

C A N A D A
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

Nº: 500-11-063053-231

SUPERIOR COURT
(Commercial Division)

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

STORNOWAY DIAMONDS (CANADA) INC.

-and-

11272420 CANADA INC.

Debtors

-and-

DELOITTE RESTRUCTURING INC.

Monitor

APPLICATION FOR THE ISSUANCE OF APPROVAL AND VESTING ORDERS
(*Companies' Creditors Arrangement Act*, RSC (1985), c C-36, Sections 9, 10, 11 and 36
(hereinafter the **CCAA**))

**TO THE HONOURABLE KAREN M. ROGERS, J.S.C., OR ONE OF THE
HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN THE
COMMERCIAL DIVISION FOR THE DISTRICT OF MONTRÉAL, THE DEBTORS
RESPECTFULLY SUBMIT:**

I. INTRODUCTION

1. On this application, Stornoway Diamonds (Canada) Inc. (**SDCI**) and 11272420 Canada Inc. (**1127**, and collectively with SDCI, the **Debtors**) seek the issuance of two orders approving the sale of certain Non-Core Assets to New Gold Inc. (**New Gold**), namely:
 - a) an order approving the sale of the Mobile Camps (as defined below) pursuant to an asset purchase agreement entered into between the Debtors and New Gold on April 11, 2025 (the **Mobile Camps Purchase Agreement**), substantially in the form of the draft order communicated herewith as **Exhibit R-1** (the **Mobile Camps AVO**); and
 - b) an order approving the sale of Non-Core Equipment (as defined below) pursuant to an asset purchase agreement entered into between the Debtors

and New Gold on April 11, 2025 (the **Equipment Purchase Agreement**, and collectively with the **Mobile Camps Purchase Agreement**, the **Purchase Agreements**), substantially in the form of the draft order communicated herewith as **Exhibit R-2** (the **Non-Core Equipment AVO**).

2. In support of this Application and the relief sought herein, Deloitte Restructuring Inc. (the **Monitor**) will file a report entitled *Ninth Report to the Court submitted by Deloitte Restructuring Inc.* (the **Ninth Report**), a copy of which will be communicated as **Exhibit R-3**.
3. It is respectfully submitted that issuing the sought orders is necessary and appropriate in the circumstances of this case and is in the best interest of the Debtors and all their stakeholders.

II. THE SALE OF NON-CORE ASSETS TO NEW GOLD INC.

A. Non-Core Assets

4. On April 4, 2024, this Court issued an Approval Order approving a Call Option Agreement entered into between Winsome and the Debtors (as amended and restated, the **Call Option Agreement**).¹
5. The Call Option Agreement provides for the Debtors' right to sell, transfer or otherwise dispose of the Non-Core Assets (as defined in the Call Option Agreement), namely to allow the Debtors to monetize such assets.
6. The Debtors, in consultation with the Monitor, identified a list of Non-Core Assets which could be monetized in the first phase of the liquidation of the Non-Core Assets, given that certain other Non-Core Assets were being utilized by the Debtors for the extraction and treatment of diamonds.
7. This resulted in a sale of certain Non-Core Assets to Accès Industriel Minier Inc., as approved by this Court on August 16, 2024.
8. Then the Debtors, in consultation with the Monitor, further identified a list of Non-Core Assets which could be monetized in the second phase of the liquidation, namely:

¹ On February 24, 2025, the Honourable Karen M. Rogers, J.S.C., issued an Approval Order approving a Second Amended Call Option Agreement entered into between Winsome and the Debtors.

- a) the mobile camps, identified by asset numbers 080124, 080125 and 080126 (the **Mobile Camps**);
 - b) and a list of equipment (the **Non-Core Equipment**) being some of the monetizable Non-Core Assets to be sold in the second phase of liquidation.
9. It is important to note that the Mobile Camps had been subject to the first phase of the liquidation, but the offer received was refused by the Debtors, in consultation with the Monitor and the Secured Creditors, as further detailed below.
10. The Debtors have received several offers for the acquisition of the Mobile Camps and the Non-Core Equipment and ultimately selected two successful bids, in consultation with the Monitor and with the approval of the Secured Creditors. Caterpillar Financial Services Limited (**CAT Financial**), which holds a first-ranking hypothec on certain of the Non-Core Equipment, has also provided its approval. The Debtors now seek Court approval for these transactions, as further described below.

B. The Call for Tenders – Mobile Camps

11. Further to the first phase of the liquidation during which the Mobile Camps were marketed, on August 28, 2024, with the approval of the Secured Creditors, Stornoway distributed to potentially interested parties call for tender documentation, which included, *inter alia*, the terms and conditions of the call for tenders, as well as a description of the Mobile Camps for sale (the **Mobile Camps Call for Tenders**).
12. Stornoway's Mobile Camps were included in the first phase of the liquidation of the Non-Core Assets, for which Stornoway and the Monitor solicited 60 potential buyers. Stornoway, with the assistance of the Monitor, only received one offer for the Mobile Camps before the bid deadline on June 28, 2024. This offer was declined by Stornoway, the board members, and the Secured Creditors.
13. Considering the material estimated realization value of Stornoway's Mobile Camps, another sale process aimed specifically at those camps has been initiated by Stornoway, with the assistance of the Monitor. Potential buyers had until October 15, 2024, to submit a bid.
14. Following the bid deadline, the Monitor received three additional bids. A summary of the bids received can be found at Appendix A of the Monitor's Eight Report (under seal).

15. On December 17, 2024, Stornoway, with the approval of the Monitor and the Secured Creditors, notified New Gold that its bid had been selected as the successful bid (the **Successful Mobile Camps Bid**).
16. Stornoway and New Gold then proceeded to negotiate the Mobile Camps Purchase Agreement for which they are now seeking Court approval, the whole as further described below. A copy of the Mobile Camps Purchase Agreement for which approval is sought is communicated herewith under seal as **Exhibit R-4**.
17. Pursuant to the proposed Mobile Camps AVO (Exhibit R-2), the purchase price payable pursuant to the Mobile Camps Purchase Agreement will be held in trust by the Monitor until this Court determines whether the legal hypothec of Gestion Houde Inc. affects the Mobile Camps, or until a final settlement is reached between the parties.

C. The Call for Tenders – Non-Core Equipment

18. On or after October 16, 2024, with the approval of the Secured Creditors, Stornoway distributed to potentially interested parties call for tender documentation, which included, *inter alia*, the terms and conditions of the call for tenders, as well as the complete list of the Non-Core Equipment for sale (the **Equipment Call for Tenders**, and collectively with the **Mobile Camps Call for Tenders**, the **Calls for Tenders**). A total of 12 potentially interested parties were solicited.
19. The deadline for submitting binding offers was set for December 20, 2024.
20. On December 20, 2024, the Monitor received 11 binding bids from five (5) potential buyers as two (2) of them submitted multiple bids. A summary of the bids received can be found at Appendix B of the Eight Report (under seal).
21. On January 14, 2025, Stornoway, with the approval of the Monitor and the Secured Creditors, notified New Gold that its bid had been selected as the successful bid (the **Successful Equipment Bid**).
22. Stornoway and New Gold then proceeded to negotiate the Equipment Purchase Agreement for which they are seeking Court approval, the whole as further described below. A copy of the Equipment Purchase Agreement is communicated herewith under seal as **Exhibit R-5**.

D. Grounds for Approval of the Proposed Transactions

23. The Debtors are seeking the approval of the Mobile Camps transaction (the **Mobile Camps Transaction**) contemplated in the Mobile Camps Purchase Agreement and the approval of the Equipment transaction (the **Equipment Transaction**, and collectively with the **Mobile Camps Transaction**, the **Proposed Transactions**).
24. Pursuant to the Mobile Camps Transaction, the Debtors will sell to New Gold the Mobile Camps (as defined in the Purchase Agreement) on an “as is, where is” basis and free and clear of any encumbrances.
25. Pursuant to the Equipment Transaction:
 - a) The Debtors will sell to New Gold the Purchased Assets (as defined in the Purchase Agreement) on an “as is, where is” basis and free and clear of any encumbrances; and
 - b) the Purchased Assets consist of 43 out of the 88 Non-Core Assets marketed as part of the Equipment Call for Tenders.
26. The Proposed Transactions are not subject to any financing conditions but are conditional on the approval of the Court and the issuance of two orders substantially in the form of the proposed Mobile Camps AVO and Non-Core AVO (Exhibits R-1 and R-2).
27. The Proposed Transactions should be approved by the Court, namely for the following reasons:
 - a) The Calls for Tenders were conducted by the Debtors, in consultation with the Monitor and the Secured Creditors, in accordance with the terms and conditions of the Calls for Tenders;
 - b) The market has been thoroughly canvassed through a fulsome, fair and transparent process, and the transactions provided for in the Proposed Transactions represents the best transactions and outcomes resulting from the Calls for Tenders, for the benefit of the stakeholders of the Debtors as a whole;
 - c) The Proposed Transactions comply with the terms of the Calls for Tenders;
 - d) The Secured Creditors, as well as CAT Financial, who holds a first-ranking hypothec on certain of the Purchased Assets, have been consulted and consent, or otherwise do not oppose, the Proposed Transactions;

- e) The Monitor is of the opinion that the Proposed Transactions are more beneficial to the Debtors' creditors than a disposition of the Purchased Assets and the Mobile Camps in the context of a bankruptcy.
- 28. Considering the foregoing, the Monitor supports the relief sought herein by the Debtors.
- 29. Therefore, the Debtors submit that it is appropriate and reasonable for this Court to approve the Proposed Transactions and to issue the proposed Mobile Camps AVO and Non-Core AVO (Exhibits R-1 and R-2).

III. OTHER RELIEF SOUGHT

A. Sealing of Confidential Documents

- 30. Certain exhibits filed in support of this Application contain commercially sensitive information related to the affairs of the Debtors and sensitive information related to the remuneration of the Debtors' officers.
- 31. It is respectfully submitted that the confidentiality of such information should be preserved and that it should be ordered that Exhibits R-4 and R-5 to the Application be kept confidential and filed under seal until further order of this Court.

IV. CONCLUSION

- 32. For the reasons set forth above, the Debtors believe it is both appropriate and necessary that the relief sought herein be granted.
- 33. The Debtors request that the proposed orders be rendered executory notwithstanding appeal, notably given (i) the Debtors' officers' contributions to the restructuring efforts, and (ii) the benefits of completing the sale of the Purchased Assets and the Mobile Camps as soon as possible.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present *Application for the Issuance of Approval and Vesting Orders*;

ISSUE an Approval and Vesting Order for the Mobile Camps Transaction substantially in the form of the draft order communicated herewith as Exhibit R-1;

ISSUE an Approval and Vesting Order for the Equipment Transaction substantially in the form of the draft order communicated herewith as Exhibit R-2;

THE WHOLE without costs, save and except in case of contestation.

Montréal, April 11, 2025

Norton Rose Fulbright Canada LLP

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AFFIDAVIT

I, the undersigned, Patrick Sévigny, President and Chief Executive Officer, duly authorized director of the Debtors, having my professional domicile at 1 Place Ville Marie, bureau 2500, Montréal, province de Québec, H3B 1R1, solemnly declare that all the facts alleged in the present *Application for the Issuance of Approval and Vesting Orders* are true.

AND I HAVE SIGNED



Patrick Sévigny

SOLEMNLY DECLARED before me by technological means, this April 11, 2025. The Affiant is in the city of Candiac and the Commissioner of Oaths is in the city of Châteauguay.



Commissioner of Oaths for the Province of Québec

NOTICE OF PRESENTATION

TO: The Service List

TAKE NOTICE that the present *Application for the Issuance of Approval and Vesting Orders* will be presented for adjudication before the Honourable Justice Karen M. Rogers of the Superior Court of Québec in the Montréal Courthouse located at 1, Notre-Dame Street East, Montréal, Québec, on **April 17, 2025 at 9:30 a.m. in a room to be communicated to the Service List.**

DO GOVERN YOURSELF ACCORDINGLY.

Montréal, April 11, 2025

Norton Rose Fulbright Canada LLP

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PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT

Nº: 500-11-063053-231

Commercial Division
(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act,
R.S.C., c. C-36, as amended)

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-and-

11272420 CANADA INC.

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DELOITTE RESTRUCTURING INC.

Monitor

**LIST OF EXHIBITS IN SUPPORT OF THE APPLICATION FOR THE ISSUANCE OF
APPROVAL AND VESTING ORDERS**

Exhibit R-1: Draft Approval and Vesting Order for the Mobile Camps Transaction;

Exhibit R-2: Draft Approval and Vesting Order for the Non-Core Equipment Transaction;

Exhibit R-3: Ninth Report to the Court submitted by Deloitte Restructuring Inc.;

Exhibit R-4: Copy of the Mobile Camps Purchase Agreement (**under seal**); and

Exhibit R-5: Copy of the Equipment Purchase Agreement (**under seal**).

Montréal, April 11, 2025

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**IN THE MATTER OF THE COMPANIES'
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**APPLICATION FOR THE ISSUANCE OF AN
APPROVAL AND VESTING ORDER
(Companies' Creditors Arrangement Act, R.S.C.
(1985), ch. C-36, Sections 9, 10, 11 and 36)**

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