EXHIBIT R-21

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	:	Chapter 11
AbitibiBowater, Inc., *et al.*[1]	:	Case No. 09-11296 (KJC)
	:	(Jointly Administered)
Debtors.	:	Ref. Docket Nos. 2097, 2301

OBJECTION OF AURELIUS CAPITAL MANAGEMENT, LP AND CONTRARIAN CAPITAL MANAGEMENT, LLC TO (I) DEBTORS' APPLICATION FOR AN ORDER (A) AUTHORIZING BOWATER CANADA FINANCE CORPORATION TO EMPLOY AND RETAIN AP SERVICES, LLC AS SPECIAL ADVISOR AND (B) DESIGNATING LISA DONAHUE AS BOWATER CANADA FINANCE CORPORATION'S VICE PRESIDENT - RESTRUCTURING AND (II) DEBTORS' APPLICATION FOR ENTRY OF AN ORDER PURSUANT TO SECTION 327(a) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 2014 AUTHORIZING THE EMPLOYMENT AND RETENTION OF TOGUT, SEGAL & SEGAL LLP AS CONFLICTS COUNSEL TO BOWATER CANADA FINANCE CORPORATION, *NUNC PRO TUNC* TO APRIL 30, 2010

Aurelius Capital Management, LP ("Aurelius") and Contrarian Capital Management, LLC ("Contrarian" and together with Aurelius, the "Noteholders"), each on behalf of its managed fund entities, by and through their undersigned counsel, hereby submit this objection (the "Objection")[2] to (I) *Debtors' Application for an Order (A) Authorizing Bowater Canada Finance Corporation to Employ and Retain AP Services, LLC as Special Advisor and (B) Designating Lisa Donahue as Bowater Canada Finance Corporation's Vice President - Restructuring* (the "Donahue

[1] The Debtors in these chapter 11 cases are: AbitibiBowater Inc., AbitibiBowater US Holding 1 Corp., AbitibiBowater US Holding LLC, AbitibiBowater Canada Inc., Abitibi-Consolidated Alabama Corporation, Abitibi-Consolidated Corporation, Abitibi-Consolidated Finance LP, Abitibi Consolidated Sales Corporation, Alabama River Newsprint Company, August Woodlands, LLC, Bowater Alabama LLC, Bowater America Inc., Bowater Canada Finance Corporation, Bowater Canadian Forest Products Inc., Bowater Canadian Holdings Incorporated, Bowater Canadian Limited, Bowater Finance Company Inc., Bowater Finance II LLC, Bowater Incorporated, Bowater LaHave Corporation, Bowater Maritimes Inc., Bowater Newsprint South LLC, Bowater Newsprint South Operations LLC, Bowater Nuway Inc., Bowater Nuway Mid-States Inc., Bowater South American Holdings Incorporated, Bowater Ventures Inc., Catawba Property Holdings, LLC, Coosa Pines Golf Club Holdings LLC, Donohue Corp., Lake Superior Forest Products Inc., and Tenex Data Inc.

[2] Contemporaneously herewith, the Noteholders have filed a limited objection to the *Debtors' Motion for an Order Authorizing the Debtors to Enter Into the Ninth Consent to the Bowater Debtor-In-Possession Credit Agreement* objecting to such motion to the extent it purports to bind BCFC.

Application") and (II) *Debtors' Application for Entry of an Order Pursuant to Section 327(a) of the Bankruptcy Code and Bankruptcy Rule 2014 Authorizing the Employment and Retention of Togut, Segal & Segal LLP as Conflicts Counsel to Bowater Canada Finance Corporation, Nunc Pro Tunc to April 30, 2010* (the "Togut Application" and collectively, with the Donahue Application, the "Applications").[3] In support of the Objection, the Noteholders respectfully represent as follows:

PRELIMINARY STATEMENT

1. By the Applications, the Debtors create the illusion of addressing the acknowledged and unavoidable direct conflict that exists between Bowater Canada Finance Corporation ("BCFC") and the other Debtors. In reality, their proposed solutions do nothing to address the underlying conflict. BCFC will not reorganize but has significant liabilities to the holders of notes it issued to raise financing. Its only material assets are the significant claims and interests it holds against certain other Debtors and BCFC's officers and directors. As a result, the only material source of recovery for BCFC's creditors is for BCFC to prosecute and recover on its claims and interests against the other Debtors, which necessarily creates a conflict with the interests of the other Debtors.

2. Against that backdrop, it is simply not credible to suggest that the officers and directors of BCFC are able to act for the benefit of BCFC in resolving the disputes with the other Debtors. BCFC's board of directors (the "BCFC Board") and its officers are irreconcilably conflicted by the fiduciary roles they hold for the other Debtors. The counsel and advisors to BCFC are likewise conflicted insofar as they represent the interests of the very debtors against whom BCFC

[3] Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Applications.

holds claims.[4] Thus, neither the BCFC Board nor its officers can act to maximize value for BCFC.

3. The Applications do nothing to remedy this conflict. If the Applications are granted, Ms. Donahue and Togut, Segal & Segal LLP (the "Togut Firm") will still report to (and act at the direction of) the obviously conflicted BCFC Board, which makes the employment of Ms. Donahue and the Togut Firm meaningless. Nor is it clear whether communications with Ms. Donahue and the Togut Firm will be privileged or whether the other Debtors or the conflicted BCFC Board will be able to assert that such communications are not privileged. Moreover, the Applications limit the scope of work by Ms. Donahue and the Togut Firm so that neither of them can truly act to maximize recoveries for BCFC.

4. The Debtors clearly recognize that a conflict exists but, while the steps they have proposed give the illusion of providing BCFC independent fiduciaries, the reality is that BCFC is still left without anyone to act in its interests. The only proper way to address this inherent conflict is for BCFC to retain truly independent fiduciaries who can act in the best interests of BCFC and who can act on the recommendations of Ms. Donahue and the Togut Firm, without violating the duties they may owe to the other Debtors. If the Debtors are unwilling to do so, the Court should order such relief. The Applications do not accomplish that goal and should therefore be denied.

BACKGROUND

5. BCFC was formed as an unlimited company organized under the laws of Nova Scotia for the purpose of engaging in tax-advantaged financing of the Canadian operations of

[4] Such conflicts issues must be addressed by Debtors' counsel in accordance with Rules 1.7 and 1.9 of the ABA Model Code of Professional Conduct (the "Model Code") regarding conflicts of interest with current and former clients, respectively. *See* MODEL CODE OF PROF'L CONDUCT, R. 1.7, R. 1.9. (2009). Rule 1.7(a) of the Model Code provides "a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client." *Id.* at R. 1.7(a). None of the exceptions to this rule, set forth in Rule 1.7(b), apply in this case. *Id.* at R. 1.7(b). Further, Rule 1.9 of the Model Code provides "[a] lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing." *Id.* at R. 1.9.

Bowater Incorporated ("Bowater"). In 2001, BCFC issued $600 million of unsecured notes due November 2011 (the "BCFC Notes"), which are guaranteed by Bowater and are BCFC's only material liabilities. The Noteholders, through their managed fund entities, hold in excess of $200 million of the BCFC Notes.

6. BCFC is a wholly-owned subsidiary of Bowater and has no employees or independent business operations. BCFC has no business to restructure. BCFC has not received proceeds of any post-petition financing nor is it an obligor thereunder.

7. According to the Nova Scotia Registry of Joint Stock Companies, the directors of BCFC are: David J. Paterson, Alain Grandmont, Pierre Rougeau, William G. Harvey and Jacques P. Vachon, all of whom are also officers of BCFC and many of whom are officers and/or directors of other Debtors. All five are also officers of AbitibiBowater Inc. ("ABI") and are officers and directors of Bowater Canadian Forest Products Inc. ("BCFPI") See AbitibiBowater Inc., Annual Report (Form 10-K) at 17, (Mar. 31, 2010); *Company Profile of Bowater Canadian Forest Products Inc.*, Nova Scotia Registry of Joint Stock Company. Paterson, Harvey and Rougeau are directors and officers of Bowater Canada Holding Inc. ("BCHI"), while Vachon is a BCHI officer. *Company Profile of Bowater Canadian Holding Inc.*, Nova Scotia Registry of Joint Stock Company. Mr. Harvey is a director and officer of Bowater Canada Treasury Corporation and Mr. Vachon is an officer. *Company Profile of Bowater Canada Treasury Corporation*, Nova Scotia Registry of Joint Stock Company. Both Mr. Harvey and Mr. Vachon are officers of Bowater. Harvey Dep., 28:13-21, May 20, 2010.

8. BCFC's only material assets are claims against the other Debtors, the BCFC Board and BCFC's officers. Those assets include a claim against Bowater, as the sole shareholder of BCFC, under section 135 of the *Companies Act (Nova Scotia)* (the "Contribution Claim"). The

Contribution Claim is triggered by, among other things, a BCFC bankruptcy, which will require Bowater to make contributions to BCFC to satisfy all creditor claims of BCFC.

9. BCFC is also the apparent owner of preferred shares of BCHI, which, according to the Debtors, is a wholly-owned subsidiary of Bowater and a holding company for Bowater's Canadian activities. This ownership of BCHI preferred stock arose from a series of complicated and poorly disclosed intercompany transactions (the "Intercompany Transactions") occurring between October 2001 and April 16, 2009. The value of BCFC's preferred shares in BCHI depends on BCHI maximizing its recoveries from other Debtors and their affiliates. In addition, as a result of the Intercompany Transactions, BCFC has potential claims against its officers and the BCFC Board for breach of fiduciary duties.

10. These extensive interrelationships give rise to hopeless conflicts between BCFC and other Debtors. BCFC holds the Contribution Claim against Bowater, with which it shares many officers and directors. In addition, BCFC may hold claims against its conflicted officers and directors. Yet, under the Debtors' proposal, these are the people who will be directing BCFC's "independent" fiduciaries.

11. Since these cases commenced, there has been a consistent lack of transparency and unwillingness by the Debtors to provide information with respect to the multitude of corporate transactions in which BCFC has been involved for the past nine years.[5] As of the date hereof, BCFC has failed or refused to provide the Noteholders with particulars of its assets and liabilities. Although the Debtors recently advised the Noteholders that they have requested that the Monitor in

[5] This lack of transparency is set forth in detail in the Noteholders' *Motion for the Issuance of an Order Directing Bowater Canada Finance Corporation to File an Assignment in Bankruptcy or Alternatively, an Order Seeking the Appointment of an Independent and Disinterested Third Party to Investigate, Assert, Protect and Pursue the Claims and Remedies of Bowater Canada Finance Corporation* (the "Canadian Motion"), which requests similar relief to that which the Noteholders are suggesting is appropriate in this Objection. The Canadian Motion is scheduled to be heard on July 8, 2010.

the Canadian Proceeding prepare a report detailing the Intercompany Transactions, as of the date hereof, neither the Debtors nor the Monitor will commit to a date by which the report will be available. The Noteholders have been asking for public disclosure of information relating to those transactions since they made that request by letter, dated September 15, 2009 (attached hereto as Exhibit A). To date, the Noteholders have received nothing.

12. This lack of transparency is also evident because, although the Debtors are disclosing postpetition entity-by-entity financial information for the Debtors in their Monthly Operating Reports and also disclosed certain asset and liability data as of the Petition Date in their Statements of Financial Affairs, no information has been disclosed with respect to historical dealings for any companies other than SEC filers. With respect to non-Debtor affiliates (including those who are petitioners in the parallel Canadian Proceeding), the only individual entity financial information that has been released is for BCFPI and Abitibi-Consolidated Inc.

13. On March 10, 2010, the Noteholders filed the Canadian Motion in the Canadian Proceeding. The relief sought in the Canadian Motion, including the appointment of an independent and disinterested third party, was based, *inter alia*, on the direct conflicts between BCFC and the other Debtors.

14. In an apparent response to the Canadian Motion, the Debtors filed the Applications. The Applications propose to retain Ms. Donahue and the Togut Firm to represent BCFC but fail to address the need for independence of BCFC itself through an independent governance body, *i.e.*, independent directors, a chapter 7 or chapter 11 trustee, or an assignment in bankruptcy under the Canadian *Bankruptcy and Insolvency Act* (the "BIA") appointing a trustee of the estate nominated by the Noteholders. Absent the appointment of independent fiduciaries for BCFC, the appointment of Ms. Donahue and/or the Togut Firm accomplishes nothing, as they will be

taking direction from a conflicted client. Unless and until the Debtors present a proposal which addresses all of the conflicts issues, the relief requested should be denied.

REASONS FOR DENYING THE APPLICATION

15. It is undisputed that BCFC's goal for these cases should be to maximize the value of its estate. See In re Reliant Energy Channelview LP, 594 F.3d 200, 210 (3d Cir. 2010) (debtors in possession have a fiduciary duty to maximize the value of their estates) (citing Official Comm. of Unsecured Creditors of Cybergenics Corp. v. Chinery, 330 F.3d 548, 573 (3d Cir. 2003)). It is equally undisputed that the BCFC Board and BCFC's officers have fiduciary obligations to BCFC to maximize its value. CFTC v. Weintraub, 471 U.S. 343, 352 (1985) (directors of an insolvent corporation owe a duty of loyalty to the corporation's creditors, requiring them to maximize the value of the corporation's estate); In re Penich Pharm. Inc., 227 B.R. 229, 232 (Bankr. S.D.N.Y. 1998) ("directors, officers and managing employees . . . have a duty to maximize the value of the estate") (citations omitted); see also Wolf v. Weinstein, 372 U.S. 633, 651, reh'g denied, 373 U.S. 928 (1963) ("Willingness to leave the debtor in possession is premised upon an assurance that the officers and managing employees can be depended upon to carry out the fiduciary responsibilities of a trustee," including the duty to maximize the value of the debtor's estate); Marvel Entm't Group, Inc., 140 F.3d 463, 474 (3d Cir. 1998) (citing In re Ionosphere Clubs, Inc., 113 B.R. 164, 169 (Bankr. S.D.N.Y. 1990)). Unfortunately, the BCFC Board and the officers, counsel and advisors of BCFC have not complied with these duties in these cases due to the pervasive conflicts. The Applications do nothing to remedy this problem.

(i) BCFC Has No Unconflicted Representative

16. The Debtors themselves concede that at least a "potential" conflict exists between BCFC and the other Debtors. Togut Application, at ¶¶ 11, 14; Donahue Application, at ¶

12. The law is clear that where you have a debtor/creditor relationship (such as BCFC has with the other Debtors), the parties to that arrangement are in actual conflict. In re Coram Healthcare, Corp., 271 B.R. 228, 234-35 (Bankr. D. Del. 2001) (finding actual conflict of interest where debtor's chief executive officer was also employed by debtor's largest creditor); In re Zenith Elecs. Corp., 241 B.R. 92, 101-02 (financial advisor could not be retained based on an actual conflict of interest where it was previously retained by debtor's largest creditor to conduct a valuation of the debtors).

17. William Harvey, the Executive Vice President and Chief Financial Officer of ABI and the Vice President and Treasurer of BCFC, testified as to the disabling conflicts of the BCFC Board and officers. Harvey Dep. 13:19-22, 16:8-11. Mr. Harvey, who is paid by ABI and receives no compensation from BCFC (Id., 15:4-9, 18:18-19), admitted that in addition to his positions with ABI and BCFC, he is also Executive Vice President and chief financial officer for Bowater (Id., 28:13-16). However, in spite of being listed on publicly filed documents as an officer of both BCFPI and BCHI, Mr. Harvey stated that he did not know if he in fact held those positions. (Id., 18:20-19:13, 22:25-23:9).

18. Mr. Harvey further testified that, in spite of his role as an officer of BCFC, he spent "a very small amount of time" on BCFC's business (Id., 29:22) and he did not know whether BCFC had any independent officers or directors (Id., 29:23-30:1). Mr. Harvey explicitly testified that he had no opinion as to whether it is in BCFC's best interest (i) to walk away from the Contribution Claim or (ii) not to contest the cancellation of its preferred shares in BCHI (Id., 117:8-19, 120:20-24).

19. With respect to the corporate governance of BCFC, Mr. Harvey stated that:

a) he did not know whether (i) BCFC held a board meeting to consider whether it should file for bankruptcy protection (Id., 31:14-20); or (ii) there had been any discussion concerning the implications of the

Contribution Claim or its effect on the ability of the Debtors to reorganize (Id., 48:22-49:1);

b) although he thought BCFC might have a Contribution Claim against Bowater, as far as he knew, the BCFC Board had not taken any steps to investigate this claim (Id., 45:11-46:4);

c) the BCFC Board has not taken any steps to prosecute the Contribution Claim (Id., 57:13-16);

d) BCFC did not have any independent representatives present during negotiations regarding the terms of the Debtors' plans of reorganization (Id., 59:5-8);

e) the BCFC Board did not meet to review the proposed plans of reorganization, and he was not aware of any resolution of the BCFC Board authorizing the filing of such plans (Id., 105:25-106:5);

f) after receiving a letter from Aurelius setting forth potential conflicts of interest between the Debtors, the BCFC Board took no steps to alter the way it conducted business (Id., 97:22-98:8);

g) the BCFC Board never met to determine whether it should agree not to pursue the Contribution Claim, nor did the BCFC Board ever discuss such a decision (Id., 116:9-21).

20. Mr. Harvey admitted that the Togut Firm is being retained because BCFC may have a claim against Bowater in the form of the Contribution Claim (Id., 61:17-21), but stated that he did not know from whom the Togut Firm would take direction (Id., 64:17-20). Later, Mr. Harvey stated that Jacques Vachon, who owes fiduciary duties to other Debtors, was designated to direct the actions of the Togut Firm on behalf of BCFC (Id., 65:2-16).

21. It is telling that BCFC's chief financial officer, who was designated by the Debtors as the person most knowledgeable about BCFC's business and organization, cannot answer even the most basic questions about BCFC. Mr. Harvey's inability to answer simple inquiries about BCFC makes it abundantly clear that the Debtors must appoint an independent fiduciary who is focused on his or her responsibilities to BCFC.

22. Mr. Harvey was involved in the negotiation of the terms of both the U.S. and Canadian plans of reorganization and stated that he knew that BCFC will not receive any distribution on account of the Contribution Claim under either plan (Id., 109:8-12, 112:9-113:6). However, Mr. Harvey was unable to explain how the Contribution Claim would be treated if BCFC's creditors approve the plans (Id., 118:19-25).

(ii) The Applications Do Not Resolve the Conflict

23. The Applications clearly establish that even if Ms. Donahue and the Togut Firm are ultimately retained, the BCFC Board will maintain control over BCFC. Although the Togut Firm will be empowered to undertake certain actions on behalf of BCFC, the Togut Application does not explain who will (i) determine what actions are appropriately handled by the Togut Firm or (ii) direct such actions. Togut Application, ¶¶ 19-20. Although the Togut Application makes reference to the Debtors' concern that services are not duplicated, there is no explanation as to what procedures are being put into place to avoid duplication of efforts, or whether such procedures sufficiently protect the independence of the Togut Firm. Togut Application, ¶ 20. Similarly, the Donahue Application provides no information concerning from whom Ms. Donahue will take direction. However, as is plainly stated in the Application, Ms. Donahue merely has the power to make recommendations to the BCFC Board, and is not empowered to take any independent action to prosecute claims held by BCFC against the other Debtors. Donahue Application, ¶ 18. Nor do the Applications appropriately address the privilege issues with regard to communications between Ms. Donohue and the Togut Firm.

24. Not only is it clear that the BCFC Board will maintain control over BCFC in spite of the appointment of Ms. Donahue or the Togut Firm, but the Applications establish that the powers of these parties are so limited as to be meaningless. Donahue Application, ¶ 18; Togut

Application, ¶¶ 19-20. The scope of services to be provided by the Togut Firm includes advising BCFC as to its powers and duties as a debtor in possession, attending meetings and court hearings on behalf of BCFC and preparing related pleadings, and performing any necessary legal services requested by BCFC in these cases. Togut Application, ¶ 19. What is not included in the scope of the Togut Firm's services is any ability to act independently of the BCFC Board or to take direction from any independent fiduciary. Even more egregious are the limits on Ms. Donahue's powers. Should she be appointed, Ms. Donahue will be the sole independent fiduciary of BCFC. However, the terms of her engagement prevent her from "investigating or considering the filing by BCFC of any objection to the Plan, the CCAA Plan, the US Disclosure Statement filed in connection with the Plan, the CCAA Information Circular filed in connection with the CCAA Plan . . . and any related agreements and transactions . . . including any restructuring transactions contemplated thereby and the terms and conditions of any financing arrangements, including any rights offering." Donahue Application, ¶ 18. Nor would the Donahue Application appear to provide Ms. Donahue with the authority to take actions such as converting to a proceeding under chapter 7 in the United States or a liquidation proceeding under the BIA, even if Ms. Donahue determines such actions to be in the best interests of BCFC. Moreover, the claims that Ms. Donahue is allowed to prosecute are narrowly defined to exclude any potential claims against the BCFC Board and BCFC's officers or any claims arising out of the use or misuse of the proceeds of the BCFC Notes. Ms. Donahue is limited to merely an advisory role, with no ability to actually prosecute the Contribution Claim or any other claim held by BCFC and no ability to even investigate any potential objection to the Debtors' U.S. or Canadian plans or reorganization or any related documents. *Id.*

25. The appointment of an independent director or other fiduciary to investigate, protect, assert and pursue the claims and remedies of BCFC is required to ensure that all claims of

BCFC are fully asserted, and that the interests of BCFC and of its creditors are not being improperly compromised or sacrificed for the benefit of other entities of the group. See e.g., In re Adelphia Commc'ns Corp., Case No. 02-41729 (REG) (Bankr. S.D.N.Y. Aug. 4, 2005) (granting various creditors' committees the right to prosecute intercompany claims on behalf of debtors in order to ensure inter-debtor disputes did not prevent fair outcome for all creditors); In re PSINet Consulting Solutions Holdings, Inc., Case No. 01-14916 (REG) (Bankr. S.D.N.Y. Nov. 30, 2001) (appointing a trustee as a result of serious interdebtor conflicts and the conflicts of interest of the debtor's management and counsel).

26. The irreconcilable conflicts of interest can only be resolved by the appointment of an independent director or other fiduciary to (i) investigate BCFC's assets and liabilities and report to BCFC's creditors; (ii) investigate, protect, assert and pursue BCFC's claims and remedies; and (iii) take other actions as necessary to protect BCFC's interests. The BCFC Board cannot be expected to act to maximize the value of BCFC's assets when its members, along with BCFC's officers, are not only officers and directors of other Debtors against which BCFC holds claims, but may be the targets of claims themselves.

27. Moreover, the appointment of an independent director or other fiduciary for BCFC will not impair these restructuring proceedings since BCFC is not an operating company and its only assets appear to be claims against or interests in the other Debtors and their affiliates.

28. As set forth above, absent the appointment of independent fiduciaries for BCFC, the appointment of Ms. Donahue and the Togut Firm is mere window-dressing. Engaging conflicts counsel and an independent director whose actions will be directed by, and whose powers will be limited by, conflicted management defeats the purpose of their retention. The Court should require a truly independent fiduciary for BCFC or direct a conversion of the BCFC case to a chapter

7 where a trustee can be appointed by BCFC's creditors. The relief requested in the Applications should be denied.

CONCLUSION

WHERFORE, the Noteholders respectfully request entry of an order denying the relief requested by the Motion and granting such other and further relief as is just and proper.

DATED: June 17, 2010

GREENBERG TRAURIG, LLP

/s/ Victoria W. Counihan

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EXHIBIT A

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Montréal, September 15, 2009

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Attention: Mr. Avram Fishman

Re: Application of Bowater Canadian Finance Corporation ("BCFC"), Bowater Canadian Holdings Inc. ("BCHI") et al.

Dear Sirs:

We write to you in your capacities as Monitor and Monitor's counsel, respectively, of BCFC.

We represent Aurelius Capital Management, LP, which is a holder of the 7.95% Notes due 2011 (the "Notes") issued by BCFC pursuant to the Indenture dated as of October 31, 2001.

As you know, BCFC is structured as an unlimited company formed under the laws of Nova Scotia (a "ULC"). BCFC is a direct subsidiary of Bowater Inc. ("Bowater") and a preferred shareholder of BCHI. The Notes are fully and unconditionally guaranteed by Bowater and are also entitled to distributions as unsecured debt from the proceeds of the liquidation of assets of BCFC, including but not limited to recoveries from BCHI and any other parties that may have obligations to BCFC. Bowater also has obligations in its role as BCFC's sole shareholder; under section 135 of the *Companies Act* (Nova Scotia), the shareholder of a ULC is required to make contributions to the ULC to satisfy all creditor claims.

A significant portion of recovery on the Notes will depend on maximizing recoveries by BCFC on its claims against BCHI and other affiliates. Because of obvious multiple and inherently conflicting loyalties, the debtors' managers and directors are not in a position to serve with independence and act in the best interests of BCFC. Accordingly, we believe it is absolutely essential that all financial and other information pertinent to a recovery for the Notes be made available to the creditors of BCFC as soon as possible.

At this stage, while reserving all rights, our client makes the following requests:

1. ***Access to Information in the Possession of BCFC and its affiliates***: As a creditor of BCFC, our client is entitled to and wishes to have an opportunity to review all of the financial information in possession of BCFC and its affiliates relating to:

    a. the financial condition of, or
    b. financial transactions involving,

    BCFC, BCHI, AbitibiBowater Canada Inc., Bowater Canadian Forest Products Inc., and Bowater Canada Finance LP. The requested financial information includes particulars of all intercompany transactions between BCFC and its affiliates as well as the particulars of any asset transfers that may have occurred in the three years before the filing date, including the creation and allocation of preferred shares at BCHI.

2. ***Access to Information in the Possession of BCHI and its affiliates***: As preferred shareholders of BCHI, our clients are entitled to ensure that the interests of BCFC are properly protected. BCFC is the sole preferred shareholder of BCHI and as such is entitled to proper disclosure from BCHI.

    Accordingly, our client seeks an opportunity to review all of the financial information in possession of BCHI or its affiliates relating to:

    a. the financial condition of, or
    b. financial transactions involving,

    BCFC, BCHI, AbitibiBowater Canada Inc., Bowater Canadian Forest Products Inc., and Bowater Canada Finance LP. Again, the requested financial information includes particulars of all intercompany transactions between BCFC and its affiliates as well as the particulars of any asset transfers that may have occurred in the three years before the filing date, including the creation and allocation of preferred shares at BCHI.

BCF

Please advise when in the next week these records will be available for review. Given the urgency of the circumstances, we request that this information be made available to all creditors by the end of day September 22, 2009.

We acknowledge that this information will have to be prioritized and we invite you to meet with us to determine how this information can be produced efficiently. Our clients are of the view that it would be appropriate to produce the requested information publicly in both the US bankruptcy and the Canadian CCAA proceedings.

Yours very truly,

Jean-Yves Fortin
Partner and Chairman of the Board

JYF/chb

cc: Aurelius Capital Management, LP – Dan Gropper and Gabriella Skirnick
Greenberg Traurig, LP – Bruce Zirinsky and Gary Ticoll

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
	)	Case No. 09-11296 (KJC)
ABITIBIBOWATER INC., et al.,[1]	)	Jointly Administered
	)	**RE: D.I. 2301**
	)	
Debtors.	)	**Hearing Date: June 25, 2010 at 10:00 a.m. (ET)**
	)	**Objection Deadline: June 18, 2010 at 4:00 p.m. (ET)**

LIMITED OBJECTION OF WILMINGTON TRUST COMPANY, SOLELY AS SUCCESSOR INDENTURE TRUSTEE FOR THE 7.95% NOTES ISSUED BY BOWATER CANADA FINANCE CORPORATION, TO DEBTORS' APPLICATION FOR AN ORDER: (I) AUTHORIZING BOWATER CANADA FINANCE CORPORATION TO EMPLOY AND RETAIN AP SERVICES, LLC AS SPECIAL ADVISOR AND (II) DESIGNATING LISA DONAHUE AS BOWATER CANADA FINANCE CORPORATION'S VICE PRESIDENT — RESTRUCTURING

Wilmington Trust Company ("Wilmington Trust"), solely as successor indenture trustee for the 7.95% Notes due 2011 (collectively, the "BCFC Notes") issued by Bowater Canada Finance Corporation ("BCFC") pursuant to that certain indenture agreement, dated as of October 31, 2001 (the "BCFC Notes Indenture"), by and through its undersigned attorneys, hereby submits this limited objection to the application (the "Donahue Application") of AbitibiBowater Inc. and its affiliated Debtors for entry of an order, pursuant to sections 105 and 363 of title 11 of the United States Code, authorizing BCFC to employ and retain APS[2] as special advisor and designating Donahue as BCFC's Vice President — Restructuring ("VP") in these chapter 11 cases. [Docket No. 2301]. In support of this limited objection, Wilmington Trust respectfully represents as follows:

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1 The Debtors in these chapter 11 cases are listed in footnote 1 of the Donahue Application.

2 Each capitalized term used but not otherwise defined herein shall have the meaning ascribed to such term in the Donahue Application.

PRELIMINARY STATEMENT

While BCFC's creditors should be able to choose BCFC's independent representative, Wilmington Trust does not object to the selection of an independent representative for BCFC such as Donahue and APS. Instead, Wilmington Trust merely objects to the limited scope of their proposed responsibilities and powers.[3] Indeed, Wilmington Trust has made extensive efforts to reach a consensual resolution of this matter, such as by offering to consent to the Debtors' selection of: (a) Donahue as VP of BCFC; (b) APS as BCFC's representative; and (c) the Togut Firm as BCFC's conflicts counsel so long as the Debtors reciprocate by expanding the powers of Donahue and the Togut Firm. Unfortunately, however, the Donahue Application is misleading as to the events leading to the application and disingenuous as to whether the application would address the fundamental problem, the lack of an independent fiduciary for BCFC.

Since almost the outset of these cases, the Debtors have stonewalled and refused to acknowledge the clear conflicts of interest BCFC's current officers, directors, and professionals have in representing BCFC concerning its claims against other Debtors and those very same officers and directors. Meanwhile, Wilmington Trust repeatedly has tried to avoid litigation here by encouraging the Debtors to permit BCFC to retain independent counsel and an independent fiduciary to investigate, prosecute, and if appropriate, settle BCFC's substantial claims against Bowater and potentially other Debtors as well as against BCFC's officers and directors. Now, in the guise of belatedly addressing those conflicts, the Debtors (not BCFC)

[3] Correspondingly, Wilmington Trust does not object to the Debtors' selection of Togut Segal & Segal (the "Togut Firm") as conflicts counsel for BCFC. Nonetheless, the Debtors' application to retain the Togut Firm as conflicts counsel for BCFC should be deferred unless and until the scope of Donahue's retention is rectified. At that point, the scope and terms of the Togut Firm's retention terms should be modified to match Donahue's.

have hand-picked a new restructuring officer for BCFC and conflicts counsel. Unfortunately, while the firms chosen are qualified to perform the functions of an independent fiduciary and her counsel, the restrictions the Debtors would place on such professionals render their proposed retention pointless, if not counterproductive.

The terms of Donahue's proposed Engagement Agreement fall short of remedying the conflicts of interest between the Debtors and BCFC in at least five ways. First, the limitations on Donahue's authority under the Engagement Agreement signify she would be powerless. In effect, Donahue would not be permitted to pursue her recommended courses of action unless she first received the permission of BCFC's board of directors (the "BCFC Board"). Yet, the BCFC Board's members also serve as officers and directors of Bowater and the other Debtors against which Donahue would recommend asserting claims on behalf of BCFC. Further, those same BCFC Board members also could be subject to the claims Donahue would be investigating. Hence, the Debtors' proposal would leave ultimate decision-making authority in the hands of the hopelessly conflicted BCFC Board and, accordingly, fails to address the fundamental conflicts that require an independent fiduciary for BCFC.

Second, Donahue's powers would be further constrained because she could not convert BCFC's chapter 11 case to one under chapter 7 (or seek similar relief in Canada) even if that were the best method to maximize the value of BCFC's estate.

Third, the proposed Donahue Engagement Agreement defines the "BCFC Claims" that Donahue could pursue too narrowly because they would not encompass the investigation and prosecution of claims against BCFC's officers and directors or BCFC's claims unrelated to the use of the initial proceeds from the BCFC Notes.

Fourth, Donahue would be prevented from preserving and protecting BCFC's claims by, if necessary, objecting to Plans or related agreements and transactions that would: (a) release or diminish BCFC's claims or the recoveries thereon; or (b) treat BCFC less favorably than other Debtors. Indeed, Donahue's current Engagement Agreement even would prohibit an objection to a Plan provision that released the very BCFC claims Donahue would be investigating.

Fifth, to be effective, Donahue (and APS) must have their communications with conflicts counsel subject to attorney client privilege. Yet, the Debtors' proposed Engagement Agreement, which would have Donahue reporting to the BCFC Board, would provide the conflicted BCFC Board with unfettered access to such communications.

In light of these defects, which would render Donahue unable to perform as an independent fiduciary, the Donahue Application in its current form should be denied. As further delay would prejudice BCFC and its creditors, the Court should cure those defects now by granting the Donahue Application on the terms in the proposed order annexed hereto as Exhibit "A".

BACKGROUND

Wilmington Trust

1. Pursuant to an Agreement of Resignation, Appointment and Acceptance, dated as of April 28, 2009, The Bank of New York Mellon resigned as indenture trustee under the BCFC Notes Indenture and Wilmington Trust accepted the appointment to serve as the successor indenture trustee.

The BCFC Notes

2. The principal amount owed under the BCFC Notes is $600 million. Additionally, BCFC now owes more than $20 million for accrued prepetition interest, fees, expenses and other charges.

3. The BCFC Notes were issued by BCFC and guaranteed by Bowater. BCFC is a wholly-owned subsidiary of Bowater and is organized under Nova Scotia law as an unlimited company, i.e., a ULC. Each of BCFC and Bowater is a Debtor.

4. BCFC was to use the proceeds from the BCFC Notes (the "BCFC Note Proceeds") for "providing financing to Bowater" through BCFC's acquisition of Bowater's direct and indirect equity interests in a finance subsidiary:

> We [BCFC] are an unlimited liability company organized under the laws of the Province of Nova Scotia, Canada and a wholly-owned subsidiary of Bowater. Bowater formed us for the purpose of providing financing to Bowater in Canada. We have no independent operations and prior to this offering, we had no material assets or liabilities. We will use the proceeds from this offering to acquire 99% of Bowater Canada Finance Limited Partnership from Bowater and to capitalize our wholly owned subsidiary, Bowater Canada Treasury Corporation, which will then acquire the remaining 1% of Bowater Canada Finance Limited Partnership from Bowater Ventures Inc., a wholly-owned subsidiary of Bowater.
>
> * * *
>
> Bowater and Bowater Ventures Inc. then will use the proceeds from that sale to repay all amounts outstanding under the bridge credit agreement and to repay other short-term borrowings of Bowater.

BCFC Notes Offering Circular, dated October 31, 2001, pp. 3, 11 (emphasis added). As the value of the assets BCFC was to acquire from Bowater with the BCFC Note Proceeds was, at best, uncertain and Bowater and its affiliates were to receive tax advantages from BCFC's status as a ULC, the trade-off (and the basis upon which the BCFC Notes were issued) was that under Canadian law, BCFC would have a claim (the "Contribution Claim") against Bowater for any shortfall in BCFC's ability to satisfy the BCFC Notes. Specifically, BCFC's Contribution Claim arises from the fact that BCFC is a ULC organized under the laws of Nova Scotia and a wholly-owned subsidiary of Bowater. As a shareholder of BCFC, Bowater has obligations under Section 135 of the Companies Act (Nova Scotia) to make contributions to BCFC sufficient to satisfy all creditor claims against BCFC, including, without limitation, claims on the BCFC Notes.

5. Today, the amount due on the BCFC Notes represents most of the liabilities of BCFC. Meanwhile, according to the Debtors, other than BCFC's Contribution Claim against Bowater (and, potentially, BCFC's claims against other Debtors or against BCFC's officers and directors), BCFC has no material assets with which to satisfy the BCFC Notes or BCFC's other liabilities. See Disclosure Statement p. 23 (estimating Class 6M BCFC unsecured creditor claims at just over $620 million and recoveries on such claims under the Plan at less than 1%). Accordingly, under Canadian law, BCFC should be entitled to assert its Contribution Claim against Bowater for the well over $600 million of BCFC's unsatisfied liabilities, including any unsatisfied portion of the BCFC Notes.

6. Apparently, Bowater might contest BCFC's Contribution Claim. To date, the sole theories suggested for such a challenge have been that: (a) BCFC must be in a winding up proceeding in Canada or in chapter 7 in the U.S. in order to trigger the Contribution Claim (which, if true, could be easily remedied if there was a responsible individual for BCFC who could cause such a conversion, as BCFC has no operations); and (b) it would be inequitable for BCFC to have a Contribution Claim against Bowater when there is a separate claim against Bowater based on its undisputed guaranty of the BCFC Notes (even though: (i) those claims differ in kind and amount; (ii) the claims are held by different entities, i.e., Wilmington Trust and BCFC; and (iii) the existence of the Contribution Claim is exactly what is contemplated under Canadian law because, inter alia, BCFC otherwise would have no assets with which to satisfy its

obligation, as the issuer, to repay the BCFC Notes as all of the BCFC Note Proceeds were used to provide financing and tax benefits for Bowater).

Events Leading Up to the Donahue Application

7. Throughout these cases, Wilmington Trust has sought to consenually resolve the issue of who would represent BCFC concerning the Contribution Claim and other BCFC claims. Unfortunately, since the outset, the Debtors (who should have been neutral mediators facilitating a resolution of such intercompany claims) have insisted, as they still do today, that "BCFC's directors and officers are fully capable and legally authorized to discharge their fiduciary duties to BCFC in connection with resolving these potential intercompany disputes . . . ." Donahue Application ¶ 12. Moreover, the Debtors have taken the same view regarding their professionals' ability to be on both sides of the BCFC/Bowater Contribution Claim dispute.

8. The Debtors' internal conflicts are, however, irreconcilable. First, the Contribution Claim (and potentially BCFC's other claims) is a large, potentially disputed claim between two Debtors, BCFC and Bowater, who have extensive overlapping officers and directors.[4] Second, other Debtors that have claims against Bowater that would be diluted by BCFC's over $600 million Contribution Claim also have extensive overlapping officers and directors with BCFC. Third, the senior officer and director that the Debtors had, until now, proposed as an "independent" representative for BCFC has been integrally involved in the U.S. and Canadian debtors' plan process and, therefore, inevitably would have been biased against any strategy that might be in BCFC's own best interests, but not necessarily in the interests of other Debtors concerning the Plans. Fourth, BCFC might have claims against its current officers

4 Notably, the Contribution Claim dispute is not a run of the mill books and records reconciliation issue between debtors.

and directors. Despite these obvious conflicts, the Debtors continued to insist they alone could and should resolve BCFC's Contribution Claim and related claims.

9. Eventually, after many months of prodding, the Debtors relented slightly and filed an application for BCFC to retain the Togut Firm as conflicts counsel (the "Togut Application") [Docket No. 2097]. Notably, the Togut Firm was selected by the very Debtors' professionals who then intended to represent Bowater on the other side of the dispute. Worse, the Togut Application would place limits on the Togut Firm's retention similar to the proposed restrictions on Donahue. Most important, the Togut Application was unacceptable because there would be no independent fiduciary to whom the Togut Firm would report and from whom the Togut Firm would receive direction.

10. In order to avoid litigation, Wilmington Trust promptly advised the Debtors of the Togut Application's defects and again requested an independent fiduciary for BCFC. Additionally, to facilitate a consensual resolution here, Wilmington Trust said it would agree to the Debtors' selection of the Togut Firm as conflicts counsel so long as the Togut Firm would report to an independent fiduciary.[5] Once again, however, the Debtors resisted and insisted BCFC's current officers and directors would suffice. After further delay (presumably to get past the hearing on the Backstop Commitment and the Fairfax release), the Debtors backed down a bit more and filed the Donahue Application.

The Donahue Application

5 Any determination on the Togut Application should await resolution of the Donahue Application. The Togut Firm must work with an independent fiduciary at BCFC and the scope of the Togut Firm's duties must match those of such independent fiduciary.

11. By the Donahue Application, the Debtors seek, inter alia, entry of an order authorizing the employment of APS as special advisor and designating Donahue as a VP of BCFC.

12. According to the Donahue Engagement Agreement, Donahue would be authorized and empowered solely to take the following actions in her capacity as VP:

> a) review the [Contribution] Claim and the BCFC Claims, in each case with the benefit of advice from independent legal advisors, and in the case of the BCFC Claims with the benefit of review and consideration of the Monitor's report regarding the BCFC Claims;
>
> b) consider, and recommend to the Board of Directors, the course of action to be taken in the best interests of BCFC in connection with the [Contribution] Claim and the BCFC Claims, including whether BCFC should file any proof of claim, action or proceeding on account of the [Contribution] Claim or the BCFC Claims and, if so, whether and on what terms to resolve such claim, action or proceeding;
>
> c) implement, with the assistance of independent legal advisors, any such recommended course of action if the Board of Directors decides to act thereon;
>
> d) take such action as the VP determines to be necessary or appropriate in order to properly guide and advise the Board of Directors; and
>
> e) assist with such other matters as may be requested by the Board of Directors that fall within the VP expertise and that are mutually agreeable.

Donahue Application ¶ 18; Exhibit B, Engagement Agreement p. 2 (emphasis added).

13. The Donahue Application misleadingly introduces this list of tasks with the statement that "the professional services that APS and Donahue will render to BCFC include, but shall not be limited to," the list quoted above. In fact, that list is the entire list of services Donahue may provide unless the conflicted BCFC Board requests additional work. See id. In effect, unlike the Donahue Application, Donahue's Engagement Agreement has no, including, but not limited to language, and footnote 6 in the Donahue Application states that "[i]f there are

any inconsistencies between the summaries contained herein and in the Engagement Agreement, the Engagement Agreement shall govern."

14. Further, the Donahue Application and Donahue's Engagement Agreement expressly state that Donahue and APS would be prohibited from investigating or objecting to the U.S. and Canadian plans or "any related agreements and transactions", including "any rights offering":

> provided, for greater certainty, that such authority and powers shall not include investigating or considering the filing by BCFC of any objection to the Plan, the CCAA Plan, the U.S. Disclosure Statement filed in connection with the Plan, the CCAA Information Circular filed in connection with the CCAA Plan (each as filed in connection with the reorganization proceedings by the AbitibiBowater Inc. on May 24, 2010 and as may be amended, supplemented or restated from time to time) and any related agreements and transactions (as each may be amended from time to time), including any restructuring transactions contemplated thereby and the terms and conditions of any financing arrangements, including any rights offering.

Donahue Application ¶ 18; Exhibit B Engagement Agreement p. 2 (emphasis added). Thus, for example, if the Plans released or hindered the Contribution Claim or otherwise treated BCFC less favorably than other Debtors, Donahue would be helpless to seek to prevent such harm to BCFC.

15. Incredibly, therefore, after many months of intentionally stonewalling and delay followed by limited, gradual concessions in agreeing to have BCFC retain the Togut Firm and Donahue, the Debtors still refuse to address the fundamental conflict problem. While the Togut Firm and Donahue are qualified to perform their respective roles, such qualifications are meaningless when each would be hamstrung by the absence of an independent fiduciary for BCFC with power to act.

16. Consequently, Wilmington Trust objects to the terms of Donahue's retention even though she would be well qualified to act as an independent fiduciary were that the role she was being nominated to fill. Correspondingly, Wilmington Trust respectfully requests deferral of the Togut Application until Donahue's duties and powers (as well as those of the Togut Firm) are clarified.

OBJECTION

17. The Donahue Application would not grant APS and Donahue the authority necessary to fully investigate and prosecute BCFC's Contribution Claim against Bowater and any potential claims of BCFC against other Debtors and BCFC's officers and directors. Yet, a trustee or debtor in possession has a duty to maximize the value of the debtor's estate. See Commodity Futures Trading Comm'n v. Weintraub, 471 U.S. 343, 353 (1985).

18. If the trustee (or debtor in possession) has a conflict between its fiduciary duty to maximize value and another obligation, then the "responsibility [is placed] with the bankruptcy court." In re Martin, 91 F.3d 389, 394 (3d Cir. 1996) (holding that when there is a conflict between the trustee's duty to maximize the value of the estate and any good faith obligation the trustee might have to pursue an executed settlement agreement, the bankruptcy court should resolve that conflict). Thus, this Court may intervene now.

19. Here, BCFC has a duty to maximize the value of its estate by pursuing the Contribution Claim and related claims. Nonetheless, BCFC's current officers and directors are hopelessly conflicted in that regard. Not only are they also officers and directors of entities that are the targets of BCFC's claims and/or whose claims against Bowater would be diluted by BCFC's Contribution Claim, but BCFC's officers and directors might be the actual targets of certain of BCFC's claims. Accordingly, BCFC must have an independent fiduciary to

investigate and prosecute BCFC's claims. The Debtors fail to address that need in the Donahue Application for at least five reasons.

20. First, pursuant to the Engagement Agreement, Donahue merely would be authorized to "review the [Contribution] Claim and the BCFC Claims," "recommend to the Board of Directors[ ] the course of action to be taken in . . . connection with the [Contribution] Claim and the BCFC Claims," and "implement . . . any such recommended course of action if the Board of Directors decides to act thereon." Engagement Agreement p. 2 (emphasis added). Hence, Donahue would have no real decision-making authority. Instead, she would be entirely subject to the control of the BCFC Board, which remains hopelessly conflicted regarding the claims at issue. To fulfill her duties, Donahue should be authorized to implement her "recommended course of action" and pursue (or settle) the Contribution Claim and the BCFC Claims (as expanded below) as she sees fit without first having to obtain the BCFC Board's permission. Absent such an expansion of Donahue's authority, Donahue's powers would be meaningless because, despite the title "Vice President - Restructuring," she would in fact be no more than a reporter to the BCFC Board, which would retain the real power and authority.

21. Second, Donahue's authority should include the right, if she determines it would be in the best interests of BCFC, to convert BCFC's chapter 11 case to a chapter 7 case and/or to convert BCFC's CCAA case into a winding up proceeding under Canadian law, particularly as BCFC is not an operating entity. The mere possibility that such action could be warranted here to maximize BCFC's estate mandates that Donahue be permitted to take (or threaten to take) such action if necessary.

22. Third, the Engagement Agreement defines "BCFC Claims" too narrowly by limiting them to claims "against affiliates [of BCFC] relating to [BCFC] Note proceeds." Engagement Agreement ¶ 1. Instead, the definition of BCFC Claims should be expanded to

include any causes of action BCFC might have against: (a) its directors and officers; and (b) based on or related to the use (or failure to use) the BCFC Note Proceeds, any assets subsequently acquired by BCFC, or otherwise appropriate to maximize BCFC's estate. There is no reason to narrowly define the potential "BCFC Claims" as proposed by the Debtors and thereby preclude Donahue from maximizing the recoveries for BCFC's creditors under its Plan.

23. Fourth, contrary to the express prohibition in the Engagement Agreement, Donahue must be able to object to the Plans or other plans (and related agreements and transactions) to the extent they would adversely impact the claims she is pursuing (e.g., by releasing such claims) or would treat BCFC less favorably than other Debtors. Also, Donahue should be able to vote BCFC's Claims. Otherwise, Donahue's powers would be illusory, particularly as the Debtors have delayed so long in empowering an independent fiduciary for BCFC.[6]

24. Fifth, Donahue's communications with counsel (and any other APS employee) regarding BCFC must be subject to attorney client privilege. Otherwise, through the Board's access to such communications or some loss of privilege, the benefits of conflicts counsel would be lost or substantially impaired for BCFC.

25. Consequently, the appropriate solution here is obvious — Donahue must be empowered to investigate and prosecute the Contribution Claim and BCFC Claims (based on the expanded definition) without first obtaining the consent of or permitting interference by the BCFC Board. A proposed order reflecting the five concerns listed above is annexed hereto as Exhibit "A" and a blackline of that order reflecting the differences between Exhibit "A" and the proposed order submitted by the Debtors is annexed hereto as Exhibit "B".

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6 One obvious purpose of such delay was so that Donahue could not object to the proposed release of Fairfax in connection with the Rights Offering Commitment Agreement.

CONCLUSION

WHEREFORE, Wilmington Trust respectfully requests that the Court deny the Donahue Application or grant it solely on terms consistent herewith and as reflected in Exhibit "A" hereto.

Dated: Wilmington, Delaware
June 17, 2010

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Co-Attorneys for Wilmington Trust Company, solely as successor indenture trustee for the 7.95% Notes due 2011 issued by Bowater Canada Finance Corporation pursuant to an indenture agreement, dated as of October 31, 2001

<u>EXHIBIT A</u>

PROPOSED ORDER

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
ABITIBIBOWATER INC., *et al.*[1],	)	Case No. 09-11296 (KJC)
	)	
	)	Jointly Administered
Debtors.	)	
	)	**RE: D.I. 2301**

ORDER (I) APPROVING THE RETENTION OF AP SERVICES, LLC AS SPECIAL ADVISOR TO BOWATER CANADA FINANCE CORPORATION AND (II) DESIGNATING LISA DONAHUE AS BOWATER CANADA FINANCE CORPORATION'S VICE PRESIDENT – RESTRUCTURING

Upon the Application[2] of AbitibiBowater Inc. and its affiliated debtors and debtors-in-possession in the above-captioned cases (each a "Debtor," and collectively, the "Debtors"), requesting entry of an order pursuant to sections 105 and 363(b) of the Bankruptcy Code approving the retention of AP Services, LLC ("APS") as special advisor to BCFC and

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1 The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: AbitibiBowater Inc. (6415), AbitibiBowater US Holding 1 Corp. (N/A), AbitibiBowater US Holding LLC (N/A), AbitibiBowater Canada inc. (N/A), Abitibi-Consolidated Alabama Corporation (4396), Abitibi-Consolidated Corporation (9050), Abitibi-Consolidated Finance LP (4528), Abitibi Consolidated Sales Corporation (7144), Alabama River Newsprint Company (7247), Augusta Woodlands, LLC (9050), Bowater Alabama LLC (7106), Bowater America Inc. (8645), Bowater Canada Finance Corporation (N/A), Bowater Canadian Forest Products Inc. (N/A), Bowater Canadian Holdings Incorporated (N/A), Bowater Canadian Limited (N/A), Bowater Finance Company Inc. (1715), Bowater Finance II LLC (7886), Bowater Incorporated (1803), Bowater LaHave Corporation (N/A), Bowater Maritimes Inc. (N/A) Inc. (N/A), Bowater Newsprint South LLC (1947), Bowater Newsprint South Operations LLC (0168), Bowater Nuway Inc.. (8073), Bowater Nuway Mid-States Inc. (8290), Bowater South American Holdings Incorporated (N/A), Bowater Ventures Inc. (8343), Catawba Property Holdings, LLC (N/A), Coosa Pines Golf Club Holdings LLC (8702), Donohue Corp. (9051), Lake Superior Forest Products Inc. (9305) and Tenex Data Inc. (5913). On December 21, 2009, ABH LLC 1 (2280) and ABH Holding Company LLC (2398) (the "SPV Debtors") commenced chapter 11 cases, which cases are jointly administered with the above-captioned Debtors. The Debtors' and SPV Debtors' corporate headquarters are located at, and the mailing address for each Debtor is, 1155 Metcalfe Street, Suite 800, Montreal, Quebec H3B 5H2, Canada.

2 All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Application.

designating Lisa Donahue ("Donahue") to serve as BCFC's Vice President — Restructuring (the "VP") in these Chapter 11 Cases; and upon consideration of the Donahue Affidavit and the objections to the Application; and it appearing that good and sufficient notice having been given and no other or further notice need be given; and this court finding further that APS and Donahue do not hold or represent any interest adverse to the Debtors or their estates, that APS and Donahue are "disinterested" persons as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy code, and that Donahue's designation as BCFC's Vice President – Restructuring is necessary and is in the best interests of BCFC, its estate and its creditors; and after due deliberation and good and sufficient cause appearing therefore, it is hereby ORDERED that:

1. The Application is GRANTED to the extent set forth in this Order.

2. Pursuant to sections 105 an 363(b) of the Bankruptcy Code, BCFC is authorized to retain APS as its special advisor and to appoint Donahue as its Vice President – Restructuring pursuant to the terms set forth in the Application and the Engagement Agreement, as modified by this Order.

3. BCFC and Bowater Incorporated are authorized to make any payments required pursuant to the terms set forth in the Application, Engagement Agreement and this Order.

4. Notwithstanding anything in the Application, the Donahue Affidavit, and/or the Engagement Agreement to the contrary, APS' engagement is subject to the following modifications:

a) APS and its affiliates shall not act in more than one of the following capacities, restructuring officer, crisis manager, financial advisor, claims agent/claims administrator, or investor/acquirer, in connection with the above-captioned cases.

b) No principal, employee or independent contractor of APS and its affiliates shall serve as director of any of the above-captioned Debtors during the pendency of the above-captioned cases.

c) APS shall file with the Court (and serve copies to the U.S. Trustee and counsel to the Committee contemporaneously with such filing) reports of compensation earned and expenses incurred on a quarterly basis. Such reports shall contain summary charts which describe the services provided identify the compensation earned and itemize the expenses incurred. Time records shall (i) be appended to the reports, (ii) contain time entries describing the task(s) performed, and (iii) be organized by project category. All compensation shall be subject to review by this court in the event an objection is filed.

d) APS shall not be required to apply to the Court for payment of its monthly invoices, but shall provide copies of such invoices each month to counsel for the Committee and the U.S. Trustee.

e) For a period of three years after the conclusion of the engagement, neither APS nor Donahue shall make any investments in the Debtors or the reorganized Debtors.

f) APS shall make appropriate disclosures of any and all facts that may have a bearing on whether the firm, its affiliates, and/or any individuals working on the engagement hold or represent any interest adverse to the Debtor(s), its/their creditors, or other parties in interest. The obligation to disclose identified in this subparagraph is a continuing obligation.

g) Bowater and BCFC shall indemnify Donahue to the same extent an on the same terms as provided to Bowater's and BCFC's officers and directors under the corporate bylaws and applicable state law. Bowater and BCFC shall not provide indemnification to APS.

h) APS personnel serving as corporate officers of the Debtors shall be subject to the same fiduciary duties and obligations applicable to other persons serving in such capacity.

5. Notwithstanding anything to the contrary in the Application, the Donahue Affidavit, and/or the Engagement Agreement, Donahue shall, without limitation, have the authority to:

a) review the Contribution Claim[3] and the BCFC Claims,[4] in each case with the benefit of advice from independent legal advisors, and in the case of the BCFC Claims, with the benefit of review and consideration of the Monitor's report regarding the BCFC Claims;

b) determine the course of action to be taken in the best interests of BCFC in connection with the Contribution Claim and the BCFC Claims, including but not limited to: (a) filing any proof of claim, action or proceeding on account of the Contribution Claim or the BCFC Claims and, if filed, whether and on what terms to resolve such claim, action or proceeding; and (b) converting BCFC's chapter 11 case to a chapter 7 case and/or to converting BCFC's CCAA case into a winding up or other appropriate proceeding under Canadian law;

c) implement, with the assistance of independent legal advisors, any such recommended course of action without approval from BCFC's board of directors, management or shareholder;

d) object to the Plans or any other plan(s) for the Debtors and/or their affiliates (and related agreements and transactions) in the manner and to the extent she sees fit to advance BCFC's interests;

e) vote to accept or reject the Plans (or any other plans) on behalf of BCFC as the holder of the BCFC Claims;

f) take such action as the VP determines to be necessary or appropriate for the benefit of BCFC;

g) to the extent reasonably requested to do so, consult with BCFC's creditors concerning the tasks outlined above; and

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3 The "Contribution Claim" means BCFC's claim under Canadian law against Bowater for any shortfall in BCFC's ability to satisfy the BCFC Notes based, inter alia, on BCFC being a ULC under the laws of Nova Scotia, BCFC being a wholly-owned subsidiary of Bowater, and Section 135 of the Companies Act (Nova Scotia).

4 Notwithstanding any definition to the contrary in the Application, the Donahue Affidavit and/or the Engagement Agreement, "BCFC Claims" shall include any claims or causes of action BCFC might have against its past or present directors and officers or any of BCFC's affiliates.

h) assist with such other matters as may be requested by BCFC's board of directors that fall within the VP expertise and that are mutually agreeable.

6. Donahue's and any other APS employee's communications with BCFC's counsel regarding BCFC shall subject to attorney client privilege.

7. This Court shall retain jurisdiction over any and all matters arising from or related to the interpretation and/or implementation of this order.

Dated: Wilmington, Delaware
June __, 2010

HONORABLE KEVIN J. CAREY
CHIEF UNITED STATES BANKRUPTCY
JUDGE

<u>EXHIBIT B</u>

BLACKLINE OF PROPOSED ORDER REFLECTING CHANGES FROM DEBTORS' PROPOSED ORDER

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
ABITIBIBOWATER INC., *et al.*[1],	)	Case No. 09-11296 (KJC)
	)	
	)	Jointly Administered
Debtors.	)	

ORDER (I) APPROVING THE RETENTION OF AP SERVICES, LLC AS SPECIAL ADVISOR TO BOWATER CANADA FINANCE CORPORATION AND (II) DESIGNATING LISA DONAHUE AS BOWATER CANADA FINANCE CORPORATION'S VICE PRESIDENT – RESTRUCTURING

Upon the Application[2] of AbitibiBowater Inc. and its affiliated debtors and debtors-in-possession in the above-captioned cases (each a "Debtor," and collectively, the "Debtors"), requesting entry of an order pursuant to sections 105 and 363(b) of the Bankruptcy Code approving the retention of AP Services, LLC ("APS") as special advisor to BCFC and designating Lisa Donahue ("Donahue") to serve as BCFC's Vice President — Restructuring (the

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1 The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: AbitibiBowater Inc. (6415), AbitibiBowater US Holding 1 Corp. (N/A), AbitibiBowater US Holding LLC (N/A), AbitibiBowater Canada inc. (N/A), Abitibi-Consolidated Alabama Corporation (4396), Abitibi-Consolidated Corporation (9050), Abitibi-Consolidated Finance LP (4528), Abitibi Consolidated Sales Corporation (7144), Alabama River Newsprint Company (7247), Augusta Woodlands, LLC (9050), Bowater Alabama LLC (7106), Bowater America Inc. (8645), Bowater Canada Finance Corporation (N/A), Bowater Canadian Forest Products Inc. (N/A), Bowater Canadian Holdings Incorporated (N/A), Bowater Canadian Limited (N/A), Bowater Finance Company Inc. (1715), Bowater Finance II LLC (7886), Bowater Incorporated (1803), Bowater LaHave Corporation (N/A), Bowater Maritimes Inc. (N/A) Inc. (N/A), Bowater Newsprint South LLC (1947), Bowater Newsprint South Operations LLC (0168), Bowater Nuway Inc.. (8073), Bowater Nuway Mid-States Inc. (8290), Bowater South American Holdings Incorporated (N/A), Bowater Ventures Inc. (8343), Catawba Property Holdings, LLC (N/A), Coosa Pines Golf Club Holdings LLC (8702), Donohue Corp. (9051), Lake Superior Forest Products Inc. (9305) and Tenex Data Inc. (5913). On December 21, 2009, ABH LLC 1 (2280) and ABH Holding Company LLC (2398) (the "SPV Debtors") commenced chapter 11 cases, which cases are jointly administered with the above-captioned Debtors. The Debtors' and SPV Debtors' corporate headquarters are located at, and the mailing address for each Debtor is, 1155 Metcalfe Street, Suite 800, Montreal, Quebec H3B 5H2, Canada.

2 All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Application.

"VP") in these Chapter 11 Cases; and upon consideration of the Donahue Affidavit and the objections to the Application; and it appearing that good and sufficient notice having been given and no other or further notice need be given; and this court finding further that APS and Donahue do not hold or represent any interest adverse to the Debtors or their estates, that APS and Donahue are "disinterested" persons as that term is defined in section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy code, and that Donahue's designation as BCFC's Vice President – Restructuring is necessary and is in the best interests of ~~the Debtors, their estates and their~~BCFC, its estate and its creditors; and after due deliberation and good and sufficient cause appearing therefore, it is hereby ORDERED that:

1. The Application is GRANTED to the extent set forth in this Order.

2. Pursuant to sections 105 an 363(b) of the Bankruptcy Code, BCFC is authorized to retain APS as its special advisor and to appoint Donahue as its Vice President – Restructuring pursuant to the terms set forth in the Application and the Engagement Agreement, as modified by this Order.

3. BCFC and Bowater Incorporated are authorized to make any payments required pursuant to the terms set forth in the Application, Engagement Agreement and this Order.

4. Notwithstanding anything in the Application, the Donahue Affidavit, and/or the Engagement Agreement to the contrary, APS' engagement is subject to the following modifications:

a) APS and its affiliates shall not act in more than one of the following capacities, restructuring officer, crisis manager, financial advisor, claims agent/claims administrator, or investor/acquirer, in connection with the above-captioned cases.

b) No principal, employee or independent contractor of APS and its affiliates shall serve as director of any of the above-captioned Debtors during the pendency of the above-captioned cases.

c) APS shall file with the Court (and serve copies to the U.S. Trustee and counsel to the Committee contemporaneously with such filing) reports of compensation earned and expenses incurred on a quarterly basis. Such reports shall contain summary charts which describe the services provided identify the compensation earned and itemize the expenses incurred. Time records shall (i) be appended to the reports, (ii) contain time entries describing the task(s) performed, and (iii) be organized by project category. All compensation shall be subject to review by this court in the event an objection is filed.

d) APS shall not be required to apply to the Court for payment of its monthly invoices, but shall provide copies of such invoices each month to counsel for the Committee and the U.S. Trustee.

e) For a period of three years after the conclusion of the engagement, neither APS nor Donahue shall make any investments in the Debtors or the reorganized Debtors.

f) APS shall make appropriate disclosures of any and all facts that may have a bearing on whether the firm, its affiliates, and/or any individuals working on the engagement hold or represent any interest adverse to the Debtor(s), its/their creditors, or other parties in interest. The obligation to disclose identified in this subparagraph is a continuing obligation.

g) Bowater and BCFC shall indemnify Donahue to the same extent an on the same terms as provided to Bowater's and BCFC's officers and directors under the corporate bylaws and applicable state law. Bowater and BCFC shall not provide indemnification to APS.

h) APS personnel serving as corporate officers of the Debtors shall be subject to the same fiduciary duties and obligations applicable to other persons serving in such capacity.

5. Notwithstanding anything to the contrary in the Application, the Donahue Affidavit, and/or the Engagement Agreement, Donahue shall, without limitation, have the authority to:

a) review the Contribution Claim[3] and the BCFC Claims,[4] in each case with the benefit of advice from independent legal advisors, and in the case of the BCFC Claims, with the benefit of review and consideration of the Monitor's report regarding the BCFC Claims;

b) determine the course of action to be taken in the best interests of BCFC in connection with the Contribution Claim and the BCFC Claims, including but not limited to: (a) filing any proof of claim, action or proceeding on account of the Contribution Claim or the BCFC Claims and, if filed, whether and on what terms to resolve such claim, action or proceeding; and (b) converting BCFC's chapter 11 case to a chapter 7 case and/or to converting BCFC's CCAA case into a winding up or other appropriate proceeding under Canadian law;

c) implement, with the assistance of independent legal advisors, any such recommended course of action without approval from BCFC's board of directors, management or shareholder;

d) object to the Plans or any other plan(s) for the Debtors and/or their affiliates (and related agreements and transactions) in the manner and to the extent she sees fit to advance BCFC's interests;

e) vote to accept or reject the Plans (or any other plans) on behalf of BCFC as the holder of the BCFC Claims;

f) take such action as the VP determines to be necessary or appropriate for the benefit of BCFC;

g) to the extent reasonably requested to do so, consult with BCFC's creditors concerning the tasks outlined above; and

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[3] The "Contribution Claim" means BCFC's claim under Canadian law against Bowater for any shortfall in BCFC's ability to satisfy the BCFC Notes based, inter alia, on BCFC being a ULC under the laws of Nova Scotia, BCFC being a wholly-owned subsidiary of Bowater, and Section 135 of the Companies Act (Nova Scotia).

[4] Notwithstanding any definition to the contrary in the Application, the Donahue Affidavit and/or the Engagement Agreement, "BCFC Claims" shall include any claims or causes of action BCFC might have against its past or present directors and officers or any of BCFC's affiliates.

h) assist with such other matters as may be requested by BCFC's board of directors that fall within the VP expertise and that are mutually agreeable.

6. Donahue's and any other APS employee's communications with BCFC's counsel regarding BCFC shall subject to attorney client privilege.

7. This Court shall retain jurisdiction over any and all matters arising from or related to the interpretation and/or implementation of this order.

Dated: Wilmington, Delaware
June __, 2010

HONORABLE KEVIN J. CAREY
CHIEF UNITED STATES BANKRUPTCY
JUDGE