

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF **MONTREAL**

N° : 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 in Schedules A, B
and C

Petitioners

and

ERNST & YOUNG INC.

Monitor

and

VIATEUR CAMIRÉ, domiciled at 231 Du Mont
St-Michel, Boucherville, Québec J4B 7T6

Representative

DETAILED AFFIDAVIT OF VIATEUR CAMIRÉ

I, the undersigned, Viateur Camiré, human resources consultant, residing and domiciled at 231 Mont St Michel Street, in the city of Boucherville, province of Québec, solemnly declare as follows:

- a. **I hereby requests to be named the Representative of the Canadian Non-Unionized Former Employees in the course of the CCAA proceedings;**

- b. **I was a Vice-President, Human Resources at Donohue from 1992 to 2000 and I held a similar position with Abitibi-Consolidated from 2000 to 2008;**
- c. **I hereby declare my willingness to act as representative of the Canadian Non-Unionized Former Employees;**

A. PETITIONERS' CCAA PROCEEDINGS

1. On April 17, 2009, the Petitioners filed a *Petition for an Initial Order* pursuant to sections 4, 5 and 11 of the Companies' Creditors Arrangement Act (the "CCAA") (hereinafter the "Petition for an Initial Order") and a *Petition for the Issuance of a Recognition Order* pursuant to Section 18.6 of the CCAA (hereinafter the "Petition for a Recognition Order"), the whole as it appears from the Court file;
2. As stated in the Petition for an Initial Order, Petitioners sought, among other things, specific orders for special payments or contributions relating to past services to their defined benefit pension plans;
3. On April 17, 2009, the *Initial Order* requested was issued, the whole as it appears from the Court file;
4. However, on that date, the Court did not rule on the specific orders for special payments sought by Petitioners, and the Petitioners' request that the Court suspend past service contributions as special payments to the pension plan was postponed to April 30, 2009, the whole as it appears from the Court file;
5. On April 22, 2009, the Court issued an *Amended Initial Order*, as it appears from the Court file;
6. On April 24, 2009, attorneys for the Petitioners filed a *Motion de Bene Esse for authorization to suspend certain payments to the pension plan maintained by the Petitioners* ("**Motion to Suspend**"), the whole as it appears from the Court file;
7. On May 6, 2009, the Honourable Justice Clément Gascon issued a second *Amended Initial Order*, the whole as it appears from the Court file;
8. The Motion to Suspend was presented on May 6, 2009 before the Honourable Justice Danièle Mayrand;
9. On May 7, 2009, the Honourable Justice Danièle Mayrand granted the *Motion to Suspend*, and produced the written judgment on May 8, 2009, the whole as it appears from the Court file;
10. On May 14th, 2009, a First Stay Period Extension Order was rendered;
11. On June 12, 2009, the Régie des Rentes du Québec (RRQ) filed a *Motion for the issuance of special orders with respect to the current service contribution of certain pension plans of the debtors*, the whole as it appears from the Court file;

12. On June 15, 2009, an Order for Directions in Respect of Payment owed to Employees of the Abitibi Bowater's Group was rendered, the whole as it appears from the Court file;
13. On June 23rd, 2009, Syndicat National des Travailleurs des Pâtes et Papier de Donnacona CSN inc., the Syndicat National des Employés de Bureau de Donnacona, Ginette Plamondon and Daniel Côté intervened in the Motion of the RRQ to protect their rights, the whole as it appears from the Court file;
14. On July 2nd, 2009, the RRQ filed a *Requête pour directives* concerning current service Pension Payments, the whole as it appears from the Court file;
15. On August 26, 2009, a Claims Procedure Order was rendered, the whole as it appears from the Court file;
16. This Claims Procedure Order has thirty-nine (39) pages and gives all the details on the steps that a creditor is required to accomplish in order to be eligible to receive a dividend under a plan of arrangement;
17. According to the Claim Procedure Order, all proof of claim must be received no later than November 13, 2009 at 16h00 (Eastern Standard Time);
18. On September 4th, 2009, a Second Extension Order was rendered, the whole as it appears from the Court file;
19. No decision have been rendered in the RRQ's motions as of this day;

B. JUDGEMENTS RENDERED THAT AFFECT THE RIGHTS OF PETITIONERS' EMPLOYEES

20. In the Second Amended Initial Order, the Court ordered the stay of proceedings against, among others, the Petitioners, Partnerships, Property and Directors, the whole as it appears from paragraphs 10 to 16 of the Second Amended Initial Order;
21. The Judgement on the Motion to Suspend, rendered by Justice Danièle Mayrand on May 8, 2009 adds the following paragraphs to the Second Amended Initial Order:

[22] ORDERS that notwithstanding any other provision of this Order, the Petitioners and the Partnerships shall not make any past service contributions or special payments to funded pension plans maintained by the Petitioners or the Partnerships (the "Pension Plans") during the Stay Period, pending further order of this Court.

[23] ORDERS that none of the Petitioners or the Partnerships, or their respective officers or directors shall incur any obligation, whether by way of debt, damages for breach of any duty, whether statutory, fiduciary, common law or otherwise, or for breach of trust, nor shall any trust be recognized, whether express, implied,

constructive, resulting, deemed or otherwise, as a result of the failure of any Person to make any contribution or payments other than current cost contribution obligations ("Current Contribution") during the Stay Period that they might otherwise have become required to make to any Pension Plans maintained by a Petitioner or by a Partnership.

[24] ORDERS *that if any claim, lien, charge or trust arises as a result of the failure of any Person to make any contribution or payment (other than Current Contributions in accordance with Sections 81.5 and 81.6 of the Bankruptcy and Insolvency Act) during the Stay Period that such Person might otherwise have become required to make to any Pension Plans but for the stay provided for herein, no such claim lien, charge or trust shall be recognized in these proceedings or in any subsequent receivership, interim receivership or bankruptcy of any of the Petitioners or the Partnerships as having priority over the claims of the CCAA Charges as set out in this Order.*

[25] ORDERS AND DECLARES *that nothing in this Order shall be taken to extinguish or compromise the obligations of the Applicants and Partnerships, if any, regarding payments under the Pension Plans.*

C. ADDITIONAL ISSUES RELATING TO PETITIONERS' EMPLOYEES

22. The Judgement on the Motion to suspend rendered by Justice Danièle Mayrand on May 8, 2009, contains indications that additional proceedings and judgements concerning the Petitioners' employees and former employees' rights were coming:
- a) *« Les procureurs de ses organismes [Régie des rentes du Québec, Commission des services financiers de l'Ontario, Surintendant des pensions de la Colombie-Britannique, Surintendant des régimes de retraite du Canada] ont, par ailleurs, informé le Tribunal qu'ils s'apprêtent à déposer une requête pour faire établir les cotisations d'exercice de manière différente de celle faite par Abitibi. »* (paragraph 8);
 - b) *« L'affrontement se produit ici entre Abitibi, insolvable et confrontée à une crise économique mondiale, ses créanciers ordinaires qui l'appuient et ses employés. »* (paragraph 48);
 - c) *« Des modalités, pour le remboursement des cotisations suspendues, pourront être convenues avec l'aval des autorités compétentes. Cela se fera à une autre étape. »* (paragraph 51);
23. Indeed, the RRQ did file a Motion for the issuance of Special Orders and a *Requête pour directives*, which have not been heard yet;

24. There are several other issues relating to Petitioners' non-unionized Canadian former employees that have to be addressed in the course of the Petitioners' CCAA proceedings, namely the following:
- a) The situation of employees whose employment ended following, or as a result of, the amalgamation of Abitibi-Consolidated inc. and Bowater on October 27, 2007: Specifically, on April 15, 2009, they stopped receiving their severance pay and insurance benefits, and ceased to accumulate continued service for the purpose of their pension plan;
 - b) The situation of retired non-unionized former employees: Payment of their unfunded pension plans (SERPS) has been suspended. This represents more than 150 retired employees for the non secured SERPS and about 100 retired employees for the secured SERPS (secured by letter of credit) if not more;
 - c) The fact that the Petitioners have substantial deficits in their Pension Plans and other retirement and benefit plans;
 - d) The fact that Petitioners are currently unable to meet all of their financial obligations toward their Employees and may still be unable in the future;
25. It is evident that the Employees of the Petitioners are and may still be seriously and adversely impacted in the present restructuring process;

D. PETITIONERS' GROUP OF COMPANIES AND MERGERS

26. In October 2007, Abitibi-Consolidated Inc. merged with Bowater Incorporated to become AbitibiBowater inc., the whole as is more fully described in the *Petition for the issuance of an initial order* dated April 17, 2009, in its schedules A to D, and in its Exhibit R-1;
27. The employees of AbitibiBowater inc. and its subsidiaries are therefore related to different companies existing prior to the merger in 2007;
28. As a direct or indirect result of the merger which occurred in 2007, the employment of a significant number of the employees of AbitibiBowater inc. and its subsidiaries was terminated;
29. The Canadian non-unionized former employees whose employment with one of the Petitioners was terminated have rights to assert in the course of the Petitioners' CCAA proceedings;

E. LEGAL REPRESENTATION OF NON-UNIONIZED FORMER EMPLOYEES

30. In Canada, the Petitioners presently have a significant number of employees and former employees, which includes both the unionized and non-unionized former employees, who still have valid claims in their regard;

31. The unionized employees and former employees are well-represented by the following unions:
- a) Le Syndicat Canadien des Communications, de l'Énergie et du Papier (SCEP) et ses sections locales;
 - b) Syndicat des Employés et Employés Professionnels et de Bureau – Québec (CPC-FTQ) et les sections locales 110, 151 et 526;
 - c) The International Association of Machinists and Aerospace Workers, lodge 771;
 - d) La Fédération des Travailleurs et des Travailleuses du Papier et de la Forêt;
32. As it appears from the Court file, each of these unions and their unionized employees are duly represented by counsel in the course of the Petitioners' CCAA proceedings;
33. Specifically, the unions and their unionized employees and former employees are represented by the following solicitors:
- a) Le Syndicat Canadien des Communications, de l'Énergie et du Papier (SCEP) et ses sections locales : Trudel Nadeau, avocats, sencrl;
 - b) Syndicat des Employés et Employés Professionnels et de Bureau – Québec (CPC-FTQ) et les sections locales 110, 151 et 526 : Trudel Nadeau, avocats, sencrl;
 - c) The International Association of Machinists and Aerospace Workers, ledger 771: Sack Goldblatt Mitchell LLP;
 - d) La Fédération des Travailleurs et des Travailleuses du Papier et de la Forêt : Martel, Cantin;
34. However, the Petitioners' Canadian non-unionized former employees as well as the Canadian non-unionized current employees who may lose their job in the course of the CCAA proceedings ("**Canadian Non-Unionized Former Employees**") are not currently represented in the CCAA proceedings, although they represent a large number of the Petitioners' creditors and should therefore be an integral part of the CCAA proceedings;
35. Former Employees are specific stakeholders since their claims may be sometimes ranking an ordinary creditors and sometimes of different nature which may include non-monetary rights;
36. The Representative and its Solicitors hereby submit that the Non-Unionized Former Employees should be represented in the scope of Petitioners Restructuring process, the whole as is more fully explained hereafter;

F. OBJECTIVES OF THE REPRESENTATION

37. The present Motion is aimed at preserving and protecting the interests of a defined and specific group of Petitioners' former employees;
38. The Court has to be accurately informed and made aware of all relevant facts in order to be able to take into consideration the position of the Canadian Non-Unionized Former Employees in debates brought before the Court relevant to them, in a cost-effective manner and within a reasonable time frame;
39. The present *Motion for the Appointment of a Representative and Solicitors for the Petitioners' Canadian Non-Unionized Former Employees and Other Beneficiaries of the Pension Plans* has the following objectives:
 - a) Duly inform all of the Canadian Non-Unionized Former Employees, both as a whole and with regard to each persons' particular situation, of their rights, of the progression of the Petitioners' restructuring under the CCAA, and of the evolution of the Petitioners' proceedings under the CCAA;
 - b) Provide the advice the Canadian Non-Unionized Former Employees need to protect their interest and duly participate in the restructuring process;
 - c) Aid and assist the Canadian Non-Unionized Former Employees in preparing and establishing their proof of claim based either on termination, severance pay, unpaid wages, unpaid vacation pay, medical benefits, life insurance benefits, pension plan benefits, other employee benefits, unpaid expense reimbursements, amounts and benefits payable under the employment contract concluded between certain employees and Petitioners, collect information concerning their legal status and provide reasonable and adequate counsel;
 - d) Represent the interests of the Canadian Non-Unionized Former Employees for the purpose of all decisions which might affect their rights in the course of the Petitioners' CCAA proceedings and if necessary bring to the Court's attention any matter to be dealt with;
 - e) Ensure the protection and representation of the rights and interests of the Canadian Non-Unionized Former Employees in the course of the drafting and approval of the plan of arrangement that will be submitted by Petitioners;
 - f) Ensure the protection and representation of the rights and interests of the Canadian Non-Unionized Former Employees in the course of the execution of an approved plan;
 - g) Advise the Canadian Non-Unionized Former Employees on how to negotiate and vote on upcoming restructuring plans;

- h) Speak and negotiate on behalf of the Canadian Non-Unionized Former Employees to the Petitioners, the monitor and to the other creditor and shareholders of this restructuring process;
- 40. More specifically, there are claims that the former employees have to file in the restructuring process, and neither the monitor nor the trustee will prepare and calculate the employee's claim;
 - 41. Without my assistance and the assistance of the proposed solicitors, former employees would be responsible and would have to calculate and submit their claims by themselves even though they may not fully understand the Claim Procedure Order, which could compromise their claim;
 - 42. Furthermore, certain calculations of termination, employment, pension or other benefit of former employees would require the assistance of specific experts to provide accurate calculations, which a single employee would not have the means to obtain in a cost effective manner, but would be beneficial to all of the Canadian Non-Unionized Former Employees as a whole to determine their entitlement and their claims;
 - 43. The Petitioners and the Monitor are not in a position to advise or help the Petitioners' Canadian Non-Unionized Former Employees in the preparation and the calculation of their claims towards the Petitioners, as there is a conflict of interest between the interests of the Petitioners and the interests of their Employees to have the highest and most accurate claim as possible against the Petitioners;
 - 44. It is important to remember the factors relevant for a Court to determine whether, on a balance of convenience test, a Representative Order such as the one requested therein should be granted, and all of these factors are present in this case:
 - a) The financial resources of the individuals for whom representation is sought and whether requiring individual representation would be unduly financially burdensome of those individuals;
 - b) Whether resolution of the dispute is likely to be less costly and more expeditious if the Representation Order sought is rendered; and
 - c) Whether it is in the interests of justice to render the said Representation Order;
 - 45. Furthermore, in this case, appointing a representative and a solicitor to act on behalf of the Canadian Non-Unionized Former Employees would clearly simplify the process and ensure the flow of communication for the purpose of the restructuring of the Petitioners;
 - 46. It is clear herein that the Canadian Non-Unionized Former Employees are a particularly vulnerable group of stakeholders in the present restructuring proceedings, and it is Petitioners who has put their former non-unionized employees in this uncomfortable situation where they are feeling quite possibly like David against Goliath;

47. For example, since the Canadian Non-Unionized Former Employees have received a notice from both the U.S and Canadian Courts relating to the Petitioners' restructuring, and the information presently available is difficult to understand for individuals with no legal training, there is no doubt that they need clarification, assistance and representations from the Solicitors;
48. In order to ensure the orderly advancement of the Petitioners' restructuring process, I also request that this Honourable Court provide me the right, on the advice of the Solicitors and the Consulting Committee, to determine, advance or compromise any claims made by any of the Canadian Non-Unionized Former Employees, subject to further approval by this Court;
49. Consequently, I hereby request that I be appointed to represent the Canadian Non-Unionized Former Employees, and to have the power and authority to act on behalf of such in the Petitioners' proceedings under the CCAA, or in any other proceedings which has been or which may be brought before this Honourable Court, with respect of any employees' claims arising out of the Petitioners' insolvency, including claims based on:
- Termination;
 - Severance pay;
 - Unpaid wages;
 - Unpaid vacation pay;
 - Medical benefits;
 - Life insurance benefits;
 - Pension plan benefits;
 - Other employee benefits;
 - Unpaid expense reimbursements;
 - Amounts and benefits payable under the employment contract concluded between certain employees and Petitioners;

G. REPRESENTATIVE, SOLICITORS AND CONSULTING COMMITTEE

50. I hereby request that I be named the Representative of the Canadian Non-Unionized Former Employees in the course of the CCAA proceedings (the "**Representative**");
51. I was a Vice-President, Human Resources at Donohue from 1992 to 2000 and I held a similar position with Abitibi-Consolidated from 2000 to 2008;
52. I hereby reiterate my willingness to act as representative of the Canadian Non-Unionized Former Employees;

53. All of the Canadian Non-Unionized Former Employees contacted indicated that they were in agreement with the present motion, since, individually, they would not have the means to have their interests represented in this complex file;
54. I have already obtained the support of more than two hundred and forty (240) Canadian Non-Unionized Former Employees, the whole as it appears from the list of approvals received, Exhibit VC-1;
55. The law firm of BCF LLP requests that it be appointed solicitors for the Representative (the “**Solicitors**”), for the purpose of the present proceedings;
56. The law firm of BCF LLP has the expertise, both in the field of restructurings and in the field of labour law, to enable it to duly and effectively carry on its mandate as solicitors for the Representative;
57. BCF LLP is also known to have significant experience with respect to proceedings under the *Companies’ Creditors Arrangement Act*;
58. The Solicitors and myself propose to resort to a consulting committee, when we deem it necessary, for recommendations and support of any material intended actions;
59. The proposed members of the consulting committee for the Petitioners’ Canadian Non-Unionized Former Employees (the “**Consulting Committee**”) are the following:
 - a) **Viateur Camiré** (Representative): Vice-President, Human Resources at Donohue from 1992 to 2000 and held a similar position with Abitibi-Consolidated from 2000 to 2008;
 - b) **Jocelyn Pepin**: Vice-President and Controller with Donohue from 1998 to 2000 and held similar position with Abitibi-Consolidated from 2000 to 2008;
 - c) **Sylvie Nadeau**: Director, Internal Audit with Donohue from 1980 to 2000 and held a similar position with Abitibi-Consolidated from 2000 to 2007;
 - d) **Jean Van Neste**: Senior Vice-President Finance, CFO and Secretary of Stone-Consolidated Corporation from 1993 to 1997;
 - e) **Francine Dorion**: Divisional forester at Stone-Consolidated Corporation from 1987 to 1997, Corporate Director of Forestry with Abitibi-Consolidated until 2003 and Vice-President, Sustainability and Environment from 2004 to 2008;
 - f) **Bruno Tremblay**: Director, Strategic Plan, at Abitibi-Consolidated from 1994 to 1998. He was a Vice-President, Systems Information at Abitibi-Price from 1998 to 1999, and was appointed Senior Vice-President, Technological Services from 1999 to 2004, and then appointed as Senior Vice-President, Business Support from 2004 to 2008;

- g) **William S. Brown:** Vice-President, Communications with Abitibi-Price from 1991 to 1996;
 - h) **Nickolas Saltarelli:** Operations Manager of Abitibi-Consolidated's North American Newsprint Operations from 2000 to 2002 and General Manager of the Abitibi-Consolidated Mackenzie Paper Mill from 2002 to 2006;
 - i) **Paul Morasse:** Vice-President, Human Resources, at Quno Corporation from 1980 to 1996;
 - j) **Dave Strathern:** Director, Mill Operations at the Thorold Mill, with QUNO Corporation from 1994 to 1995 and Director, Special Projects, with Donohue at the Thorold Mill from 1995 to 2000;
 - k) **André Lamarche:** Corporate Director of Avenor until 1995;
60. The proposed members declared their willingness to act as members of the Consulting Committee;
61. The proposed members are recommended in order to represent Former Employees from a variety of the companies that now form the Petitioners;
- H. NEED FOR REPRESENTATION**
62. If the Canadian Non-Unionized Former Employees are not represented as a whole, by the same Representative and Solicitors, there will be:
- a) Multiplicity of representations by various employees;
 - b) Complication of the proceedings;
 - c) Impediment of the orderly course of Petitioners' restructuring process;
 - d) Absence of a clear interlocutor to protect the global interests of the Canadian Non-Unionized Former Employees;
 - e) Incapacity for many Former Employees to be represented for lack of financial means;
 - f) Stress and inconvenience for certain retired Former Employees;
63. There is no doubt that the Petitioners will financially and time wise benefit from all Former Employees being represented by one interlocutory;
64. In addition, if only certain Canadian Non-Unionized Former Employees chose to act, although their actions would benefit all of the Canadian Non-Unionized Former Employees, they alone would bear the financial burden associated with legal representation;

65. If the present Motion is granted, there would be many advantages, namely:
- a) It would allow the Petitioners to deal efficiently with all issues relating to all the Canadian Non-Unionized Former Employees;
 - b) It would mean a reduction of the costs for all parties, since only one Representative and his Solicitors would be implicated in the Petitioners' CCAA restructuring proceedings;
 - c) Since the representations on behalf of the Canadian Non-Unionized Former Employees will often be distinct from those of the unionized employees, the representations on their behalf are necessary in order to inform and enlighten the Court about this specific group of Former Employees;
66. It should be noted that in the past, Courts sitting in cases pursuant to the CCAA have authorized the representation of non-unionized former employees through a single Representative;
67. Moreover, in such cases, the Court has ordered that the fees of the Representative's solicitors and their expert advisory be paid by the Petitioners;
68. Consequently, I hereby request that the reasonable professional fees and costs of the Representative and of the Solicitors and other incidental fees and disbursements incurred by the Solicitors (the "Costs"), shall be paid by the Petitioners on a monthly basis, forthwith upon the rendering of accounts by the Solicitors, since their involvement is necessary with respect to the negotiation, establishment and management of the Petitioners' plan of arrangement or compromise;
69. As it appears from the above-mentioned facts, there is no doubt that the Representation Order sought should be rendered, and a representative (myself) and a solicitor should be appointed to represent the Canadian Non-Unionized Former Employees in this case;
70. This Court has jurisdiction under Section 11 of the *Companies Creditors Arrangement Act* as well as under the *Code of civil procedure* to render the requested Representation Order;
71. The Canadian Non-Unionized Former Employees are not otherwise represented and are a vulnerable group who should have assistance in this restructuring process;
72. The balance of inconvenience favours the granting of this Order as it is in the interest of justice to do so;
73. Finally, unlike the unions, absent funding, the representative (myself) and its solicitors would not be expected to serve as representative;
74. Funding should therefore be ordered and provided by Petitioners as they created this situation in which the Canadian Non-Unionized Former Employees now have to state their rights and claims towards their former employers;

75. The order requested will help a group of otherwise unrepresented stakeholders in the restructuring process but will also help Petitioners and the Monitor to keep this process efficiently and in a cost effective manner as it is trying to find a way to restructure its business: It is better to speak to a representative and its solicitors for a specific group than to try to reach each Canadian Non-Unionized Former Employee;
 76. The Representation Order requested should also keep the cost associated with contestation or representation motions in this proceedings on behalf of the represented to a minimum;
 77. In short, it is in the best interests of the Court, the Petitioners, the Creditors and the Monitor that the specific interests of the Canadian Non-Unionized Former Employees of the Petitioners be represented by one Representative, myself, as well as by the Solicitors BCF LLP
- d. **All the facts alleged in the present affidavit are to my knowledge and are true.**

AND I HAVE SIGNED :



VIATEUR CAMIRÉ

SOLEMNLY AFFIRMED before
me at Montreal, this 1st day of
October, 2009

