has reviewed Fasken's invoices in respect of Fasken's Fees and concluded that they are reasonable and appropriate.[8]

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[5] Receivership Order, para. 4.

[6] Affidavit #1 of Thomas Powell, made July 20, 2026 ("**Powell #1**"), para. 6.

[7] Affidavit #1 of Lisa Hiebert, made July 20, 2026 ("**Hiebert #1**"), para. 6.

[8] Powell #1, paras. 13, 14.

19. For work done after the FTI Fee Period and the Fasken Fee Period through to July 31, 2026, including for Transitional Work done up to that date and to prepare for this application:

    (a) FTI estimates that its fees and disbursements will total approximately $25,000 to $50,000, inclusive of applicable taxes (i.e., the FTI Fee Estimate); and

    (b) Fasken estimates that its fees and disbursements will total approximately $10,000, inclusive of applicable taxes (i.e., the Fasken Fee Estimate).

20. For clarity, Transitional Work done by FTI and Fasken after August 1, 2026 (to the extent it is required), will be billed to and paid for by the Receiver in accordance with the terms of the Receivership Order, and is not captured by the FTI or Fasken Fee Estimates.

Part 3: LEGAL BASIS

21. FTI relies on the Receivership Order, the CCAA, the *Supreme Court Civil Rules*, the inherent and equitable jurisdiction of this Honourable Court, and such further and other legal bases as counsel may advise and this Honourable Court may allow.

22. The work performed by the Monitor and Fasken in respect of the Fees was done pursuant to, and in accordance with, among other things, the CCAA, the Initial Order, the ARIO, the SISP Order, and the various orders granted by this Court in the CCAA Proceedings.

The Fees are Fair and Reasonable

23. The overarching test on an application to pass accounts is "whether the fees are fair and reasonable in all the circumstances".[9]

24. Courts will consider the following non-exhaustive factors in assessing the reasonableness of a Monitor's fees, including the:

    (a) nature, extent and value of the estate's assets;

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[9] *Winalta Inc., Re*, 2011 ABQB 399, para. 30; cited with approval by Newbould J. in *Nortel Networks Corp., Re*, 2017 ONSC 673 ["***Nortel***"], para. 13.

(b) complications and difficulties encountered by the Monitor;

(c) degree of assistance provided by the debtor;

(d) time spent by the Monitor;

(e) the Monitor's knowledge, experience, and skill;

(f) diligence and thoroughness displayed by the Monitor;

(g) responsibilities assumed;

(h) results of the Monitor's efforts; and

(i) the costs of comparable services.[10]

25. Similar factors as considered on the assessment of a Monitor's fees are considered on the assessment of the accounts of legal counsel to the Monitor, including, the following:

(a) time expended;

(b) complexity of the proceedings;

(c) degree of responsibility assumed by the lawyers;

(d) amount of money involved, including reference to the debt, amount of proceeds after realization and payments to the creditors;

(e) skill and experience of the lawyers involved;

(f) results achieved; and

(g) client's expectations as to the fee.[11]

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[10] *Nortel*, *supra*, para. 14.

[11] *Redcorp Ventures Ltd. (Re)*, 2016 BCSC 188 ["***Redcorp***"], para 33.

26. On an application to approve a Monitor's accounts and the accounts of its legal counsel, the accounts should:

(a) be verified by affidavit;

(b) contain sufficient evidence to permit the court to conclude that what was incurred for services rendered was at the standard rates and charges of the monitor and monitor's counsel; and

(c) provide a sufficient description of the services rendered to permit the court to determine whether the liability for fees was "properly…made or incurred".[12]

27. It is not necessary to go through the supporting documentation for the fees line by line in order to determine their appropriateness. Nor is the court to second-guess the amount of time claimed unless it is clearly excessive or overreaching.[13]

28. In respect of FTI's Fees, FTI submits that:

(a) they were properly incurred, and commensurate with fees charged by other insolvency firms of a similar size for work of a similar nature and complexity in British Columbia;

(b) the work completed by the Monitor was delegated to the appropriate professionals with the appropriate seniority and hourly rates; and

(c) the Monitor's services were performed in a prudent and economical manner.[14]

29. Similarly, FTI submits that Fasken's Fees are fair and reasonable in the circumstances because:

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[12] *Redcorp*, *supra*, paras. 26, 32.

[13] *Bank of Nova Scotia v. Diemer*, 2014 ONSC 365, para. 19.

[14] Powell #1, para. 10.

(a) Fasken's professional fees and disbursements were properly incurred, and commensurate with fees charged by similar firms with the expertise and capacity to serve a matter of comparable size and complexity;

(b) the work completed by Fasken was delegated to the appropriate professionals with the appropriate seniority and hourly rates;

(c) Fasken's services were performed in a prudent and economical manner; and

(d) Fasken's invoices were provided to the Monitor when rendered, and all have been approved by FTI.[15]

30. Generally speaking, the Monitor submits that the Fees are fair and reasonable in the circumstances. More specifically, the Fees were incurred in the context of the CCAA Proceedings, which were large, conducted on a time-sensitive basis, and involved, among other things: conducting the SISP as prescribed in the SISP Order; addressing issues related to the operation of the Ekati Mine; communicating extensively and on an ongoing basis with key stakeholders (including the GNWT and the Interim Lender); and ultimately transitioning the CCAA Proceedings to a receivership. The work required of the Monitor and its counsel included responding to evolving circumstances, often on compressed timelines, including to prepare the Monitor's Reports on stakeholder issues as they arose. The Monitor's activities, which have been approved by this Court, are detailed in the Monitor's Reports filed in the CCAA Proceedings, as well as in its invoices.

31. For the foregoing reasons, FTI respectfully submits that the Fees should be approved.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 T. Powell, made July 20, 2026;

2. Affidavit #1 of L. Hiebert, made July 20, 2026;

3. Affidavit #2 of J. Alambre made May 8, 2026;

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[15] Hiebert #1, para. 12.

4. the Monitor's Reports;

5. the Initial Order, ARIO, SISP Order, and Receivership Order; and

6. such further and other materials as counsel may advise and this Honourable Court may allow.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application,

(a) file an Application Response in Form 33,

(b) file the original of every affidavit, and of every other document, that

  (i) you intend to refer to at the hearing of this application, and

  (ii) has not already been filed in the proceeding, and

(c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:

  (i) a copy of the filed Application Response;

  (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

  (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: 20-Jul-2026

Signature of Glen Nesbitt
Lawyer for the Applicant

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs .... of Part 1 of this Notice of Application

☐ with the following variations and additional terms:

.... Date: .... Signature of ☐ Judge ☐ Associate Judge

The Solicitors for the Applicant are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 550 Burrard Street, Suite 2900, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232 (Reference: Lisa Hiebert/ 304091.00010)

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above

SCHEDULE "A"

Service List

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**IN THE MATTER OF THE RECEIVERSHIP OF
ARCTIC CANADIAN DIAMOND COMPANY LTD., AND
BURGUNDY DIAMONDS (CANADA) LIMITED**

<u>SERVICE LIST</u>

Updated July 17, 2026

Osler, Hoskin & Harcourt LLP	**PricewaterhouseCoopers Inc.**
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SCHEDULE "B"

Fee Approval Order

No. S-263255
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IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE RECEIVERSHIP OF
ARCTIC CANADIAN DIAMOND COMPANY LTD., AND
BURGUNDY DIAMONDS (CANADA) LIMITED

ORDER MADE AFTER APPLICATION

BEFORE	THE HONOURABLE MR. JUSTICE P. WALKER	)	July 27, 2026

ON THE APPLICATION OF FTI Consulting Canada Inc. ("**FTI**"), coming on for hearing at Vancouver, British Columbia, on this day, AND ON HEARING Glen Nesbitt, counsel for FTI, and those other counsel listed on Schedule "A" hereto; AND UPON READING the materials filed, including the Pre-Filing Report of the Proposed Monitor dated May 1, 2026, the First Report of the Monitor dated May 8, 2026, the Second Report of the Monitor dated July 13, 2026, the Affidavit #1 of T. Powell made July 20, 2026, the Affidavit #1 of L. Hiebert made July 20, 2026, and the other materials filed herein;

THIS COURT ORDERS that:

1. FTI's accounts for professional fees and disbursements incurred in its capacity as Court-appointed Monitor of Arctic Canadian Diamond Company Ltd. and Burgundy Diamonds (Canada) Limited in these proceedings (in such capacity, the "**Monitor**") for the period April 24, 2026, to July 12, 2026, in the amount of $529,733.43, inclusive of applicable taxes, be and are hereby approved.

2. The Monitor's estimated further fees and disbursements of approximately $25,000 to $50,000 (inclusive of applicable taxes) for the period from July 13, 2026 to July 31, 2026, be and are hereby approved.

3. The accounts for professional fees and disbursements of the Monitor's legal counsel, Fasken Martineau DuMoulin LLP ("**Fasken**"), for the period April 28, 2026, to July 15,

2026, in the amount of $94,722.94, inclusive of applicable taxes, be and are hereby approved.

4. Fasken's estimated further fees and disbursements of approximately $10,000 (inclusive of applicable taxes) for the period from July 16, 2026 to July 31, 2026, be and are hereby approved.

5. FTI may apply to this Court for advice and directions in relation to this Order and any related matters.

6. Endorsement of this Order by counsel appearing, other than counsel for FTI, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

____

Signature of Glen Nesbitt
Lawyer for the Applicant

BY THE COURT

____

REGISTRAR

SCHEDULE "A"

List of Counsel

Counsel	Party

No. S-263255
Vancouver Registry

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ORDER MADE AFTER APPLICATION

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