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, as amended)

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 herein

Petitioners

and

ERNST & YOUNG INC.

Monitor

AMENDED MOTION FOR THE ISSUANCE OF AN ORDER AUTHORIZING THE SALE OF NON-CORE PROPERTIES AND FOR THE ISSUANCE OF A RECEIVERSHIP ORDER IN RESPECT OF 4513541 CANADA INC.

TO JUSTICE GASCON OR ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL, PETITIONERS SUBMIT THE FOLLOWING:

I - PREAMBLE

1. On April 17, 2009, this Court issued an order (as subsequently amended and restated, the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**" and the "**CCAA Proceedings**") in respect of (i) Abitibi-Consolidated Inc. ("**ACI**") and subsidiaries thereof (the "**Abitibi Petitioners**")[1],

[1] The Abitibi Petitioners are Abitibi-Consolidated Inc., Abitibi-Consolidated Company of Canada, 3224112 Nova Scotia Limited, Marketing Donohue Inc., Abitibi-Consolidated Canadian Office Products Holdings Inc., 3834328 Canada Inc., 6169678 Canada Incorporated., 4042140 Canada Inc., Donohue Recycling Inc., 1508756 Ontario Inc., 3217925 Nova Scotia Company, La Tuque Forest Products Inc., Abitibi-Consolidated Nova Scotia Incorporated,

(ii) Bowater Canadian Holdings Inc. and subsidiaries thereof (the "**Bowater Petitioners**")[2], and (iii) certain partnerships (the "**Partnerships**")[3] (the Abitibi Petitioners, the Bowater Petitioners and the Partnerships being collectively referred to as "**Petitioners**").

2. Pursuant to the Initial Order, Ernst & Young Inc. (the "**Monitor**") was appointed as Monitor of Petitioners under the CCAA and a stay of proceedings was granted in favour of Petitioners which was extended until March 15, 2010.

II - BACKGROUND

3. The Abitibi Petitioners currently own the following properties (collectively, the "**Non-Core Properties**" and each, a "**Non-Core Property**") situated in Newfoundland and Labrador (the "**Province**"):

   a) the site of a former shipping terminal and related facilities situated in Botwood, closed in February 2009; and

   b) the site of a newsprint mill situated in Stephenville, idled in October 2005 and closed in December 2005.

4. As stated in greater detail hereinafter, the Non-Core Properties are (i) subject to potential environmental liability exposure (the "**Environmental Exposure**"), (ii) not required for future operations and (iii) in any event of little utility as a result of the Environmental Exposure. The Environmental Exposure is described in further detail in the EPA Orders (as hereinafter defined).

5. The Environmental Exposure consists of historic liabilities arising from ownership/occupation of the Non-Core Properties. These properties are alleged to have been contaminated as a result of events which occurred prior, and in some cases long prior, to the filing of these CCAA proceedings.

6. Given the applicable environmental regulatory context which generally creates liability as a result of control or management of a property, the Abitibi Petitioners (or any successor thereof) would remain subject to the Environmental Exposure should they continue to own or occupy the Non-Core Properties upon

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Saguenay Forest Products Inc., Terra Nova Explorations Ltd., The Jonquière Pulp Company, The International Bridge and Terminal Company, Scramble Mining Ltd. and 9150-3383 Québec Inc. Abitibi-Consolidated (U.K.) Inc. was added to the Schedule of Abitibi Petitioner on November 10, 2009.

[2] The Bowater Petitioners are Bowater Canadian Holdings Incorporated., Bowater Canada Finance Corporation, Bowater Canadian Limited, 3231378 Nova Scotia Company, AbitibiBowater Canada Inc., Bowater Canada Treasury Corporation, Bowater Canadian Forest Products Inc., Bowater Shelburne Corporation, Bowater LaHave Corporation, St. Maurice River Drive Company Limited, Bowater Treated Wood Inc., Canexel Hardboard Inc., 9068-9050 Québec Inc., Alliance Forest Products (2001) Inc., Bowater Belledune Sawmill Inc., Bowater Maritimes Inc., Bowater Mitis Inc., Bowater Guérette Inc. and Bowater Couturier Inc.

[3] The Partnerships are Bowater Canada Finance Limited Partnership, Bowater Pulp and Paper Canada Holdings Limited Partnership and Abitibi-Consolidated Finance LP.

CCAA emergence. Such potential continuing liability may be material and thus adversely impact the formulation of a viable restructuring plan by Petitioners.

7. On the other hand, the sale of the Non-Core Properties as contemplated herein will allow the Abitibi Petitioners to crystallize any potential former "owner/occupier" environmental liabilities associated with the Non-Core Properties and to adequately deal with any claims resulting therefrom in the restructuring plan to be filed, without having to contend with the potentially material contingency of the Environmental Exposure upon emergence. Stakeholders with environmental claims with respect to the Non-Core Properties will not be prejudiced as the treatment these claims will receive in these CCAA proceedings will be equivalent or superior to the treatment such claims would receive in the context of a liquidation.

III - ORDERS SOUGHT

8. Petitioners hereby seek the issuance of the following orders (collectively the "**Vesting Order**") in connection with the Non-Core Properties :

a) an order authorizing and approving the execution by […] ACI and Abitibi-Consolidated Company of Canada ("**ACCC**") and 4513541 Canada Inc. ("**4513541**" or the "**Purchaser**") of the […] *Indenture* (the "**Indenture**") by and among ACI and ACCC (the "**Vendors**"), as vendors, and 4513541 […] as purchaser, an amended draft copy of which is communicated herewith as **Exhibit R-1(a)**;

(a.1) an order authorizing and approving the execution by the Vendors and the Purchaser of a *General Security Agreement* (the "**GSA**"), a draft copy of which is communicated herewith as **Exhibit R-1(b)**;

(a.2) an order authorizing and approving the execution by the Vendors and the Purchaser of a *Mortgage* (the "**Mortgage**"), a draft copy of which is communicated herewith as **Exhibit R-1(c)**;

b) the issuance of a vesting order in connection with the transactions contemplated in the above-mentioned agreement; and

c) a number of orders typically requested along with the above mentioned orders;

the whole as set forth in the amended draft order communicated herewith as **Exhibit R-2(a)**.

8.1 The Petitioners currently expect that the Indenture, the GSA and the Mortgage will be executed substantially in the form communicated as Exhibits R-1(a), R-1(b) and R-1(c) prior to the hearing on this Motion.

8.2 The Petitioners also hereby seek the issuance of an order (the "**Receivership Order**") appointing Ernst & Young Inc. as receiver under section 243 of the *Bankruptcy and Insolvency Act* (the "**BIA**") in respect of 4513541 the whole as set forth in the draft order communicated herewith as **Exhibit R-2(b)**.

IV - GROUNDS FOR THIS MOTION

The Non-Core Properties

9. On December 4, 2008, AbitibiBowater Inc. (hereinafter, collectively with the Abitibi Petitioners or singularly as the context requires, "**Abitibi**") announced the closure of its last remaining mill operation in the Province located at Grand Falls-Windsor effective March 2009. Following this mill closure, Abitibi would have retained valuable hydroelectric facilities, hydroelectric rights, lands and other assets in the Province.

10. Twelve days later, on December 16, 2008, the Province introduced and passed within a single day the *Abitibi-Consolidated Rights and Assets Act*, S.N.L. 2008, c. A-1.01 (the "**Abitibi Act**").

11. The Abitibi Act had the effect, *inter alia*, of confiscating with immediate effect and with no compensation whatsoever substantially all of the assets of Abitibi in the Province, canceling all water and hydroelectric agreements between the Province and Abitibi, canceling legal proceedings instituted by Abitibi against the Province and depriving Abitibi of access to the Province's courts for redress in respect of the foregoing.

12. Whether due to its haste or by design, the Province did not, however, expropriate the Non-Core Properties when the Abitibi Act was passed into law.

13. With the exception of the orderly closure of the Grand Falls mill, Abitibi has had no material active operations in the Province since December 16, 2008. ACCC has ceased using the Non-Core Properties prior to the filing of these proceedings and such properties are not required for ACCC's future operations. In any event, given the actions taken by the Province, the Abitibi Petitioners may not reasonably expect to be able to conduct business in this Province going forward.

14. On November 12, 2009, the Province's Minister of the Environment issued various orders (the "**EPA Orders**") against the Abitibi Petitioners pursuant to the *Environmental Protection Act*, S.N.L. 2002, chap. E-14.02 (the "**EPA**"), some of which relate to the Non-Core Properties.

15. The EPA Orders, to the extent they apply to the Non-Core Properties, are primarily founded on the Abitibi Petitioners' status as owner or person in control. They relate to alleged contamination which, where it exists, largely - if not exclusively - results from actions by third parties (including parties for whom the Province bears responsibility) and in all cases relates to past activities.

16. The Environmental Exposure is also described and discussed in the judgment of this Court dated March 31, 2010 in connection with [...] the *Motion for a Declaration Regarding Orders Issued pursuant to the Environmental Protection Act* dated November 12, 2009 filed by the Province in this docket of the Court. A copy of these proceedings is communicated herewith as **Exhibit R-3.**

17. The Environmental Exposure related to the Non-Core Properties is estimated to be material with the amount claimed by the Province estimated to be in the tens of millions of dollars.

18. Given their financial situation and the fact that the Non-Core Properties are not required for future operations, the Abitibi Petitioners submit that they should be authorized to transfer the Non-Core Properties in order to crystallize any potential former "owner/occupier" environmental liabilities associated therewith and to adequately deal with any claims resulting therefrom in the restructuring plan to be filed, without having to carry the Environmental Exposure upon emergence.

19. In any event, the Abitibi Petitioners submit that given the order of magnitude of the Environmental Exposure, the Non-Core Properties have little utility, if any.

The Sale of the Non-Core Properties

20. The Indenture contemplates the sale, on an *as is- where is* basis, of all Vendors' rights, title and interest in and to the Non-Core Properties to the Purchaser. The Purchaser is a wholly owned indirect subsidiary of AbitibiBowater Inc. incorporated in 2009 under the CBCA in the context of the Abitibi Petitioners' aborted CBCA arrangement proceedings. The Purchaser has never carried on business and has no material assets or liabilities (other than those set forth in the Indenture).

21. As appears from the Indenture, the purchase price for the Non-Core Properties will be satisfied by the issuance of a non-interest bearing promissory note (the "**Purchaser Note**") having the following features:

   a) amounts owing under the Purchaser Note shall be paid out of the actual net proceeds generated by the sale of the Non-Core Properties (or any portion thereof) to a third party by the Purchaser or any receiver appointed in respect thereof;

   b) recourse for any principal owed under the Purchaser Note shall be limited to the Non-Core Properties (or the proceeds of sale thereof) and shall be subordinated to (i) the costs of complying with any orders issued in respect of the Non-Core Properties (or which may hereafter be issued in respect of any conditions existing as of the time of transfer) under the EPA; (ii) any costs which would have priority pursuant to section 11.8 of the CCAA or section 14.06(7) of the *Bankruptcy and Insolvency Act* ("**BIA**") ;

(iii) the costs of any receiver appointed in respect of the Purchaser or Purchaser's interest in the Non-Core Properties; and

c) subject to the above-mentioned subordination, all amounts owed under the Purchaser Note [...] are secured in favor of the Vendors by (i) [...] the GSA and (ii) [...] the Mortgage (collectively the "**Security**").

22. As appears from [...] Exhibit R-2 (a), the Vesting Order sought provides for the vesting of title in the Non-Core Properties to take effect upon the issuance of the Vesting Order and Receivership Order [...].

Appointment of a Receiver in respect of the Purchaser

23. [...] The Petitioners hereby seek the appointment of a receiver (the "**Receiver**") under section 243 of the BIA in respect of the Non-Core Properties.

23a. Given the Environmental Exposure, the appointment of the Receiver in respect of the Purchaser is necessary and proper to protect the interest of the Vendors and their stakeholders and to adequately preserve the Security.

23b. Given the Environmental Exposure, the Receiver will only be permitted to take possession of the Non-Core Properties if and when it has reached satisfactory arrangements with the relevant environmental authorities with respect to its taking of possession of the Non-Core Properties.

23c. Provided that the above mentioned condition is met, the Receiver will have the powers to, *inter alia*, safeguard the Non-Core Properties and proceed to develop a plan for the sale thereof or to negotiate and reach with the relevant environmental authorities an accommodation on a remediation plan, which could allow purchasers to be solicited.

24. [...] The Petitioners have agreed to provide the Receiver with financing up to a maximum amount [...] $600,000 such financing to be evidenced by receiver certificates (the "**Receiver's Certificates**") substantially in form and substance [...] annexed as Schedule "A" to the Receivership Order. The above mentioned financing shall be used to cover for (i) estimated fees and disbursements of the Receiver for an initial period of 12 months; and (ii) reasonable costs of conservation, environmental studies and any urgent, currently unforeseen, remediation work required to stabilize the Non-Core Properties while negotiations are undertaken for the long-term remediation and disposition of such properties in consultation with appropriate authorities.

25. The Receivership Order sought provides that, in the event that the Receiver determines that it is unable to sell the Non-Core Properties or reach an accommodation on a remediation plan in regard thereof within a reasonable period of time, it may decide to abandon the Non-Core Properties, as authorized by the BIA, on notice to the relevant environmental authorities.

25a. Ernst & Young Inc. is qualified and has consented to its appointment as Receiver.

25b. 4513541 consents to the appointment of the Receiver and the issuance of the Receivership Order.

V - TREATMENT OF ENVIRONMENTAL CLAIMS

26. Following the successful transfer of the Non-Core Properties to the Purchaser as contemplated in the Indenture, the relevant environmental authorities will be notified of their potential claims as contemplated in the order to be rendered by this Court on Petitioners' *Motion for the Approval of a Process to Solicit, Review and Determine Applicable Claims and for the Establishment of a Second Claims Bar Date* dated February 9, 2010 and will be invited to submit a proof of claim if they intend to do so.

27. The Vendors [...] seek the appointment of the Receiver in respect of the Non-core Properties to permit the continued safe custody of such properties while their future is being determined under court supervision. The Indenture has been structured such that Vendors receive a return in respect of the Non-Core Properties only when all environmental and related obligations have been satisfied.

28. Once filed, these environmental claims will be assessed in the same manner as other claims and will rank as unsecured claims in the estate of the relevant Petitioner.

29. In addition, the holders of environmental claims will maintain their secured claims, if any, under Section 11.8(8) of the CCAA since Section 14.06(7) of the BIA will allow them to benefit from a similar security in the context of the receivership proceedings of Purchaser.

30. As a result, Petitioners submit that, duly proved environmental claims in respect of the Non-Core Properties will likely generate a higher dividend than in a bankruptcy liquidation as it is expected that the CCAA Proceedings should produce a superior outcome for all Petitioners' creditors than a bankruptcy process.

VI - GROUNDS FOR THIS MOTION

31. Petitioners submit that the sale of the Non-Core Properties and the appointment of the Receiver are [...] in the best interest of and will generally benefit to all of their stakeholders, in that, *inter alia*:

   a) the sale of the Non-Core Properties forms part of Petitioners' continuing objective and strategy to elaborate a restructuring plan, which will allow them (or any successor thereof) to be profitable over time. Such plan will include the following previously announced measures: (a) disposing of non-strategic assets, (b) reducing indebtedness, and (c) reducing financial costs;

b) the Non-Core Properties are not required to continue the operations of Petitioners, and given the applicable legislative and regulatory context, if the Non-Core Properties are not disposed of prior to the implementation of a restructuring plan, Petitioners (or any successor thereof) may have to carry material liabilities relating to these non-strategic assets;

c) It is Petitioners' view that they can, in the context of CCAA Proceedings, compromise environmental claims resulting from the fact that Petitioners were former owners or occupiers of contaminated properties. Such claims are historic liabilities and are the sort of liabilities which a debtor company is able to shed in order to emerge from the CCAA Proceedings and resume its business with a fresh start;

d) The sale of the Non-Core Properties or the transfer thereof to the Purchaser will crystallize claims in respect of "former owner/occupier" environmental liabilities, which will be compromised in these CCAA Proceedings;

e) The sale of the Non-Core Properties is an important component of Petitioners' attempt to successfully restructure their business as it will allow environmental liabilities with respect to the Non-Core Properties to be dealt with in the restructuring plan to be filed by Petitioners;

e).1 The appointment of the Receiver is designed to allow for the safeguard of the Non-Core Properties, the preservation of the Security and to generally favor the disposition of the Non-Core Properties in the best possible conditions under the circumstances; and

f) Environmental stakeholders will be fully protected as they shall receive all of the protection offered such claims in liquidation plus the additional benefit of the value attributed to any proven claim as part of the restructuring plan.

32. Petitioners respectfully submit that this Motion should be granted in accordance with its conclusions.

WHEREFORE, MAY THIS COURT:

[1] **GRANT** this *Amended Motion for the Issuance of an Order Authorizing the Sale of Non-Core Properties and for the Issuance of a Receivership Order in respect of 4513541 Canada Inc.* (the "**Motion**").

[2] **EXEMPT**, if applicable, Petitioners from having to serve the Motion and from any notice or delay of presentation.

[3] **ISSUE [...]** orders substantially in the form of the draft orders communicated as Exhibits R-2(a) and R-2(b) in support of the Motion;

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

Montréal, April 21, 2010

Stikeman Elliott LLP

STIKEMAN ELLIOTT LLP
Attorneys for Petitioners

AFFIDAVIT

I, the undersigned, Alice Minville, having my principal place of business at Suite 800, 1155 Metcalfe Street, Montréal, Quebec, H3B 5H2 solemnly declare the following:

1. I am a Senior Legal Counsel of Abitibi-Consolidated Inc.;

2. All the facts alleged in the *Amended Motion for the Issuance of an Order Authorizing the Sale of Non-Core Properties and for the Issuance of a Receivership Order in respect of 4513541 Canada Inc.* are true

AND I HAVE SIGNED

Alice Minville

ALICE MINVILLE

Solemnly declared before me at Gander
on the 21st day of April 2010

Commissioner for oaths

NOTICE OF PRESENTATION

TO : SERVICE LIST

TAKE NOTICE that the *__Amended__ Motion for the Issuance of an Order Authorizing the Sale of Non-Core Properties and for the Issuance of a Receivership Order in respect of 4513541 Canada Inc.* will be presented for adjudication before the Honourable Judge Clément Gascon of the Superior Court, sitting in commercial division in and for the District of Montréal, at the **Montréal Courthouse, 1 Notre-Dame Street East**, on April 26, 2010 at 9:30 AM in a Room to be determined by the Court and announced to this Service List.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, April 21, 2010

Stikeman Elliott LLP

STIKEMAN ELLIOTT LLP
Attorneys for Petitioners

SUPERIOR COURT
Commercial Division
(Sitting as a court designated pursuant to the *Companies' Creditors Arrangement Act*)

N°. 500-11-036133-094

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

In the matter of Plan of Compromise or Arrangement of:

ABITIBIBOWATER INC. *et al*

Petitioners

- and -

ERNST & YOUNG INC.

Monitor

BS0350 n/dos.: 041053-1170

AMENDED MOTION FOR THE ISSUANCE OF AN ORDER AUTHORIZING THE SALE OF NON-CORE PROPERTIES AND FOR THE ISSUANCE OF A RECEIVERSHIP ORDER IN RESPECT OF 4513541 CANADA INC.

ORIGINAL

Me Guy P. Martel (514) 397-3163
Fax : (514) 397-3493

STIKEMAN ELLIOTT
Stikeman Elliott S.E.N.C.R.L., s.r.l. AVOCATS
40e Étage
1155, boul. René-Lévesque Ouest
Montréal, Canada H3B 3V2

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