



Court File No. 09-8503-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.
JUSTICE NEWBOULD

) TUESDAY, THE 25TH
) DAY OF FEBRUARY, 2014
)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT IN
THE MATTER OF HOLLINGER CANADIAN PUBLISHING HOLDINGS CO.

ORDER

THIS MOTION, made by Hollinger Canadian Publishing Holdings Co. (the
"Applicant" or "HCPH"), for an order, *inter alia*,

- (a) Discharging Dennis Byrd ("Byrd") from his position as Chief Restructuring Officer of HCPH ("CRO") and releasing and discharging him from all responsibilities and obligations imposed by the initial order granted in these proceedings ("Initial Order") and all subsequent orders of this Court and related liabilities and obligations, effective February 28, 2014;
- (b) Appointing Michael Krupa ("Krupa") as the new CRO of HCPH and granting him the all the powers, responsibilities, duties, and protections granted to the

CRO as outlined in the Initial Order and all subsequent orders of this Honorable Court, effective March 1, 2014; and

- (c) Such further and certain other relief as this Honorable Court deems just was heard this day at 330 University Avenue, Toronto, Ontario.

UPON READING the Motion Record of the Applicant, including the Notice of Motion of the Applicant, the Affidavit of Dennis Byrd, sworn February 20, 2014 (the "Motion Record") and upon hearing the submissions of counsel for the Applicant, the Monitor and Representative Counsel, and no one appearing for any other party on the service list in these CCAA Proceedings, although duly served,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record is hereby abridged such that this motion is properly returnable today and that service of the Motion Record is hereby validated in all respects and no other or further service thereof is required.

INTERPRETATION

2. **THIS COURT ORDERS** that capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Initial Order or the CCAA Plan unless otherwise indicated.

DISCHARGE AND RELEASE OF CRO

3. **THIS COURT ORDERS AND DECLARES** that, effective February 28, 2014, Byrd is hereby released and discharged from any further responsibilities or obligations imposed by any

Orders made in these CCAA Proceedings, provided that he shall continue to have the benefit of the Orders made in these CCAA Proceedings.

4. **THIS COURT ORDERS AND DECLARES** that, effective on February 28, 2014, Byrd is released and discharged from any and all liabilities or obligations of any nature or kind whatsoever, that he had, now has or may hereafter have or be under by reason of, or in any way relating to or arising from or in connection with, any acts or omissions, transactions, dealings or other occurrences in relation to these CCAA Proceedings save and except for any gross negligence or wilful misconduct on the CRO's part. Without limiting any of the foregoing, he is forever released and discharged from any and all liability relating to matters that were raised or arose or which could have been raised in the CCAA Proceedings, including, without limitation, in relation to the performance of his duties under the Orders made in these CCAA Proceedings and in relation to any and all Claims, provided that nothing herein shall relieve him from any liability if he is adjudged by the express terms of a judgment rendered on a final determination of the merits to have committed gross negligence or wilful misconduct in relation thereto.

APPOINTMENT OF NEW CRO

5. **THIS COURT ORDERS** that, effective on March 1, 2014, Krupa shall be appointed as the new CRO of HCPH with all the powers, responsibilities, duties, and protections outlined in the Initial Order and all subsequent orders of this Honourable Court.

AMENDMENT OF INITIAL ORDER

6. **THIS COURT ORDERS** that paragraph 31 of the Initial Order be amended to provide as follows (with all changes from current form of Initial Order indicated by way of underlined or

struck through text):

✓ 31. THIS COURT ORDERS that the agreement (the "CRO Agreement") substantially in the form attached as Exhibit "O" to the Kram Affidavit, ~~to engage Dennis Byrd ("Byrd") as Exhibit "A" to the Order of this Honourable Court,~~^{dated February 25, 2014} to engage Mike Krupa ("Krupa") as the chief restructuring officer ("CRO") of the Applicant and the engagement of ~~Byrd~~ Mr. Krupa as the CRO in accordance with the CRO Agreement are hereby authorized and approved, effective immediately upon the making of this Order. ✓ *[Signature]*

[Signature]

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

FEB 25 2014

NB

Hollinger Canadian Publishing Holdings Co.

February 5, 2014

Mr. Michael Krupa

Dear Sir:

Re: Retainer as CRO

We are writing to memorialize the agreement we have reached with you.

As you know, Hollinger Canadian Publishing Holdings Co. ("HCPH") is subject to an Initial Order dated December 10, 2009 (the "Initial Order") issued by the Ontario Superior Court of Justice (Commercial List) (the "Court") under the *Companies' Creditors Arrangement Act* ("CCAA"). The Initial Order authorized the engagement of Dennis M. Byrd as chief restructuring officer ("CRO") to assist HCPH in the administration of the CCAA estate, subject to the oversight of the Monitor and/or approval of the Court. This letter agreement (the "Retainer") confirms the terms upon which subject to the approval of the Court, you, Michael Krupa, would replace Dennis M. Byrd as CRO of HCPH effective March 1, 2014. For greater certainty, effective March 1, 2014 and subject to the approval of the Court this agreement shall replace the retainer agreement dated as of January 31, 2013 (as amended) and confirm your agreement to act as CRO of HCPH from and after March 1, 2014, as an independent contractor.

Appointment and Purview of Duties and Responsibilities

The Initial Order sets out the CRO's duties and responsibilities subject to the ongoing oversight of the Monitor and/or further order(s) of the Court. Under this Retainer, you shall perform your duties exclusively from your offices in Chicago, or wherever else located in the United States. Your appointment as CRO will continue until your appointment is terminated by further order of the Court, or June 30, 2014 whichever first occurs, unless the parties by mutual agreement extend the terms of this Retainer.

Consent to Act as CRO and Term of Appointment

By countersigning and delivering this Retainer to HCPH and Ernst & Young Inc. as the CCAA monitor of HCPH (the "Monitor") at the addresses set out below on or prior to February 10, 2014 you hereby consent to act as CRO substantially in accordance with the terms set out in this Retainer and the Initial Order and confirm that you have accepted the Retainer prior to formalizing our agreement.

Specifically, you consent and agree to act as CRO, and HCPH agrees to appoint you directly as CRO, until June 30, 2014 (the "Term"). The Term may be extended by mutual agreement of you and the Monitor, subject to order of the Court as applicable. During this Term, the services shall be provided on an hourly basis, as required and directed by HCPH or the Monitor.

Duty To HCPH and Court

As CRO, you are not an employee of HCPH or the Monitor. Your duties and responsibilities at all times during your engagement as CRO shall be to HCPH and the Court.

Fees for Service

From and after the date of your appointment by the Court as CRO to the date that your appointment is terminated, HCPH will pay an hourly rate of US\$175/hour (inclusive of all applicable taxes) (the "Fees") for each hour worked during your appointment for the period March 1, 2014 until June 30, 2014.

The Fees are inclusive of all amounts which may be owed to you for the services rendered, and no further or additional amounts will be paid to you, including without limitation, any amount for overtime pay, vacation pay or in lieu of benefits.

HCPH will fund reasonable out-of-pocket expenses you incur in connection with the services provided under the Retainer, and for reasonable legal and professional fees incurred in connection with the structuring of your compensation arrangement (collectively, "Reimbursements").

All Fees and Reimbursements are to be billed on a monthly basis and a payment of any Fees and Reimbursements will be made by HCPH to you within 10 days of receipt of the invoice. We require that all invoices be accompanied by a schedule that clearly indicates the total number of days during the preceding month in which services as contemplated in this Retainer (a) were performed, (b) were performed outside Canada, and (c) were performed inside Canada (to monitor compliance with the term requiring your services to be performed from the United States) and such schedule must be prepared and submitted by you at the same time you submit the monthly invoice.

In the event that your appointment is terminated by the Court prior to the expiry of June 30, 2014, either because the HCPH CCAA proceedings are terminated or your appointment is otherwise terminated by the Court, HCPH shall pay (i) any Reimbursements owing in respect of the period prior to your termination *and* (ii) if the Retainer is terminated between March 1, 2014 and June 30, 2014 any Fees for services rendered but not then paid for the period between March 1, 2014 and June 30, 2014.

Confidentiality

You acknowledge that all information obtained by you from management or staff of HCPH, the Monitor or legal, financial and other professional advisors in connection with HCPH, and any documents and working papers containing or prepared using any such information, will remain confidential and be maintained in a secure environment to maintain confidentiality and will not be disclosed by you without the prior written consent of the Monitor or order of the Court.

Tax Obligations and Withholdings

Where required by law, HCPH shall withhold any applicable taxes from the payments due and shall remit those amounts to the appropriate governmental authority.

You agree and acknowledge that you will be solely responsible for your own tax obligations (including, without limitation, any obligations relating to any Canadian or U.S. federal, state or provincial income taxes, sales taxes or other taxes) in all applicable jurisdictions, and that HCPH shall not be responsible for any such obligations. In the event that you fail to fulfill any of your tax obligations and HCPH suffers damages or incurs any expenses as a result, you shall promptly indemnify HCPH for any and all such damages or expenses.

Indemnity and Release

HCPH shall indemnify you on the terms set out in the Initial Order in respect of liabilities and obligations of any nature whatsoever incurred by you that may arise as a result of any matter directly or indirectly relating to your role as CRO, except for any liability or obligation arising from gross negligence or willful misconduct by you (the "CRO Liabilities"). The CRO Liabilities shall be afforded the protection provided by the CRO Charge set out in the Initial Order.

Notices

Any notice hereunder by either party to the other shall be given in writing by personal delivery, or certified mail, return receipt requested, or by electronic transmission, in any case delivered to the applicable address set forth below:

to HCPH:

c/o Ernst & Young Inc.
Court-appointed Monitor of Hollinger Canadian Publishing Holdings Co.
222 Bay Street, P.O. Box 251
Toronto ON M5K 1J7

Attn: Alex Morrison and Simone Carvalho
Email: alex.morrison@ca.ey.com / simone.carvalho@ca.ey.com
Fax: 416-943-3300

With a copy to:

Bennett Jones LLP
3400 One First Canadian Place, P.O. Box 130
Toronto ON M5X 1A4

Attn: Kevin Zych and Raj Sahni
Email: zychk@bennettjones.com / sahnir@bennettjones.com
Fax: 416-863-1716

to Michael Krupa:

Hollinger Canadian Publishing Holdings Co.
300 N. LaSalle Street, Suite 4925
Chicago, IL 60654

Attn: Michael Krupa

Email: mkrupa@hcphbenefits.com
Fax: 312-803-0579

to the Monitor:

Ernst & Young Inc.
Court-appointed Monitor of Hollinger Canadian Publishing Holdings Co.
222 Bay Street, P.O. Box 251
Toronto ON M5K 1J7

Attn: Alex Morrison and Simone Carvalho
Email: alex.morrison@ca.ey.com / simone.carvalho@ca.ey.com
Fax: 416-943-3300

With a copy to:

McCarthy Tetrault
Suite 5300, TD Bank Tower
Toronto Dominion Centre
Toronto, Ontario
M5K 1E6

Attn: James D. Gage and Heather Meredith
Email: jgage@mccarthy.ca / hmeredith@mccarthy.ca
Fax: 416-868-0673

Amendments; Waiver; Assignment

No provision of the Retainer may be amended, modified, waived or discharged unless such amendment, modification, waiver or discharge is agreed to in writing and signed by the parties and the Monitor. No waiver by either party hereto, at any time, of any breach by the other party hereto of, or compliance with, any condition or provision of the Retainer to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. Neither party may assign the Retainer or any of its rights and obligations hereunder without the prior written consent of the other and the Monitor, or order of the Court. Any purported assignment made in contravention of this section shall be

null and void.

Severability

The parties have carefully reviewed the provisions of the Retainer and agree that they are fair and equitable. However, in light of the possibility of differing interpretations of law and changes in circumstances, the parties agree that if any one or more of the provisions of the Retainer shall be determined by a Court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions of the Retainer shall, to the extent permitted by law, remain in full force and effect and shall in no way be affected, impaired or invalidated. Moreover, if any of the provisions contained in the Retainer is determined by a Court of competent jurisdiction to be excessively broad as to duration, activity, geographic application or subject, such provision shall be construed, by limiting or reducing it to the extent legally permitted, so as to be enforceable to the extent compatible with then applicable law.

Governing Law

The Retainer shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein (determined without regard to the choice of law provisions thereof). Each party irrevocably submits to the jurisdiction of the Courts of competent jurisdiction in the Province of Ontario in respect of any action or proceeding relating to the Retainer (but not otherwise).

Entire Agreement

The Retainer and the Initial Order contains the entire agreement between the parties and any predecessors thereof with respect to the subject matter hereof, and supersedes all prior Retainers (including without limitation the retainer agreement dated January 31, 2013), understandings and arrangements, oral and written between the parties either jointly or individually, with respect to the subject matter hereof. All prior agreements and engagement letters are superseded by this Agreement and are of no further force or effect.

Counterparts

The Retainer may be executed by the parties hereto in counterparts and in facsimile, each of which shall be deemed an original, but both such counterparts shall together constitute one and the same document.

Headings

The headings of the Retainer are for convenience and reference only and shall not be considered in construing the provisions hereof.

Acknowledgement

You acknowledge that the retainer is concluding, and that there is no guarantee or commitment made with respect to any minimum number of hours for which your services may be required.

If the foregoing is satisfactory, please indicate your agreement by signing the enclosed copy of this letter and returning to us.

Yours very truly,

HOLLINGER CANADIAN PUBLISHING HOLDINGS CO.

By: Michael Krupa
Authorized Signatory

Agreed and accepted as of the 19th Day of February, 2014.

Witness: [Signature])

Name: ALICE F ROSENTHAL)

Address: 300 N. LAZARUS ST)

SUITE 4925
CHICAGO, IL 60654

Michael Krupa
MICHAEL KRUPA

Acknowledged and consented to by Ernst & Young Inc.
in its capacity as Court appointed Monitor of Hollinger
Canadian Publishing Holdings Co.

By: [Signature]
Name: Alex Morrison
Authorized Signatory

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IN THE MATTER OF THE *COMPANIES CREDITORS' ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND
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Court File No. 09-8503-00CL

ONTARIO
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(COMMERCIAL LIST)

Proceedings commenced in Toronto

ORDER
(Motion to Replace CRO)

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