

VAIS C A N A D A
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)

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/Applicants

-and-

DELOITTE RESTRUCTURING INC.

Monitor

**APPLICATION FOR THE ISSUANCE OF A FIFTH AMENDED AND
RESTATED INITIAL ORDER AND A RELEASE ORDER**

(*Companies' Creditors Arrangement Act*, R.S.C. (1985), c C-36, Sections
9, 10, 11, 11.02, 11.03, 11.51 and 11.52 (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. In this application (this **Application**), the Debtors seek the issuance of a Fifth Amended and Restated Initial Order (the **Fifth ARIO**) pursuant to the *Companies' Creditors Arrangement Act* (**CCAA**), increasing the Monitor's powers.
2. Alongside the Fifth ARIO, the Debtors request an order releasing the directors and officers (**D&Os**) as a result of the increased Monitor's powers, notably in respect

of claims and liabilities that lie or may lie against them for statutory and environmental obligations.

II. BACKGROUND

A. The Sale and Investment Solicitation Processes of the Debtors

3. On October 27, 2023, this Court granted Stornoway Diamonds (Canada) Inc.'s (**SDCI**) and 11272420 Canada Inc.'s (**1127**, and collectively with SDCI, the **Debtors**) *Application for the Issuance of an Initial Order, an Amended Restated Initial Order and Ancillary Relief*, and issued an Initial Order under the CCAA (as amended and restated, the **Initial Order**), as well as a Sale and Investment Solicitation Process Approval Order with respect to the implementation of a solicitation process (the **SISP**).
4. On April 2, 2024, following the completion of the SISP in respect to the Debtors' business and assets, the Debtors granted Winsome Resources Ltd. (**Winsome**) an exclusive call option (the **Call Option**) to acquire, at Winsome's election and in its sole discretion, either the assets of SDCI, or the shares of 1127. The Call Option was granted to Winsome until September 30, 2024.
5. On April 4, 2024, this Court issued an Approval Order approving the Call Option Agreement.
6. On December 3, 2024, the Debtors and Winsome entered into an Amended and Restated Call Option Agreement (the **ARCO**) pursuant to which the parties agreed to notably restructure the transaction consideration, with no impact on the total consideration.
7. On February 12, 2025, the Debtors and Winsome entered into a Second Amended and Restated Call Option Agreement (the **SARCO**), the terms of which supersede those of the ARCO, as appears from the SARCO.
8. On July 28, 2025, Winsome delivered a termination notice to the Debtors thereby terminating the SARCO with immediate effect (the **Termination**).
9. Consequently, as of July 28, 2025, and in accordance with Section 2.3(5)(b)(i) of the SARCO, Winsome became bound to pay the sum of \$2,000,000 to the Debtors (the **Break Fee**) within five (5) business days, i.e., on or before August 4, 2025. Winsome failed to pay the Break Fee as required under the SARCO and accordingly, this matter is currently before this Court pending adjudication.
10. Despite the considerable efforts of the Debtors and the Monitor, none of the other parties contacted expressed any interest in acquiring the Debtors' business, nor have the Debtors come to an acceptable agreement with Winsome at this stage.

B. The Environmental Remediation Efforts of the Debtors

11. The Debtors, acting out of caution and prudent foresight, began considering the potential cessation of their mining operations in the event that Winsome decided not to exercise its Call Option and efforts to canvass the market were unsuccessful. This scenario would require the environmental rehabilitation and restoration of the site.
12. Accordingly, as of February 2025, with support from the Monitor, the Debtors began consulting environmental experts and developing their end-of-life rehabilitation and restoration plan, which is subject to approval by the *Ministère des Ressources naturelles et des Forêts (MRNF)*.
13. As such, and as appears from the Monitor's Eleventh Report (the **Report**), which will be communicated in support hereof as **Exhibit R-1**, the Debtors took steps to, *inter alia*:
 - (a) hire consultants to prepare the final restoration plan of the Renard Mine;
 - (b) develop a comprehensive timeline outlining all activities to be undertaken from the initial preparations through to the completion of the Renard Mine restoration project;
 - (c) ensure that the Streamers and Diaquem, the Debtors' primary secured creditors, are kept informed of all actions taken and work completed in preparation for the final restoration plan;
 - (d) conduct fieldwork for environmental characterization and hazardous materials characterization via consultants; and
 - (e) develop a comprehensive plan for the restoration work, coordinating efforts with the strategic monetization of their remaining assets.
14. As of the date of this Application, certain rehabilitation and restoration steps have been taken with ongoing consultation and with fieldwork progressing diligently. The Debtors have coordinated with the Monitor and all relevant experts to ensure that each milestone is met as planned, thereby maintaining momentum in the transition from active operations to responsible closure and asset monetization.

III. THE ORDERS SOUGHT

15. In this context, the Debtors hereby seek the issuance of a Fifth ARIO substantially in the form of the draft order communicated herewith as **Exhibit R-2** (the **Draft Fifth ARIO**) providing for, *inter alia*:
 - (a) Expanded Powers of the Monitor: expanded powers of the Monitor, as further described in Section II of the present Application; and

- (b) Extension of the Stay Period: the extension of the Stay Period until January 23, 2026.

A copy of the redline documents comparing the Draft Fifth ARIO to the Fourth Amended and Restated Initial Order dated October 8, 2024 (as amended from time to time), is communicated herewith as **Exhibit R-3**.

16. As of the date of this application, the successful restructuring of the Debtors as a going-concern is not anticipated. Consequently, the Debtors' focus has shifted to the closure of the Renard Mine, as well as environmental rehabilitation and restoration and ultimate distribution to creditors. As such, the involvement and presence of the D&Os is no longer required.
17. In recognition of the substantial efforts and contributions made by the Debtors' D&Os, as further detailed hereunder, the Debtors respectfully seek an order granting them full and final releases (the **Releases**) from any and all claims or liabilities arising out of, or connected to, the Debtors' insolvency, the restructuring proceedings, and the environmental remediation activities at the Renard Mine. These Releases are sought to ensure that the D&Os who have stewarded the Debtors restructuring proceedings are protected as the focus shifts toward the definitive cessation of all operations. As such, the Debtors hereby seek the issuance of a Release Order substantially in the form of the draft order communicated herewith as **Exhibit R-4** (the **Draft Release Order**).
18. The Secured Creditors have been consulted and consent, or otherwise do not oppose, to the present Application. The Monitor also supports the relief herein sought by the Debtors.

A. Increasing the Powers of the Monitor

19. The Monitor has been actively involved throughout the restructuring proceedings such that it has developed a comprehensive understanding of the Debtors' activities and assets. Accordingly, the Monitor is best placed to further monetize the Debtors' remaining assets and take the necessary steps regarding SDCI's end-of-life environmental obligations, notably the consultation of the various stakeholders, with the oversight and consent of the Secured Creditors, as required.
20. The Debtors propose that the Monitor be authorized to oversee and manage the liquidation of the Debtors. Considering the Monitor's ongoing engagement during the restructuring process, the Debtors respectfully submit that authorizing the Monitor to supervise the liquidation will ensure that it proceeds in an organized and efficient manner.
21. Due to the specific characteristics of the Debtors' operations and the complexity involved, they recommend that all such further actions occur within the framework of these CCAA proceedings.

22. The Draft Fifth ARIO contemplates broader powers for the Monitor. The Monitor would notably be empowered to exercise:
- a) all powers necessary to assist the Debtors with the cessation of their mining activities, as well as the sale and disposition of their remaining assets and distribution to the creditors;
 - b) all powers necessary to assist the Debtors in communications with their creditors and other stakeholders, including with the MRNF;
 - c) all powers necessary to assist SDCI with its end-of-life environmental obligations, including obtaining the MRNF's approval; and
 - d) all powers necessary to act for and on behalf of the Debtors (without personal or corporate liability), to report to this Court in respect of all of the foregoing, as well as to the creditors and other stakeholders.
23. The Debtors respectfully submit that the increase of the Monitor's powers, as contemplated in the Draft Fifth ARIO, will ensure maximum efficiency in the cessation of the Debtors' activities.
24. The Monitor has advised the Debtors that it is prepared to continue to act as Monitor with the increased powers being sought in order to allow for the orderly cessation of the Debtors' activities, the liquidation of the Debtors' remaining assets and ultimate distribution to the creditors as well as the other remaining steps relating to the rehabilitation and restoration of the site, the whole in consultation with the Secured Creditors and other stakeholders, including the MRNF.

B. D&O Releases

25. As part of the present Application, the Debtors also request that their D&Os be granted full and final releases from all present and future claims and liabilities for which they may be liable for any act, omission or representations in their capacity as D&Os of the Debtors, with the exception of (i) claims for intentional or gross fault, and (ii) claims that are not permitted to be released pursuant to section 5.1(2) of the CCAA (the **Released Claims**).
26. The Released Claims covered by the proposed Releases are rationally connected to the Debtors' restructuring, particularly as:
- (a) the D&Os have been instrumental to the Debtors' restructuring efforts in that their feet were closely held to the fire, even when a successful restructuring could no longer be reasonably envisioned;
 - (b) the Releases will ultimately have the effect of diminishing claims against the released parties, which in turn will diminish any indemnification claims by the D&Os against the Debtors, which ultimately benefits the Debtors and their stakeholders; and

- (c) the Releases will allow for the discharge of the D&O Charge.¹
27. Each of the D&Os has participated, contributed and supported to the Debtors' restructuring efforts both prior to and after the commencement of these CCAA proceedings, without any remuneration for the majority of them. More specifically:
- (a) over the course of the past years, including prior to the initiation of these CCAA proceedings, the Released Parties have worked tirelessly with the Debtors and their principal stakeholders with a view to secure one or more restructuring transactions that would allow the maximization of creditor recovery, the pursuit of the Debtors' business and operations as a going concern and, ultimately, maintaining employment for as many employees as possible;
 - (b) the Released Parties were instrumental in the Debtors' ongoing restructuring efforts, which include, *inter alia*:
 - i. actions to optimize working capital and reduce operating costs, including the implementation of a cold care and maintenance;
 - ii. steps to sell non-core assets in order to enhance liquidities;
 - iii. implementation and execution of five (5) milling campaigns;
 - iv. proactive steps to maintain an important level of employment;
 - v. communication, consultation, coordination and negotiations with senior secured lenders;
 - vi. conducting the SISP;
 - vii. commencement and conduct the restructuring proceedings; and
 - viii. negotiations and regular communications with Winsome, including by providing them with the operational and financial information necessary for it to complete its due diligence process with a view to secure a transaction.
28. In fact, the aforementioned restructuring efforts have required ample time, energy and resources from the D&Os. Namely, since the Initial Order:
- (a) the board of directors of SDCI has met no less than 48 times,² including one special meeting held on March 28, 2024;

¹ As defined in the Draft Fifth ARIO, communicated herewith as **Exhibit R-2**.

² The board of SDCI formally met at the following dates: 2023-11-07; 2023-11-14; 2023-11-15; 2023-11-28; 2023-12-13; 2023-12-21; 2024-01-16; 2024-01-19-AM; 2024-01-19-PM; 2024-01-30; 2024-02-06; 2024-02-08; 2024-02-27; 2024-03-07; 2024-03-19; 2024-03-25; 2024-03-27; 2024-04-09; 2024-04-23; 2024-05-14; 2024-06-03; 2024-06-07; 2024-06-18; 2024-07-09; 2024-07-23; 2024-07-26; 2024-08-14; 2024-08-23; 2024-09-17; 2024-10-08; 2024-10-22; 2024-11-14; 2024-12-03; 2024-12-17; 2025-01-07; 2025-01-14;

- (b) SDCI's management along with the president of the board of directors of SDCI have met every week to monitor the restructuring proceedings and related issues;
 - (c) operational and financial reports are circulated weekly by SDCI's management to the board of directors, keeping them informed in real time of any issues.
29. The Debtors submit that the proposed Releases are necessary and appropriately tailored to the circumstances, fair and reasonable, and are not overly broad.
30. In fact, the breadth and scope of the Releases is limited to what is necessary, being the release of present and future claims and liabilities that lie or could lie against the D&Os for which they may be liable for any act, omission or representations in their capacity as D&Os of the Debtors, the whole relating to the Debtors insolvency and their restructuring proceedings.
31. Moreover, the Releases do not purport to release claims for (i) gross or intentional fault, and (ii) claims that cannot be released pursuant to section 5.1(2) of the CCAA.
32. The directors have indicated their intention to step down following the issuance by the Court of the Fifth ARIO. Regarding SDCI's officers, they will continue in their roles until the completion of their contractual term with SDCI, thereby supporting an orderly transition for the Monitor.
33. For the reasons set out above, the Debtors respectfully submit that this Court should grant the Releases as set out in the Release Order (Exhibit R-4).

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present *Application for the Issuance of a Fifth Amended and Restated Initial Order and a Release Order*;

ISSUE a Fifth Amended and Restated Initial Order substantially in the form of the draft order communicated herewith as Exhibit R-2;

ISSUE a Release Order substantially in the form of the draft order communicated herewith as Exhibit R-4;

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

Montréal, September 24, 2025

Norton Rose Fulbright Canada LLP

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Our reference: 1001271938

AFFIDAVIT

I, the undersigned, Patrick Sévigny, President and Chief Executive Officer of Stornoway Diamonds (Canada) Inc., duly authorized director of the Debtors, having my professional domicile at 1 Place Ville Marie, suite 2500, province of Québec, H3B 1R1, solemnly declare that all the facts alleged in the present *Application for the Issuance of a Fifth Amended and Restated Initial Order and a Release Order* are true.

AND I HAVE SIGNED



Patrick Sévigny

SOLEMNLY DECLARED before me by technological means, this September 24, 2025. The Affiant is in the city of Sainte-Barbe, 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 a Fifth Amended and Restated Initial Order* 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 **September 29, 2025, in room 15.04**, at 9:30 a.m.

To join the hearing virtually, use the following link:

15.04	Rejoindre la réunion Microsoft Teams +1 581-319-2194 Canada, Québec (Numéro payant) (833) 450-1741 Canada (Numéro gratuit) ID de conférence : 436 929 434# Numéros locaux Réinitialiser le code confidentiel En savoir plus sur Teams Options de réunion Rejoindre à l'aide d'un dispositif de vidéoconférence teams@teams.justice.gouv.qc.ca ID de la conférence VTC : 1167171546 Autres instructions relatives à la numérotation VTC
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DO GOVERN YOURSELF ACCORDINGLY.

Montréal, September 24, 2025



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Our reference: 1001271938

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

SUPERIOR COURT

Nº: 500-11-063053-231

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

**IN THE MATTER OF THE COMPANIES'
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STORNOWAY DIAMONDS (CANADA) INC.

-and-

11272420 CANADA INC.

Debtors/Applicants

-and-

DELOITTE RESTRUCTURING INC.

Monitor

LIST OF EXHIBITS

***In support of the Application for the Issuance of a Fifth Amended and
Restated Initial Order and a Release Order***

-
- Exhibit R-1:** Eleventh Report to the Court submitted by Deloitte Restructuring Inc. (Appendices A and B, under seal);
- Exhibit R-2:** Draft Fifth Amended and Restated Initial Order;
- Exhibit R-3:** Redline document comparing the Fourth Amended and Restated Initial Order dated October 8, 2024, to the Draft Fifth Amended and Restated Initial Order;
- Exhibit R-4:** Draft Release Order.

Montréal, September 24, 2025

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NO.: 500-11-063053-231
<p align="center">SUPERIOR COURT (Commercial Division) (Sitting as a court designated pursuant to the <i>Companies'</i> <i>Creditors Arrangement Act</i>, R.S.C., c. C-36, as amended) DISTRICT OF MONTRÉAL</p>
<p>IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED:</p> <p>STORNOWAY DIAMONDS (CANADA) INC. -and- 11272420 CANADA INC.</p> <p align="right">Debtors / Applicants</p> <p>-and- DELOITTE RESTRUCTURING INC.</p> <p align="right">Monitor</p>
<p align="center">APPLICATION FOR THE ISSUANCE OF A FIFTH AMENDED AND RESTATED INITIAL ORDER AND A RELEASE ORDER, AFFIDAVIT, NOTICE OF PRESENTATION, LIST OF EXHIBITS AND EXHIBITS R-1 TO R-4</p>
<p>ORIGINAL</p>
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