CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N°: 500-11-036133-094

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

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

ABITIBIBOWATER INC.
and
ABITIBI-CONSOLIDATED INC.
and
BOWATER CANADIAN HOLDINGS INC.

And the other Petitioners listed herein

Petitioners-Debtors

and

ERNST & YOUNG INC.

Monitor

and

AURELIUS CAPITAL MANAGEMENT, LP

and

CONTRARIAN CAPITAL MANAGEMENT, L.L.C.

Noteholders

CONTESTATION OF AURELIUS CAPITAL MANAGEMENT, LP AND CONTRARIAN CAPITAL MANAGEMENT, L.L.C. IN CONNECTION WITH PETITIONERS-DEBTORS' MOTION FOR ADVICE AND DIRECTIONS (MOTION NO. 707)

AURELIUS CAPITAL MANAGEMENT, LP AND CONTRARIAN CAPITAL MANAGEMENT, L.L.C. (HEREINAFTER THE "NOTEHOLDERS") CONTEST THE FOREGOING MOTION (THE "MOTION FOR ADVICE AND DIRECTIONS") FOR THE REASONS STATED BELOW:

1. Aurelius Capital Management, LP and Contrarian Capital Management, L.L.C. (collectively the "**Noteholders**") oppose the relief requested by the CCAA Applicants other than BCFC in the Motion for Advice and Directions.

I. Overview

2. The relief sought by Petitioner-Debtors in the Motion for Advice and Directions is ill-founded, unnecessary, inappropriate and premature for the following reasons:

   a) The relief sought in the Motion for Advice and Directions is a blatant attempt to subvert the process which the Petitioners-Debtors, including Bowater Canada Finance Corporation ("**BCFC**"), have put in place as a result of the applications they made before the U.S. Bankruptcy Court pursuant to which they were granted orders (the "U.S. Orders") authorizing the retention of (i) the law firm of Togut, Siegel and Siegel LP, as conflicts counsel to BCFC and (ii) AP Services LLC, as special advisor to BCFC, and Lisa Donahue as BCFC's Vice-President/Restructuring (collectively the "**Independent Advisors**");

   b) The Petitioners-Debtors' Motion for Advice and Directions is misleading as it makes no reference to the fact that the Independent Advisors were retained expressly to investigate the same intercompany transactions that the debtors are seeking to extinguish through this motion. The Independent Advisors are required to report the results of their investigation of these matters to the US Bankruptcy Court, BCFC and the Noteholders, but, have not yet done so;

   c) The relief sought by the Petitioners-Debtors is inconsistent with and contrary to the U.S. Orders;

   d) Considering the U.S. Orders and the process which Petitioners-Debtors have themselves put in place, the other Petitioners-Debtors cannot seek an order from this Honourable Court instructing or advising BCFC not to assert any intercompany claims. As a matter of corporate governance, the decision whether to assert claims is for BCFC's Board of Directors to decide with the benefit of advice from the Independent Advisors;

e) At the time the Motion for Advice and Directions was filed, the Monitor had not filed its final report on intercompany transactions. During the course of the evening of September 9, 2010, on the eve of the representations made before this Honourable Court on September 10, 2010, to schedule the Motion for Advice and Directions, the Monitor filed its Amended 49th Report dated September 9, 2010. The Monitor's Amended 49th Report simply sets out the structure of the intercompany transactions and corrects previous erroneous descriptions contained in its July 7, 2010 report, without any analysis or assessment as to whether such transactions were made at under value or if they give rise to any potential claims against other Petitioners-Debtors or directors and officers;

f) The Canadian CCAA proceedings cannot be used as a backdoor around the U.S. process which was put in place for the benefit of all stakeholders;

g) In a hearing in front of Judge Carey held on September 14th, 2010, a motion was proffered by the Independent Advisors for authority to release the report on Intercompany Claims. Judge Carey set this motion for hearing on September 24, 2010, so it is clear that no hearing should be held in Canada on the Intercompany Claims prior to the determination of the release of the report itself as the report will not be released until that hearing and only then if the Court grants permission to do so.

h) Also, on September 14th, 2010, Judge Carey stated on the record his intention to enter an Order to Show Cause to appoint a Chapter 11 Trustee in the BCFC case. No action should be taken by the Canadian Court with respect to any claim or potential claim held by BCFC until that order is heard, which is also scheduled for September 24, 2010.

i) At a hearing held on September 14th, 2010, Judge Carey heard a motion by Bowater, Inc. for an order authorizing it to seek advice and direction from the Canadian Court with respect to the Wind-up Claim. Judge Carey did not grant the motion and has said that he will consider it further at a hearing to be held on September 24, 2010 at the same time the hearing is held with respect to the appointment of a Chapter 11 trustee.

j) Any hearing of the Motion for Advice and Directions relating to the intercompany transactions before BCFC's Board of Directors, and the Noteholders have had a reasonable opportunity to review the conclusions of the Independent Advisors, review any underlying documents and proceed with discoveries would violate fair process. More importantly, such a hearing would violate U.S. Orders and the process established by the U.S. Bankruptcy Court;

k) The Motion for Advice and Directions is entirely premature and unnecessary since the Petitioners-Debtors have undertaken to hold a claims process should there be a "no vote" for one of the CCAA Petitioners. The Petitioners-Debtors cannot, by the Motion for Advice and Directions, pre-empt the claims' process which they have undertaken to conduct as part of the Plan of Arrangement and the Information Circular;

l) If BCFC's creditors vote down the plan of arrangement, BCFC should be entitled to decide whether to assert any claims it may have and then have those claims properly adjudicated, as opposed to being dealt with on a theoretical basis before there has been any report from the Independent Advisors or the creditors have had the ability to properly assess the transactions; and

m) The Petitioners-Debtors have created a false sense of urgency to have the issues raised in this motion adjudicated without the benefit of a proper adversarial process for purely tactical reasons. They could have had these issues adjudicated months ago given that the most recent transaction took place in 2007.

II. Background

3. The Noteholders own in excess of USD $200 million of the USD $600 million of 7.95% unsecured notes issued by BCFC, which mature on November 15, 2011 (the "**Notes**").

4. BCFC carries on no active business. It has no business to restructure. It is a special purpose vehicle that was created for the purpose of issuing the Notes. The Notes are unsecured and unconditionally guaranteed by BCFC's US parent (and sole member) Bowater Inc. ("**Bowater**"). On September 14, 2010, BCFC's creditors overwhelmingly rejected the Plan of of Arrangement for BCFC.

5. The USD $600 million note proceeds were transferred to various other Petitioners-Debtors through a series of complicated and poorly disclosed intercompany transactions (the "**Intercompany Transactions**") which took place between 2001 and 2007. As a result of these transactions, BCFC came to own preferred shares in Bowater Canadian Holdings Inc. ("**BCHI**"). BCHI is a holding company for Bowater's Canadian activities.

6. The Intercompany Transactions were initially described in the Monitor's 49th Report filed on July 7, 2010, and substantially amended on September 10, 2010 (the "**Intercompany Transactions**"). The complexity of these transactions and the volume of documentation reviewed by the Monitor is evident in that it took the Monitor two months to prepare its initial report and a further two months to correct and finalize it.

7. Recoveries from BCFC will be impacted by, among other things, the recoveries from BCHI and any claims relating to the Intercompany Transactions.

8. Full particulars of the Intercompany Transactions had not been publicly disclosed either prior to or in the course of these proceedings.

III. Attempts to Obtain Information Relating to the Intercompany Transactions

9. The Noteholders have been requesting that documents relating to the Intercompany Transactions be made publicly available since September 2009, which requests have been consistently refused.

10. As early as September 2, 2009, Aurelius forwarded a letter to the Directors of BCFC to raise concerns relating to among other things the Intercompany Transactions as it appears from said letter produced herewith as **Exhibit N-1**.

11. On September 15, 2009, Aurelius, through its attorneys, requested that the Monitor provide certain financial information relevant to BCFC and the Intercompany Transactions as it appears from said letter produced herewith as **Exhibit N-2**.

12. The Monitor's letter (N-2), did not substantially and satisfactorily address the request for information contained in Aurelius's letter (N-1).

13. On October 29, 2009, Aurelius, through its former attorneys, reiterated its request for information, as it appears from said letter produced herewith as **Exhibit N-3**.

14. The Monitor's counsel sent a letter dated November 12, 2009 to Aurelius's former attorneys advising that not all of the requested financial information and information relating to the Intercompany Transactions was available in the data room established by the Petitioners-Debtors, as set out in the said letter produced herewith as **Exhibit N-4**.

15. The Petitioners-Debtors refusal to provide the requested information made it impossible for BCFC's creditors to properly assess the existence and pursuit of intercompany claims.

IV. Efforts for the Appointment of an Independent Fiduciary

16. It is in this context that on March 10, 2010, the Plaintiffs filed the 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 "**Motion to Appoint an Independent Fiduciary**") in these CCAA proceedings.

17. The relief sought in the Motion to Appoint an Independent Fiduciary was based, *inter alia*, on the direct conflicts between BCFC and the other Debtors, and sought the investigation of the Intercompany Transactions.

18. In response to the Noteholders Motion to Appoint an Independent Fiduciary, the Petitioners-Debtors requested that the Monitor prepare a report on the Intercompany Transactions.

19. Also in response to the filing of the Motion to Appoint an Independent Fiduciary, the Petitioners-Debtors filed applications before the U.S. Bankruptcy Court seeking to retain the Independent Advisors (collectively, the "**U.S. Retention Applications**") as appears from Exhibit R-1 and the US Retention Applications filed respectively as **Exhibits N-5** and **N-6**.

20. The U.S. Retention Applications addressed conflicts of interest of BCFC's Board of Directors and U.S. Counsel and provided protection to the creditors of BCFC by enabling an independent fiduciary to investigate and prosecute amongst others, claims arising from the Intercompany Transactions.

21. In a brief filed on the U.S. Retention Applications, counsel for Petitioners-Debtors made the following representations:

> 9 "(Here [Ms. Donahue] was to function like a special committee. As an officer of BCFC, [Ms. Donahue] serves as an independent fiduciary tasked, along with conflicts counsel, with evaluating the Interdebtor Issues and reporting to the BCFC Board with a recommended course of action. Informed by [Ms. Donahue]'s independent judgment, the BCFC Board may then exercise its authority to pursue the recommended course of action or otherwise").

the whole as more fully appears from the extract of the U.S. Debtors' brief filed as **Exhibit N-7**.

22. On June 25, 2010 and on July 7, 2010, the U.S. Bankruptcy Court granted the U.S. Retention Applications with certain modifications, as appears from the U.S. Orders filed as **Exhibit N-8**.

23. Subsequently, on the eve of the hearing on the Motion to Appoint an Independent Fiduciary, the Noteholders' undersigned counsel were informed that the Independent Advisors had retained Wickwire Holm as independent Nova Scotia counsel to BCFC and

the Monitor delivered its 49th Report (which had taken over two months to produce), which set out the Intercompany Transactions involving BCFC as appears from the transcript of the July 8, 2010 hearing, filed as **Exhibit N-9**.

24. In light of the granting of the U.S. Retention Applications, the appointment of the Independent Advisors (including Canadian counsel to BCFC) and the fact that Canadian counsel to the Noteholders did not have an opportunity to review the Monitor's report prior to hearing on the Motion to Appoint an Independent Fiduciary, the Plaintiffs withdrew the Motion in order to allow the Independent Advisors to do the work they were appointed to perform by the US Bankruptcy Court.

V. Interference with Orders of the US Bankruptcy Court and BCFC's Corporate Gouvernance

25. By their Motion for Advice and Directions, the Petitioners-Debtors are seeking a determination of claims relating to the Intercompany Transactions before the Independent Advisors have reported on them to the US Bankruptcy Court, BCFC's Board and the Noteholders in violation of the U.S. Orders. This motion is an attempt to pre-empt BCFC's Independent Advisors from competing the work that is the subject of the U.S. Orders. It also attempts to interfere with BCFC's corporate governance in as much as parties other than BCFC are seeking to direct BCFC not to assert claims. This decision belongs to BCFC. Finally, this Motion also seeks to prevent the creditors of BCFC from having an opportunity to review the reports to be filed and prevent BCFC from being precluded from asserting claims for the benefit of its creditors.

26. The issues of the Intercompany Transactions have been well known to the CCAA Petitioners since September 2009. Since that time, the only actions taken by the Petitioner-Debtors to move the resolution of the Intercompany Transactions forward have been the appointment of the Independent Advisors to investigate and report on them and the request for the Monitor to Report. However, the Independent Advisors have not yet finished their investigation and have not yet reported to the US Bankruptcy Court. As such, the motion for advice if granted would pre-empt the work of the Independent Advisors and undermines the U.S. Orders.

VI. The Petitioners-Debtors are trying to Prevent a Claims Process for BCFC

27. In the Information Circular filed as **Exhibit N-10**, the Petitioners-Debtors undertook to run a claims process for any "no vote" applicant. As BCFC's creditors rejected the Plan, BCFC is considered a 'no vote' applicant, and is entitled to have a claims process in order to determine whether BCFC has any claims against the other Petitioners-Debtors. The decision of whether to pursue any such claims belongs to the Board of Directors of BCFC acting on advice from the Independent Advisors and it is improper for any other Petitioners-Debtors to seek an Order requiring BCFC not to assert any claims. This motion is an attempt to hijack the corporate governance of BCFC.

VII. Actions in the U.S. Bankruptcy Court Precludes such relief at this time

28. In a hearing in front of Judge Carey held on September 14th, 2010, a motion was proffered by the Independent Advisors for authority to release the report on Intercompany Claims. Judge Carey set this motion for hearing on September 24, 2010, so it is clear that no hearing should be held in Canada on the Intercompany Claims prior to the determination of the release of the report itself as the report will not be released until that hearing and only then if the Court grants permission to do so.

29. Also, on September 14th, 2010, Judge Carey stated on the record his intention to enter an Order to Show Cause to appoint a Chapter 11 Trustee in the BCFC case. No action should be taken by the Canadian Court with respect to any claim or potential claim held by BCFC until that order is heard, which is also scheduled for September 24, 2010.

30. At a hearing held on September 14th, 2010, Judge Carey heard a motion by Bowater, Inc. for an order authorizing it to seek advice and direction from the Canadian Court with respect to the Wind-up Claim. Judge Carey did not grant the motion and has said that he will consider it further at a hearing to be held on September 24, 2010 at the same time the hearing is held with respect to the appointment of a Chapter 11 trustee.

VIII. Stikeman Elliott's conflict of interest and inability to act

31. Throughout the Canadian proceedings, the Petitioners-Debtors, including BCFC, have been represented by Stikeman Elliot which cannot provide independent advice and representation to BCFC in respect of intercompany claims and interests, or protect BCFC and its creditors' interests.

32. In addition, save and except for the appointment of Lisa Donahue as Vice-President/ Restructuring of BCFC by order of the US Bankruptcy Court dated June 25, 2010, the members of the Board of Directors of BCFC also serve on the boards of numerous other Petitioners-Debtors and Chapter 11 debtors, including Abitibi Bowater Inc., Bowater and BCHI.

33. Based on the testimony given by William Harvey, **Exhibit N-11**, a Director and Vice-President and Treasurer of BCFC (who also holds similar positions with Abitibi Bowater Inc., Bowater, BCHI and numerous other Canadian and US debtors), BCFC's board of directors:

(i) never met to consider or approve the plans;

(ii) have received no independent advice with respect to the effect of the plans on BCFC;

34. In these circumstances, in bringing the Motion for Advice and Directions, Stikeman Elliott is acting on behalf of the other Petitioners-Debtors directly adverse to the interests of BCFC.

35. By obtaining orders from the US Bankruptcy Court retaining the Independent Advisors (which retained Wickwire Holm as Canadian conflicts counsel to BCFC), BCFC's US counsel has effectively acknowledged the existence of a conflict of interest with respect to BCFC claims or potential claims against the other Petitioners-Debtors. If conflicts counsel is required for one of Stikeman Elliot's current clients, BCFC, then clearly it is also required for any other client of Stikeman Elliot which is adverse in interest to BCFC.

36. In the circumstances, Stikeman Elliott should be prohibited from acting adverse to the interests of BCFC and its creditors in favour of the interests of any other Petitioners-Debtors with respect to the within motion.

VII. Conclusion

37. The Noteholders respectfully submit that the Motion for Advice and Directions should be dismissed with costs.

38. The present Contestation is well founded in fact and in law.

WHEREFORE, MAY THIS COURT:

DISMISS the Motion for Advice and Directions of the Petitioners-Debtors other than BCFC,

THE WHOLE with costs.

Montreal, September 14, 2010

Fraser Milner Casgrain LLP

FRASER MILNER CASGRAIN LLP
Attorneys for Noteholders Aurelius Capital Management, LP and Contrarian Capital Management, L.L.C.

AFFIDAVIT

I, the undersigned, DAN GROPPER, Managing Director, exercising my profession at 535 Madison Avenue, 22nd Floor, New York, New York, USA 10022, solemnly declare as follows:

1. I am a duly authorized representative of Aurelius Capital Management, LP;

2. The facts alleged in the present Contestation are to my knowledge and are true.

AND I HAVE SIGNED:

DAN GROPPER

SOLEMNLY AFFIRMED before me at Wilmington, Delaware, this 14th day of September, 2010

NOTARY PUBLIC

ELIZABETH C. THOMAS
MY COMMISSION EXPIRES DEC. 22, 2010
NOTARY PUBLIC
STATE OF DELAWARE

AFFIDAVIT

I, the undersigned, ETHAN SCHWARTZ, exercising my profession at 411 West Putnam Avenue, Greenwich, CT 06830, solemnly declare as follows:

3. I am a duly authorized representative of Contrarian Capital Management, L.L.C.;

4. The facts alleged in the present Contestation are to my knowledge and are true.

AND I HAVE SIGNED:

ETHAN SCHWARTZ

State of: Connecticut
County of: Fairfield

SOLEMNLY AFFIRMED before me at Greenwich, CT, this 14th day of September, 2010

NOTARY PUBLIC

JULIE H EISELE
Notary Public
Connecticut
My Commission Expires Jun 30, 2015

LIST OF EXHIBITS

Exhibit N-1 Letter from Aurelius dated September 2, 2009 addressed to the Directors of BCFC;

Exhibit N-2 Letter to the Monitor dated September 15, 2009 requesting financial information;

Exhibit N-3 Letter to the Monitor dated October 29, 2009 reiterating the request for financial information;

Exhibit N-4 Monitor's letter dated November 12, 2009 to Aurelius's former attorneys;

Exhibit N-5 Motion before U.S. Bankruptcy Court to approve the retention of Togut, Segal & Segal LLP heard June on 25, 2010

Exhibit N-6 BCFC's motion before U.S. Bankruptcy Court to appoint AP Services and Donahue heard on June 25, 2010;

Exhibit N-7 Extract of the transcript of the U.S. Rentention Applications of June 25, 2010;

Exhibit N-8 Togut Order dated June 25, 2010 and Donahue Order dated June 25, 2010;

Exhibit N-9 Transcript of the Julya 8, 2010 hearing;

Exhibit N-10 Information Circular;

Exhibit N-11 Examination of Mr. William Harvey on May 20, 2010.

Montreal, September 14, 2010

Fraser Milner Casgrain LLP.

FRASER MILNER CASGRAIN LLP
Attorneys for Noteholders Aurelius Capital Management, LP and Contrarian Capital Management, L.L.C.

No. **500-11-036133-094**

SUPERIOR COURT
DISTRICT OF MONTREAL

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

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and
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Noteholders

Me Louis Dumont (O/F: 541555-2)
Me Neil Rabinovitch

CONTESTATION OF AURELIUS CAPITAL MANAGEMENT, LP AND CONTRARIAN CAPITAL MANAGEMENT, L.L.C. IN CONNECTION WITH PETITIONERS-DEBTORS' MOTION FOR ADVICE AND DIRECTIONS (MOTION NO. 707), AFFIDAVITS, LIST OF EXHIBITS, EXHIBITS N-1 TO N-11

ORIGINAL

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