

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No. : 500-11-036133-094

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

IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:

ABITIBIBOWATER INC.

and

ABITIBI-CONSOLIDATED INC.

and

BOWATER CANADIAN HOLDINGS INC.

and the other Petitioners listed on Schedules
"A", "B" and "C"

Petitioners

and

ERNST & YOUNG INC.

Monitor

AINSWORTH ENGINEERED CORP.
represented by AINSWORTH LUMBER
COMPANY LIMITED, company duly
constituted having a place of business situated
at P.O. Box 2000, Barwick, Ontario, P0W 1A0.

Respondent

MOTION TO LIFT THE STAY OF PROCEEDINGS FOR THE LIMITED PURPOSE
OF FINALIZING ARBITRATION PROCEEDINGS
(Sections 11 and ff. of the *Companies' Creditors Arrangement Act*)

TO THE HONORABLE JUSTICE CLÉMENT GASCON OF THE SUPERIOR COURT,
SITTING IN THE COMMERCIAL DIVISION FOR THE DISTRICT OF
MONTRÉAL, THE PETITIONERS SUBMIT THE FOLLOWING:

I. THE BUSINESS RELATIONSHIP BETWEEN ACCC AND AINSWORTH

1. By Sustainable Forest Licence No. 542245 dated May 24, 2005 (the "**SFL**"), Abitibi-Consolidated Company of Canada ("**ACCC**") was granted, by Her Majesty the Queen in the right of the Province of Ontario as represented by the Minister of Natural Resources (the "**Minister**") the right to harvest and remove all kinds and classes of timber on and from an area described in the SFL and known as the "Crossroute Forest" (the "**Forest**").
2. Ainsworth Engineered Corp. represented by Ainsworth Lumber Company Limited ("**Ainsworth**"), operates an oriented strand board mill located in the Township of Barwick, Ontario (the "**Mill**"), which requires a supply of wood fibre from the Forest.
3. By Supply Agreement No. 536238 dated December 5, 2005 between the Minister and Ainsworth, the Minister agreed to make available to Ainsworth certain volumes of wood fibre from the Forest.
4. ACCC has been directed by the Minister to make available to Ainsworth a volume of wood fibre in accordance to the Minister's commitment described in Appendix "E" of the SFL.
5. ACCC and Ainsworth entered into a Restated Timber Agreement dated September 18, 1995 that governs ACCC and Ainsworth's respective rights and obligations in respect of wood fibre to be available to the Mill from the Forest (the "**Restated Timber Agreement**").

II. THE ARBITRATION PROCEEDINGS

6. In April 2008, ACCC, Ainsworth and other parties arrived at a comprehensive settlement of various disputes in issue at the time (the "**April 2008 Settlement**").
7. As part of the April 2008 Settlement, ACCC and Ainsworth agreed to negotiate the terms of a new Memorandum of Agreement (the "**MOA**") to replace the Restated Timber Agreement. The April 2008 Settlement provides a compressed dispute resolution process (mediation/arbitration) (the "**Resolution Process**") for arriving at the MOA in the event that ACCC and Ainsworth fail to reach an agreement on all the terms of the MOA.
8. According to the April 2008 Settlement, ACCC and Ainsworth agreed that Mr. Richard Weiler would act as mediator and then as arbitrator (the "**Arbitrator**") should the parties resort to the Resolution Process.
9. ACCC and Ainsworth held negotiations but were unable to reach an agreement on all the terms of the MOA.
10. ACCC and Ainsworth proceeded with mediation in accordance with the Resolution Process but such mediation failed.

11. On March 30 and 31, 2009, the arbitration hearing was conducted (the "**Arbitration Proceedings**").

III. THE INITIAL ORDER

12. On April 17, 2009, the honorable justice Clément Gascon of the Superior Court rendered an initial order (as amended) (the "**Initial Order**") in favor of ACCC and many other entities of the same group under the *Companies Creditors' Arrangement Act* in the present file (the "**CCAA Proceedings**").
13. As of the date of the Initial Order, the following steps of the Arbitration Proceedings had yet to be completed:
 - a) filing by ACCC of its Reply to the Closing Argument of Ainsworth;
 - b) oral arguments by both parties before the Arbitrator; and
 - c) the Arbitrator was to have rendered his decision.
14. Paragraph 10 of the Initial Order provides, *inter alia*, that all the proceedings instituted against ACCC are stayed and suspended during the Stay Period (the "**Stay of Proceedings**"), which includes the Arbitration Proceedings.

IV. THE LIFTING OF THE STAY OF PROCEEDINGS

15. ACCC and Ainsworth agreed to ask this Court to lift the Stay of Proceedings for the Arbitration Proceedings for the limited purpose of:
 - a) filing by ACCC of its Reply to the Closing Argument of Ainsworth within three (3) weeks of the lifting of the Stay of Proceedings if granted;
 - b) oral arguments by both parties before the Arbitrator;
 - c) the Arbitrator rendering his decision;

as appears from a copy of the Agreement entered into between ACCC and Ainsworth on June 11, 2009 and communicated as **Exhibit R-1**.

16. It is important that the Arbitrator renders his decision and sets out all the terms of the MOA that will govern ACCC and Ainsworth's respective rights and objections.
17. ACCC and Ainsworth also agreed, in compliance with the Initial Order, that the Stay of Proceedings will however apply to any order issued in the context of the Arbitration Proceedings condemning ACCC to pay Ainsworth any amount whatsoever for the period prior to April 17, 2009. Subject to Ainsworth's right of set-off, if any, any such claim will be treated in a plan of arrangement to eventually be filed by ACCC in the context of the CCAA Proceedings.

18. In light of the foregoing, the Petitioners submit that this Court should lift the Stay of Proceedings for the limited purpose mentioned above.

FOR THESE REASONS, MAY IT PLEASE THIS COURT TO:

DECLARE that the Stay of Proceedings ordered by this Court in this file is lifted for the arbitration proceedings (the "**Arbitration Proceedings**") initiated by Abitibi-Consolidated Company of Canada ("**ACCC**") and Ainsworth Engineered Corp. represented by Ainsworth Lumber Company Limited ("**Ainsworth**") before the arbitrator, Richard Weiler (the "**Arbitrator**") for the limited purpose of:

- a) filing by ACCC of its Reply to the Closing Argument of Ainsworth within three (3) weeks of the lifting of the Stay of Proceedings;
- b) oral arguments by both parties before the Arbitrator;
- c) the Arbitrator rendering his decision.

CONFIRM that the Stay of Proceedings ordered by this Court in this file will however apply to any order issued in the context of the Arbitration Proceedings condemning ACCC to pay Ainsworth any amount whatsoever for the period prior to April 17, 2009 (the "**Claim**").

CONFIRM that subject to Ainsworth's right of set-off, if any, the Claim will be treated in a plan of arrangement to eventually be filed by ACCC in the context of the present CCAA Proceedings.

THE WHOLE WITHOUT COSTS, save and except in case of contestation.

MONTREAL, June 11, 2009

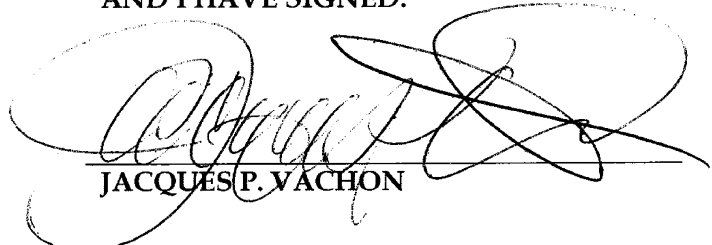

STIKEMAN ELLIOTT LLP
Attorneys for the Petitioners

AFFIDAVIT

I, the undersigned, Jacques P. Vachon, Senior Vice-president, administrative and Chief litigation, having my principal place of business at Suite 800, 1155 Metcalfe Street, Montréal, Quebec, H3B 5H2 solemnly declare the following:

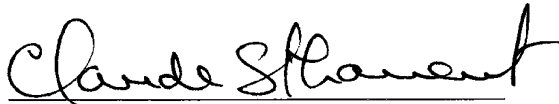
1. I am the Senior Vice-president, administrative and Chief litigation of AbitibiBowater Inc.
2. All the facts alleged in the *Motion to Lift the Stay of Proceedings for the Limited Purpose of Finalizing Arbitration Proceedings* are true.

AND I HAVE SIGNED:



JACQUES P. VACHON

Solemnly declared before me at Montréal,
on the 11th day of June, 2009



Commissioner for oaths

180486-3

NOTICE OF PRESENTATION

TO: The Service List

and

TO: A.M. Robinson
MILLER THOMSON LLP
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TAKE NOTICE that the *Motion to Lift the Stay of Proceedings for the Limited Purpose of Finalizing Arbitration Proceedings* will be presented for adjudication before the honorable Justice Clément Gascon of the Superior Court, sitting in commercial division for the District of Montreal, in a room to be announced of the Montréal Court House, 1 Notre-Dame St. East, on a date and hour to be determined by Justice Gascon.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTRÉAL, June 11, 2009


STIKEMAN ELLIOTT LLP
Attorneys for the Petitioners

LIST OF EXHIBIT

Exhibit R-1: Copy of the Agreement entered into between ACCC and Ainsworth on June 11, 2009.

MONTRÉAL, June 11, 2009


STIKEMAN ELLIOTT LLP
Attorneys for the Petitioners