

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

S U P E R I O R C O U R T
(Commercial Division)

No : 500-11-036133-094

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" and "B"

Petitioners

- and -

ERNST & YOUNG INC.

Monitor

- and -

CLYDE SWEARENGEN

- and -

MANFRED SCHOOR

- and -

MATT ROSSKOGLER

- and -

ISADOR OGIMA

- and -

EARL SAUNDERS

Moving Parties/Respondents

MOTION TO DISMISS THE MOTION OF THE MOVING PARTIES FOR A
DECLARATORY ORDERS IN RESPECT OF FRESH ADDITIONAL
LATE CLAIMS AND FRESH LATE ELECTIONS
(Articles 165(4) and 54.1 et ss. C.C.P.)

TO ONE OF THE HONOURABLE JUDGE OF THE SUPERIOR COURT SITTING IN COMMERCIAL DIVISION IN AND FOR THE JUDICIAL DISTRICT OF MONTREAL, THE PETITIONERS ABITIBOWATER INC. ET AL. RESPECTFULLY SUBMIT THE FOLLOWING:

1. As more fully appears from the Court record herein, the Moving Parties have filed a *Motion for a Declaratory Order in respect of Fresh Additional Late Claims and Fresh Late Elections* (the "**Motion**").
2. Following receipt of the Motion, the Parties, through their respective counsel, agreed upon a Timetable for certain examinations and other proceedings in connection with this litigation.
3. In accordance with the agreed upon Timetable, an examination of Manfred Schoor, the Affiant who signed the Affidavit in support of the Motion, was conducted on June 13, 2012.
4. The transcript of the examination of the Affiant, Manfred Schoor, is produced herewith as **Exhibit P-1** to form part hereof and to avail as if recited at length herein.
5. As more fully appears from the transcript of the examination of the Affiant, Manfred Schoor, the Affiant has no knowledge whatsoever of any of the allegations contained in the Motion of the Moving Parties, save and except for paragraph 24 thereof:

«Q. I'm asking you if you had personal knowledge of all of the facts alleged in the motion?

A. Can I take a look at it for a minute?

Q. Certainly.

A. I mean there is facts that may ...

Q. Take your time Mr. Schoor.

A. OK. Thank you.

Q. Look at the motion.

A. Yeah.

Q. And tell me which allegations you have personal knowledge of and which allegations you don't have personal knowledge of.

Me ALEXANDRE PANNETON:

Q. Do you understand the question?

A. No actually I don't. I didn't have personal knowledge to all of them, no.

Me AVRAM FISHMAN

Q. OK.

A. I wouldn't say that.

Q. Which did you have personal knowledge of?

A. I have personal knowledge of ...

Q. Just tell me the paragraph numbers.

A. Yes.

Q. go through it carefully and tell me the paragraph numbers of those allegations ...

A. OK. The one ...

Q. that you had personal knowledge of.

A. Yes. Of course, the one that really concerned me was the one that involved me directly.

Me ALEXANDRE PANNETON:

I just want to interject. When you refer to personal knowledge, do you refer to something that he has witnessed himself, or something that was explained to him by his lawyers, something that was furnished to him? I just want to make sure that we're clear on the question here.

Me AVRAM FISHMAN:

If it's something that he himself knew or saw, he has personal knowledge, if it was explained to him by somebody else, then he could tell us that it was explained to him by somebody else.

Me ALEXANDRE PANNETON:

OK so, for instance, when a paragraph refers to communication between attorneys, that, in your opinion, would not be considered to be something that he would have personal knowledge, only if it was explained to him or brought to his attention by his attorneys?

Me AVRAM FISHMAN:

Well, if it was brought to his attention by attorneys, in my understanding, he didn't have personal knowledge, but it was explained to him.

Me ALEXANDRE PANNETON:

OK. So ... just so we're clear on the question. If it was explained ... if it was brought to his attention or he personally was ... witnessed the said information, that would be considered a personal knowledge?

Me AVRAM FISHMAN:

No.

Me ALEXANDRE PANNETON:

OK.

Me AVRAM FISHMAN:

If it was brought to his attention or explained to him, that is not personal knowledge, but if he wants to say that it was brought to his attention, or explained to him, he's welcome to do so.

Me ALEXANDRE PANNETON:

OK. So you want to go through every paragraph of the motion?

Me AVRAM FISHMAN:

Well, I'd like him to tell me which paragraphs he has personal knowledge of.

Me ALEXANDRE PANNETON:

And there's no paragraphs in particular that you want to lead him to ... to which you have specific questions on?

Me AVRAM FISHMAN:

No, not yet.

Me ALEXANDRE PANNETON:

OK.

OK. Twenty-four (24), that is the one that involves me. I've read that one with the lawyer. And that was probably the only one that we went through in any detail. The other ones, we more or less skipped them.

Me AVRAM FISHMAN:

Q. OK, so, paragraph twenty-four (24) is the only paragraph that you've discussed with Mr. Mitton?

A. Excuse me?

Q. Paragraph twenty-four (24) is the only paragraph that you've discussed with Mr. Mitton?

A. That's right.

Q. And you didn't have personal knowledge of any of the other paragraphs?

A. Not really. Well, I was there to deal with ... I was there to deal with ... with my ... just bear with me here ... affidavit, that was the main business of that visit to his office, to get the affidavit done. That is the one I have personal knowledge of.

Q. You had personal knowledge of signing the affidavit?

A. Yes. I was ... well, I signed it.

Q. Right.

A. Right. I've read it and I signed it.

Q. Right. I have no further questions for Mr. Schoor.»

6. That even if the facts alleged in paragraph 24 of Motion of the Moving Parties are true, they would not give rise to the conclusions sought.

7. There is no basis in fact or in law for the Motion of the Moving Parties in the absence of an Affidavit proclaiming the truth of the facts alleged therein.
8. In the absence of an Affidavit proclaiming the truth of the facts alleged in the Motion, said Motion is abusive, illegal, and ill-founded on its face.
9. In the absence of an Affidavit proclaiming the truth of the facts alleged therein, the Motion of the Moving Parties is unfounded, frivolous, excessive, unreasonable, and causes prejudice to the Petitioners and is wholly improper in nature.

WHEREFORE, Petitioners pray that by Judgment to intervene, the *Motion of the Moving Parties for a Declaratory Order in respect of Fresh Additional Late Claims and Fresh Late Elections* be dismissed, the whole with costs including the fees and extra-judicial costs incurred by the Petitioners herein.

MONTREAL, July 13, 2012

Stikeman Elliott LLP
STIKEMAN ELLIOTT L.L.P.
Attorneys for the 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

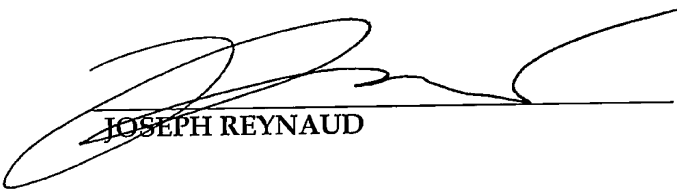
1. BOWATER CANADIAN HOLDINGS INC.
2. [...]
3. BOWATER CANADIAN LIMITED
4. 3231378 NOVA SCOTIA COMPANY
5. ABITIBIBOWATER CANADA INC.
6. BOWATER CANADA TREASURY CORPORATION
7. BOWATER CANADIAN FOREST PRODUCTS INC.
8. BOWATER SHELBURNE CORPORATION
9. BOWATER LAHAVE CORPORATION
10. ST-MAURICE RIVER DRIVE 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.

AFFIDAVIT

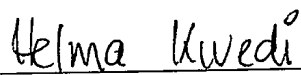
I, the undersigned, **JOSEPH REYNAUD**, Attorney, carrying on my profession at 1155 René-Lévesque Boulevard West, Suite 4000, in the City of Montreal, Province of Quebec, do solemnly declare as follows:

1. I am one of the attorneys for the Petitioners in the present matter;
2. I have read the present Motion and all of the facts alleged therein are true and correct.

AND I HAVE SIGNED


JOSEPH REYNAUD

Signed before me at Montreal on
this 13th day of July 2012


Commissioner for Oaths for Quebec



NOTICE OF PRESENTATION

TO: SERVICE LIST

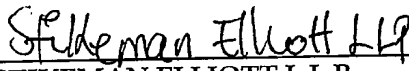
TAKE NOTICE that the *Motion to Dismiss Motion of the Moving Parties for a Declaratory Order in respect of Fresh Additional Late Claims and Fresh Late Elections* will be presented for adjudication at a time and date to be fixed by one of the Judges of the Superior Court, sitting in the Commercial Division, in and for the District of Montreal.

In support of the Motion, the Petitioners, AbitibiBowater et al. disclose the following exhibit:

EXHIBIT P-1: Copy of Transcript of the examination of the Affiant, Manfred Schoor, held on June 13, 2012 (page 1 to page 22).

DO YOU GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, July 13, 2012


STIKEMAN ELLIOTT L.L.P.
Attorneys for the Petitioners

S U P E R I O R C O U R T

N° 500-11-036133-094

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PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

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EARL SAUNDERS

Moving Parties/Respondents

BS0350 O/Ref: 041053-1170

MOTION TO DISMISS THE MOTION OF THE
MOVING PARTIES FOR A DECLARATORY
ORDERS IN RESPECT OF FRESH ADDITIONAL
LATE CLAIMS AND FRESH LATE ELECTIONS

COPY

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