

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

No: 500-11-036133-094

DATE: ● _____, 2010

PRESENT: THE HONOURABLE MR. JUSTICE CLÉMENT GASCON, J.S.C.

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

ABITIBIBOWATER INC.

and

ABITIBI-CONSOLIDATED INC.

and

BOWATER CANADIAN HOLDINGS INC.

and

THE OTHER PETITIONERS LISTED ON SCHEDULES "A", "B" AND "C"

Petitioners

and

ERNST & YOUNG INC.

Monitor

APPROVAL AND VESTING ORDER IN RESPECT OF THE DRYDEN MERCURY ASSETS
(# ● _____)

- [1] **CONSIDERING** *Petitioners' Amended Second Motion for the Issuance of Various Orders Authorizing the Sale of Non-Core Properties and for the Issuance of a Re-Amended Receivership Order in respect of 4513541 Canada Inc. (the "Motion");*
- [2] **CONSIDERING** the representations of the parties;
- [3] **GIVEN** the provisions of the *Companies' Creditors Arrangement Act* ("**CCAA**");

FOR THESE REASONS, THE COURT:

- [1] **AUTHORIZES AND APPROVES** the transfer of the real property and the real property interests indentified in Schedule "D" hereto, together with all buildings and other structures, facilities and improvements located thereon (collectively the "**Real Property**");

- [2] **AUTHORIZES AND APPROVES** the execution of the indenture, a draft copy of which was filed as Exhibit R-23 to the Motion (the "**Indenture**"), by and between Bowater Canadian Forest Products Inc. ("**BCFPI**"), as vendor, and 4513541 Canada Inc. (the "**Purchaser**"), as purchaser, acting through Samson Belair/Deloitte & Touche Inc. ("**Deloitte**") solely in its capacity as court-appointed receiver for and on behalf of ~~4513541 Canada Inc. (the "**Purchaser**")~~, as purchaser and not on its own behalf, and the completion of all the transactions contemplated therein (the "**Proposed Transactions**") with such alterations, changes, amendments, deletions or additions thereto, as may be agreed to with the consent of the Monitor that do not affect unfavourably BCFPI or are clerical in nature;

- [3] **AUTHORIZES AND APPROVES** the execution by BCFPI and Deloitte in its capacity as court-appointed receiver for and on behalf of Purchaser of the General Security Agreement, a draft copy of which was filed as Exhibit R-23 to the Motion (the "**GSA**") with such alterations, changes, amendments, deletions or additions thereto, as may be agreed to with the consent of the Monitor that do not affect unfavourably BCFPI or are clerical in nature;

- [4] **AUTHORIZES AND APPROVES** the execution by BCFPI and Deloitte in its capacity as court-appointed receiver for and on behalf of Purchaser of the Mortgage, a draft copy of which was filed as Exhibit R-23 to the Motion (the "**Mortgage**") with such alterations, changes, amendments, deletions or additions thereto, as may be agreed to with the consent of the Monitor that do not affect unfavourably BCFPI or are clerical in nature;

- [5] **ORDERS AND DECLARES** that this Order shall constitute the only authorization required to proceed with the Proposed Transactions and that no shareholder or regulatory approval shall be required in connection therewith save and except for those contemplated in the Indenture;

- [6] **ORDERS AND DECLARES** that upon issuance of this Order and a Re-Amended Receivership Order dated April 26, 2010 with respect to the Purchaser, and the payment by the Purchaser of the Purchase Price (as defined in the Indenture), all right, title and interest in and to the Property, as defined in the Indenture (the "**Purchased Assets**"), shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities, obligations, interests, prior claims, hypothecs, security interests (whether contractual, statutory or otherwise), liens, assignments, judgments, executions, writs of seizure and sale, options, adverse claims, levies, charges, liabilities (direct, indirect, absolute or contingent), pledges, executions, rights of first refusal or other pre-emptive rights in favour of third parties, mortgages, hypothecs, trusts or deemed trusts (whether

contractual, statutory or otherwise), restrictions on transfer of title, or other claims or encumbrances, whether or not they have attached or been perfected, registered, published or filed and whether secured, unsecured or otherwise, other than encumbrances referred to in the Indenture (collectively, the "Purchased Assets Encumbrances"), including without limiting the generality of the foregoing: (i) any Purchased Assets Encumbrances created by the Order issued on April 17, 2009 by Justice Clément Gascon, J.S.C., as amended, and/or any other CCAA order; and (ii) all Purchased Assets Encumbrances evidenced by registration, publication or filing pursuant to the *Bank Act* or any other applicable legislation providing for a security interest in personal, movable or immovable property with respect to the Purchased Assets ~~(collectively, the "Purchased Assets Encumbrances")~~, and, for greater certainty, **ORDERS** that all of the Purchased Assets Encumbrances affecting or relating to the Purchased Assets be expunged and discharged as against the Purchased Assets, in each case effective as of the applicable time and date set out in the Indenture provided however, that nothing in this vesting order shall be interpreted as relieving the Purchaser from fulfilling any obligation the Purchaser may have under any applicable environmental laws or regulations as a result of becoming the owner of the Purchased Assets;

- [7] **ORDERS** that upon registration at the Land Registry Office for the Land Titles Division of Kenora (No. 23) of a certified copy of this Order, the Land Registrar of the afore-mentioned registry office is hereby directed to enter the Purchaser as the owner of the Real Property, in fee simple in respect of the Real Property, and is hereby directed to discharge, release, delete and expunge from title to the Real Property all of the Purchased Assets Encumbrances and the charges set out in Schedule "D" hereto;
- [8] **ORDERS** that the Purchaser Note (as defined in the Indenture) shall be remitted directly to Ernst & Young Inc., in its capacity as Monitor of the Petitioners, and **ORDERS** that any amounts owing under the Purchaser Note shall be paid directly to Ernst & Young Inc., in its capacity as Monitor of the Petitioners until the issuance of directions by this Court with respect to the allocation of said payments;
- [9] **ORDERS** that for the purposes of determining the nature and priority of Purchased Assets Encumbrances, any and all rights and interests of BCFPI under the Purchaser Note shall stand in the place and stead of the Purchased Assets, and all Purchased Assets Encumbrances shall attach to such rights and interests with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale;
- [10] **ORDERS** that notwithstanding:
 - (i) the proceedings under the CCAA;
 - (ii) any petitions for a receiving order now or hereafter issued pursuant to the Bankruptcy and Insolvency Act ("**BIA**") and any order issued pursuant to any such petition; or

(iii) the provisions of any federal or provincial legislation;

the vesting of the Purchased Assets, contemplated in this Order, as well as the execution of the Indenture, the GSA and the Mortgage pursuant to this Order, are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it give rise to an oppression or any other remedy; and

[11] **ORDERS** the provisional execution of this Order notwithstanding any appeal and without the necessity of furnishing any security.

[12] **THE WHOLE WITHOUT COSTS.**

CLÉMENT GASCON, J.S.C.

[Sean Dunphy, Joseph Reynaud and Guillaume Boudreau-Simard](#)

Stikeman Elliott LLP
Attorneys for Petitioners

SCHEDULE "A"
ABITIBI PETITIONERS

1. ABITIBI-CONSOLIDATED INC.
2. ABITIBI-CONSOLIDATED COMPANY OF CANADA
3. 3224112 NOVA SCOTIA LIMITED
4. MARKETING DONOHUE INC.
5. ABITIBI-CONSOLIDATED CANADIAN OFFICE PRODUCTS HOLDINGS INC.
6. 3834328 CANADA INC.
7. 6169678 CANADA INC.
8. 4042140 CANADA INC.
9. DONOHUE RECYCLING INC.
10. 1508756 ONTARIO INC.
11. 3217925 NOVA SCOTIA COMPANY
12. LA TUQUE FOREST PRODUCTS INC.
13. ABITIBI-CONSOLIDATED NOVA SCOTIA INCORPORATED
14. SAGUENAY FOREST PRODUCTS INC.
15. TERRA NOVA EXPLORATIONS LTD.
16. THE JONQUIERE PULP COMPANY
17. THE INTERNATIONAL BRIDGE AND TERMINAL COMPANY,
18. SCRAMBLE MINING LTD.
19. 9150-3383 QUÉBEC INC.
20. ABITIBI-CONSOLIDATED (U.K.) INC.

SCHEDULE "B"
BOWATER PETITIONERS

1. BOWATER CANADIAN HOLDINGS INC.
2. BOWATER CANADA FINANCE CORPORATION
3. BOWATER CANADIAN LIMITED
4. 3231378 NOVA SCOTIA COMPANY
5. ABITIBIBOWATER CANADA INC.
6. BOWATER CANADA TREASURY CORPORATION
7. BOWATER CANADIAN FOREST PRODUCTS INC.
8. BOWATER SHELBURNE CORPORATION
9. BOWATER LAHAVE CORPORATION
10. ST-MAURICE RIVER DRIVE COMPANY LIMITED
11. BOWATER TREATED WOOD INC.
12. CANEXEL HARDBOARD INC.
13. 9068-9050 QUÉBEC INC.
14. ALLIANCE FOREST PRODUCTS (2001) INC.
15. BOWATER BELLEDUNE SAWMILL INC.
16. BOWATER MARITIMES INC.
17. BOWATER MITIS INC.
18. BOWATER GUÉRETTE INC.
19. BOWATER COUTURIER INC.

SCHEDULE "C"
18.6 CCAA PETITIONERS

1. ABITIBIBOWATER INC.
2. ABITIBIBOWATER US HOLDING 1 CORP.
3. BOWATER VENTURES INC.
4. BOWATER INCORPORATED
5. BOWATER NUWAY INC.
6. BOWATER NUWAY MID-STATES INC.
7. CATAWBA PROPERTY HOLDINGS LLC
8. BOWATER FINANCE COMPANY INC.
9. BOWATER SOUTH AMERICAN HOLDINGS INCORPORATED
10. BOWATER AMERICA INC.
11. LAKE SUPERIOR FOREST PRODUCTS INC.
12. BOWATER NEWSPRINT SOUTH LLC
13. BOWATER NEWSPRINT SOUTH OPERATIONS LLC
14. BOWATER FINANCE II, LLC
15. BOWATER ALABAMA LLC
16. COOSA PINES GOLF CLUB HOLDINGS LLC

SCHEDULE "D"
LEGAL DESCRIPTION OF THE REAL PROPERTY AND CHARGES

Legal Description

In the City of Dryden, Province of Ontario, Land Registry Office for the Land Titles Division of Kenora (No. 23) being the lands and premises legally described as PCL 42234 SEC DKF SURFACE RIGHTS ONLY; PT SPT LT 7 CON 6 VAN HORNE PT 1, 23R10369; T/W PT 2 & 3, 23R10369 AS IN LT273313; DISTRICT OF KENORA, being all of PIN:42080-0037 (LT).

Charges to be Discharged

- Instrument No. KN25712 registered April 23, 2009 being an application to register a court order containing a charge in favour of Fairfax Financial Holdings Limited.
- Instrument No. KN26471 registered June 3, 2009 being an application to register a court order containing a charge in favour of Law Debenture Trust Company of New York.
- Instrument No. KN26684 registered June 12, 2009 being a charge in the principal amount of \$728,760,000 granted by Bowater Canadian Forest Products Inc. to and in favour of Law Debenture Trust Company of New York.

Document comparison by Workshare Professional on Tuesday, August 31, 2010
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Moved cell	
Split/Merged cell	
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