CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

No. : 500-11-036133-094

SUPERIOR COURT

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

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

ABITIBIBOWATER INC.

and

ABITIBI-CONSOLIDATED INC.

and

BOWATER CANADIAN HOLDINGS INC.

and

the other Petitioners listed herein

Petitioners

and

ERNST & YOUNG INC.

Monitor

MOTION FOR AN ORDER AUTHORIZING THE DISTRIBUTION OF FUNDS HELD IN ESCROW BY THE MONITOR

TO THE HONOURABLE CLÉMENT GASCON J.S.C. OR TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL, THE PETITIONERS RESPECTFULLY SUBMIT THE FOLLOWING:

I. PREAMBLE

1. On April 17, 2009, this Honourable Court (the "**Court**") issued an order (as subsequently restated and amended from time to time the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**" and the "**CCAA Proceedings**") in respect of (i) Abitibi-Consolidated Inc. and subsidiaries thereof[1] (the "**Abitibi Petitioners**") (ii) Bowater Canadian Holdings Inc. and subsidiaries and affiliates thereof[2] (excluding Bowater Canada Finance Corporation, the "**Bowater Petitioners**" and together with the Abitibi Petitioners, the "**Petitioners**") and (iii) certain partnerships[3].

2. Pursuant to the Initial Order, Ernst & Young Inc. was appointed as monitor of the Petitioners (the "**Monitor**").

3. On April 16, 2009, AbitibiBowater Inc., Bowater Inc. and certain of their U.S. and Canadian subsidiaries[4] (the "**U.S. Debtors**") filed voluntary petitions for relief under Chapter 11 of the *U.S. Bankruptcy Code* before the United States Bankruptcy Court for the District of Delaware (the "**U.S. Bankruptcy Court**").

4. On September 23, 2010, this Court issued an order (the "**Sanction Order**") sanctioning the Petitioners' *Plan of Reorganization and Compromise* (as amended, the

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[1] These subsidiaries are Abitibi-Consolidated Company of Canada, 3224112 Nova Scotia Limited, Marketing Donohue Inc., Abitibi-Consolidated Canadian Office Products Holdings Inc., 3834328 Canada Inc., 6169678 Canada Incorporated., 4042140 Canada Inc., Donohue Recycling Inc., 1508756 Ontario Inc., 3217925 Nova Scotia Company, La Tuque Forest Products Inc., Abitibi-Consolidated Nova Scotia Incorporated, Saguenay Forest Products Inc., Terra Nova Explorations Ltd., The Jonquière Pulp Company, The International Bridge and Terminal Company, Scramble Mining Ltd. and 9150-3383 Québec Inc. Abitibi-Consolidated (U.K.) Inc. was added as a CCAA Petitioner on November 10, 2009.

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

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

[4] These subsidiaries are 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, Augusta 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 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. On December 21, 2009, ABH LLC 1 and ABH Holding Company LLC also commenced Chapter 11 cases, which are jointly administered with the Chapter 11 Proceedings.

"**CCAA Plan**"). The CCAA Plan had previously been approved by the requisite majorities of the Petitioners' creditors.

5. The U.S. Debtors have filed with the U.S. Bankruptcy Court a plan related to the joint reorganization of the U.S. Debtors under the *U.S. Bankruptcy Code* (the "**U.S. Plan**").

6. As of the date hereof, a confirmation hearing in respect of the U.S. Plan is ongoing before the U.S. Bankruptcy Court.

7. The joint implementation of the CCAA Plan and the U.S. Plan will only be possible once the CCAA Plan and the U.S. Plan have been sanctioned by the CCAA Court and the U.S. Bankruptcy Court respectively. Despite the issuance of the Sanction Order, since the confirmation order has yet to be issued by the U.S. Bankruptcy Court, the Implementation Date (as defined in the CCAA Plan) has been pushed back and to this day, the Petitioners remain under this Court's jurisdiction.

8. Unless otherwise indicated, all capitalized terms herein shall have the meaning attributed to them in the Initial Order and in the CCAA Plan.

II. ORDERS SOUGHT

9. The Petitioners hereby seek an order authorizing the Monitor to distribute to the Petitioners, on the Implementation Date, the sum of $77,208,490.17 held as of November 5, 2010 by the Monitor in its escrow account, as well as any other proceeds of asset sales or other dispositions which have been directed by the Court to be held by the Monitor, including any promissory notes (collectively, the "**Escrowed Funds**"), the whole as set forth in the conclusions to this Motion.

III. BACKGROUND

10. The Escrowed Funds are derived mostly from the sale of several assets formerly owned by the Petitioners (collectively, the "**Former Assets**") which sales were authorized by this Court in connection with Petitioners' restructuring under the CCAA on the following dates:

    (a) a portion of the proceeds from the sale of the Avenor Timberlands received from Smurfit-Stone Container Enterprises Inc. and Smurfit-Stone Canada Inc., as authorized on August 26, 2009;

    (b) the sale of the Belgo assets authorized on November 24, 2009;

    (c) the sale of the St-Raymond assets authorized on December 11, 2009;

    (d) the sale of the Mackenzie assets authorized on March 23, 2010;

    (e) the sale of the Beaupré, Donnacona, Dalhousie and Fort-William assets (the "Four Closed Mills"), all of which were authorized on March 5, 2010;

(f) the sale of the St-Fulgence assets authorized on June 23, 2010;

(g) the sale of the Champneuf assets authorized on September 1, 2010; and

(h) the sale of the Hunt River, Kenora and E. Tremblay & Fils assets, all of which were authorized on September 29, 2010.

11. As a result of the foregoing sales, the Petitioners have been informed that the Monitor holds, as of November 5, 2010, the sum of $77,208,490.17 in the Monitor's escrow account, a sum which includes the proceeds from the above mentioned sales and interest earned thereon, minus any applicable transaction costs and bank charges.

12. The Monitor also holds several promissory notes (the "**Promissory Notes**") in connection with the sale, to 4513541 Canada Inc., of the following assets (the Promissory Notes are included in the definition of Escrowed Funds for the purposes of the present motion):

(a) the sale of the Botwood and Stephenville assets authorized on April 27, 2010;

(b) the sale of the Baie-Comeau assets (Terrain en Aiguilles and Terrain en Carré) the Outardes assets (Former Bark Pile and Lots 8 and D-56) the La Baie assets (Old Sawmill) and the Saguenay assets (Parc des Pionniers), all of which were authorized on September 1, 2010; and

(c) the sale of the Baker Brook assets, the Kenora Margach Assets, the Kenora Mud Lake assets, the Dryden Mercury assets and the Highway 28 assets, all of which were authorized on September 10, 2010.

13. In addition to the foregoing, it is further expected that the Monitor will receive in its escrow account, from and after the date hereof, the proceeds from certain asset sales which only closed recently and the proceeds from any additional asset sale which could be approved by this Court prior to the Petitioners' emergence from these CCAA proceedings.

14. As mentionned above, this Court issued several orders during the course of these CCAA Proceedings which, *inter alia*, authorized the Petitioners to sell the Former Assets and ordered the discharge of hypothecs and other charges that encumbered titles to these assets (collectively, the "**Sale Approval Orders**").

15. The Sale Approval Orders required that the proceeds of the sale of each Former Asset, net of the payment of all outstanding taxes and all transaction-related costs (the "**Net Proceeds**") be remitted to the Monitor until the issuance of directions by this Court with respect to the allocation of said Net Proceeds. With respect to the sales of assets to 4513541 Canada Inc., the Sale Approval Orders also ordered that the promissory notes in connection with these sales be held by the Monitor.

16. In addition, the Sale Approval Orders provided that for the determination of the nature and priority of the encumbrances affecting the Former Assets, the Net Proceeds shall stand in the place and stead of the Former Assets and that the encumbrances shall attach to such rights with the same priority as they had with respect to the Former Assets immediately prior to the sale.

17. As a result of the foregoing provisions, certain Net Proceeds which form part of the Escrowed Funds may be encumbered by security granted to the Holders of Secured Claims (as said term is defined in the CCAA Plan), including the Senior Secured Noteholders and other secured creditors may hold security (mostly construction liens) published on title to the immovable assets included in the Former Assets (collectively, the "**Secured Lenders**").

18. It is expected that the Secured Lenders will receive payment of their claims on the Implementation Date pursuant to the terms of the CCAA Plan and the Sanction Order. Both the CCAA Plan and Sanction Order require as a condition to implementation that all such claims be paid in the manner provided therein.

19. The Sanction Order provides that upon payment in full of their secured claims in accordance with the CCAA Plan, the Secured Lenders will execute the releases and discharges necessary for the purpose of evidencing and registering the release and discharge of any of their security over the Petitioners' assets, including the Net Proceeds which stand in place and stead of the Former Assets.

IV. GROUNDS FOR THIS MOTION

20. The Petitioners respectfully request this Court to authorize the Monitor to proceed with the distribution of the Escrowed Funds funds to the Petitioners on the Implementation Date or at the earliest practicable date thereafter.

21. The Petitioners submit that the proposed distribution of the Escrowed Funds is fair and reasonable provided that it is made conditional on the concurrent receipt, by the Secured Lenders, of the sums to be paid to them as provided under the CCAA Plan and the Sanction Order.

22. The Petitioners believe it is both appropriate and necessary for the relief being sought to be granted. The Escrowed Funds are one of the components of the Petitioners' exit financing that will enable the Petitioners to maximize the long term value of their businesses for the benefit of all stakeholders.

23. Considering the interest of the Petitioners and their stakeholders, the Petitioners respectfully request that execution notwithstanding appeal be granted in respect of the order to be issued on this motion.

24. The Petitioners submit that the notices given of the presentation of the present Motion are proper and sufficient.

25. It is in the best interest of the Petitioners and all of their stakeholders that the present Motion be granted in accordance with its conclusions.

26. The present Motion is well founded in fact and in law.

WHEREFORE, MAY THIS COURT:

CONSIDERING the *Motion for an Order Authorizing the Distribution of Funds Held in Escrow by the Monitor* (the "**Motion**");

CONSIDERING the sale approval and vesting orders issued by this Court during the course of these CCAA Proceedings, the whole as further described in the Motion;

CONSIDERING the Petitioners' *Amended and Restated Plan of Reorganization and Compromise* dated September 17, 2010 (as subsequently amended, the "**CCAA Plan**") sanctioned by order of this Court dated September 23, 2010 (the "**Sanction Order**").

[1] **GRANT** the Motion.

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

[3] **AUTHORIZE AND DIRECT** the Monitor to distribute to the Petitioners on the Implementation Date or at the earliest practicable date thereafter (the "**Escrowed Funds Distribution**") all proceeds of asset sales or other dispositions which have been directed by this Court to be held by the Monitor (collectively, the "**Escrowed Funds**") including, without limitation:

(i) $77,208,490.17 held by the Monitor in its escrow account as of November 5, 2010 representing proceeds of asset sales authorized by this Court during the course of these CCAA Proceedings;

(ii) any other proceeds received from and after the date hereof in connection with any asset sales or dispositions authorized by this Court prior to the Petitioners' emergence from these CCAA Proceedings;

(iii) any accrued interest on the sums included in (i) and (ii) above, minus any bank charges; and

(iv) any promissory notes held by the Monitor in connection with the above mentioned sales of assets or dispositions.

[4] **ORDER** that the Escrowed Funds Distribution shall be made conditional on the Holders of Secured Claims (said term as defined in the CCAA Plan) who hold valid security over the Escrowed Funds having their claims concurrently satisfied on the Implementation Date in accordance with the terms of the CCAA Plan and the Sanction Order.

[5] **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 Escrowed Funds Distribution is 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.

[6] **AUTHORIZE** the Monitor to take any and all steps which the Monitor, in its sole discretion and in consultation with the Petitioners, may deem necessary in order to give effect to the above orders.

[7] **ORDER** the provisional execution of this order notwithstanding appeal and without the necessity of furnishing any security.

WITHOUT COSTS, save and except in case of contestation.

Stikeman Elliott LLP.

STIKEMAN ELLIOTT, LLP
Attorneys for Petitioners

AFFIDAVIT

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

1. I am the Vice-President and Treasurer of AbitibiBowater Inc.;
2. All the facts alleged in the *Motion for an Order Authorizing the Distribution of Funds Held in Escrow by the Monitor* are true.

AND I HAVE SIGNED

ALLEN DEA

Solemnly declared before me in Montreal,
on the 5th day of November, 2010

Commissioner of oaths avocate 257915Y

NOTICE OF PRESENTATION

TO : SERVICE LIST

TAKE NOTICE that the *Motion for an Order Authorizing the Distribution of Funds Held in Escrow by the Monitor* will be presented for adjudication before Justice C. Gascon or one of the Honourable Judges of the Superior Court, sitting in practice in and for the District of Montréal, at the Montreal Courthouse on a date and time to be determined by the Court and communicated to the Service List.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, November 5, 2010

Stikeman Elliott LLP

STIKEMAN ELLIOTT LLP
Attorneys for Petitioners

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SUPERIOR COURT
Commercial Division
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N°. 500-11-036133-094

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PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

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ABITIBIBOWATER INC. *& al.*
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- and -

ERNST & YOUNG INC.
Monitor

BS0350 n/dos.: 041053-1170

MOTION FOR AN ORDER AUTHORIZING THE DISTRIBUTION OF FUNDS HELD IN ESCROW BY THE MONITOR

ORIGINAL

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