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CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
NO: 500-11-038474-108

S U P E R I O R C O U R T
Commercial Division
Designated tribunal under the
Companies' Creditors Arrangement Act[1]

IN THE MATTER OF THE PROPOSED PLAN OF COMPROMISE AND ARRANGEMENT OF ESTATE WBPC COMPANY (FORMERLY KNOWN AS WHITE BIRCH PAPER COMPANY) AND VARIOUS SUBSIDIARIES AND AFFILIATES[2]

DEBTORS

- and -

ERNST & YOUNG INC.

MONITOR

REPORT OF THE MONITOR – NOVEMBER 18, 2014

INTRODUCTION AND BACKGROUND

1. On February 24, 2010, on a Motion made by Estate WPBC Company (formerly known as White Birch Paper Company and hereinafter referred to as "**WB**") and various of its affiliates (collectively referred to as the "**Applicants**"), the Superior Court of the Province of Québec for the District of Montréal ("**Court**"), sitting as the designated tribunal pursuant to the *Companies' Creditors Arrangement Act* ("**CCAA**")[1] issued an order ("**Initial Order**") declaring that the Applicants are debtor companies to which the CCAA applies, appointing Ernst & Young Inc. as monitor ("**EY**" or "**Monitor**") and granting certain relief to the Applicants and various partnerships in which the Applicants have an interest ("**Partnerships**") (the Applicants and the Partnerships are hereinafter referred to collectively as "**WB Canada**")[3]. The Initial Order has since been extended and is now scheduled to expire on November 21, 2014.

2. Also on February 24, 2010, Estate Bipco LLC (formerly known as Bear Island Paper Company, LLC and hereinafter referred to as "**Bipco**"), a subsidiary of WB with activities in the U.S.,

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1 *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.

2 The entities subject to the Initial Order are Estate WBPHC Company (f/k/a/ White Birch Paper Holding Company), Estate WBPC Company (f/k/a White Birch Paper Company), Estate SGPI Inc. (f/k/a Stadacona General Partner Inc.), Estate BSPI Inc (f/k/a Black Spruce Paper Inc.), Estate FFSGPI Inc. (f/k/a F.F. Soucy General Partner Inc.), 3120772 Nova Scotia Company, Estate GCSI Inc. (f/k/a Arrimage De Gros Cacouna Inc.), Estate PML Inc. (f/k/a Papier Masson Ltée.), SSEC L.P. (f/k/a Stadacona L.P.), FFS L.P. (f/k/a F.F. Soucy L.P.), and FFSIA L.P. (f/k/a F.F. Soucy, Inc. & Partners, Limited Partnership).

3 The entities subject to the Initial Order are Estate WBPHC Company (f/k/a/ White Birch Paper Holding Company), Estate WBPC Company (f/k/a White Birch Paper Company), Estate SGPI Inc. (f/k/a Stadacona General Partner Inc.), Estate BSPI Inc (f/k/a Black Spruce Paper Inc.), Estate FFSGPI Inc. (f/k/a F.F. Soucy General Partner Inc.), 3120772 Nova Scotia Company, Estate GCSI Inc. (f/k/a Arrimage De Gros Cacouna Inc.), Estate PML Inc. (f/k/a Papier Masson Ltée.), SSEC L.P. (f/k/a Stadacona L.P.), FFS L.P. (f/k/a F.F. Soucy L.P.), and FFSIA L.P. (f/k/a F.F. Soucy, Inc. & Partners, Limited Partnership).

commenced a case under the provisions of Chapter 11 of the U.S. *Bankruptcy Code*[4] (the "**Code**") (Bipco and WB Canada are hereinafter referred to collectively as "**WB Group**" or "**Companies**"). The information regarding the proceedings initiated by Bipco under the Code, together with the "first day orders" made by the Bankruptcy Court for the Eastern District of Virginia, Richmond Division ("**U.S. Court**") at the request of Bipco, can be found on the website of the claims agent retained by Bipco, Garden City Group, Inc., at www.gardencitygroup.com/cases/bip.

3. Also on February 24, 2010, some of the entities within WB Canada[5] applied for relief under the provisions of Chapter 15 of the Code. On February 26, 2010, the U.S. Court issued a temporary restraining order under the provisions of Chapter 15 of the Code, and on March 5, 2010, it granted a preliminary injunction, pending a more complete hearing to be held on March 22, 2010. At the hearing held on March 22, 2010, the U.S. Court granted recognition of the Canadian proceedings under the CCAA as foreign main proceedings, recognised Estate WBPC Company as the duly appointed foreign representative, declared that all of the provisions of section 1520 of the Code apply to the proceedings initiated by some of the entities within WB Canada, and gave full force and effect to the Initial Order[6] in the U.S., provided that the Initial Order[6] is not revoked, terminated or expired.

4. The orders granted by this Court and by the U.S. Court (collectively, the "**Courts**"), together with the relief provided under the CCAA and the Code[7] (collectively, the "**Orders**") provide, among other things, for a stay of proceedings against the entities comprising WB Group while they restructure their business and financial affairs.

5. The Initial Order as previously extended is scheduled to expire on November 21, 2014, and the Applicants have indicated their intention to seek a further extension of the Initial Order, until January 16, 2015.

6. The present report is intended to provide the Court with information relevant to the motion for an extension of the Initial Order, and more particularly on the current activities of WB Group and the progress of its restructuring efforts. This report is presented under the following headings:

    6.1. Introduction and background;

    6.2. Terms of reference and disclaimer;

    6.3. Status of proceedings; and

    6.4. Conclusions and recommendation.

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4 *U.S. Code*, title 11, chapter 11.

5 The entities which requested relief under Chapter 15 of the Code are Estate WBPC Company (f/k/a White Birch Paper Company), Estate SGPI Inc. (f/k/a Stadacona General Partner Inc.), Estate PML Inc. (f/k/a Papier Masson Ltée.), SSEC L.P. (f/k/a Stadacona L.P.), FFS L.P. (f/k/a F.F. Soucy L.P.), and FFSIA L.P. (f/k/a F.F. Soucy, Inc. & Partners, Limited Partnership).

6 As amended, modified or extended from time to time by the Court.

7 Sections §361 and §362 of the U.S. *Bankruptcy Code*.

TERMS OF REFERENCE AND DISCLAIMER

7. In preparing this report, EY has relied upon unaudited financial information, company records, company prepared financial information and projections, discussions with management and employees of WB Group, and information from various other sources.

   While we reviewed various documents and believe that the information therein provides a fair summary of the transactions as presented to us or as reflected in the documents presented to us, such work does not constitute an audit or verification of such information for accuracy, completeness, or compliance with generally accepted accounting principles. Accordingly, EY expresses no opinion or other form of assurance in respect of such information.

   In the course of our mandate, we have assumed the integrity and truthfulness of the information and explanations presented to us, within the context in which it was presented. To date, nothing has come to our attention which would cause us to question the reasonableness of this assumption.

   Finally, we have requested that management bring to our attention any significant matters which were not addressed in the course of our specific inquiries. Accordingly, this report is based solely on the information (financial or otherwise) made available to us.

   This report has been prepared for the use of this Court and WB Group's stakeholders as general information relating to the entities comprising WB Group and their operations. Accordingly, the reader is cautioned that this report may not be appropriate for any other purpose. We will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this report contrary to the provisions of this paragraph.

8. Terms not otherwise defined herein shall have the meaning ascribed to them in the Initial Order, or in previous reports of the Monitor, as the case may be.

STATUS OF PROCEEDINGS

9. The Initial Order was made on February 24, 2010 and was extended on several occasions since that date. The most recent order of the Court extending the Initial Order until November 21, 2014 was made on September 30, 2014.

Timminco issue

10. A hearing was held on May 1, 5 and 6, 2014, to consider the motion filed by BDWBI, requesting essentially that the Court confirm that the decision made in the Timminco file[8] did not apply to the proceedings in respect of WB Canada, together with the related motions, contestations, counterclaims and interventions.

11. The Court's judgment in respect of the various motions filed in connection with the Timminco issue was rendered on October 3, 2014. In substance, the judgment concludes that the judgment rendered in the Timminco file does not apply to the proceedings in respect of WB Canada and

[8] In the matter of the plan of compromise and arrangement of Timminco Limitée and Bécancour Silicon Inc., 500-11-043844-121 (Quebec Superior Court, Montreal district, Mongeon J., judgment issued January 24, 2014).

that the various orders previously made in this file with respect to unpaid special costs could not be reopened and were *res judicata*. A copy of the judgment can be found on the Monitor's website at www.ey.com/CA/WhiteBirch.

12. No Motion for leave to appeal has been duly filed and the delay to file same has now lapsed.

Closing of the transaction with BDWBI

13. The closing of the transaction with BDWBI occurred on September 13, 2012. In the context of this transaction, BDWBI designated some of its affiliates to be the purchaser of the assets. Although the closing has occurred, there remain certain issues that need to be resolved between the Purchaser, the Companies and certain stakeholders, more particularly the former employees and the retired employees of the Companies, the principal one being the creation and funding of pension plans having hybrid characteristics between a defined benefit and a defined contribution plan.

14. The judgment of the Court in connection with the Timminco issue addresses, *inter alia*, the obligation of the Purchaser to implement the new pension plans in accordance with the terms of certain letters of understanding executed by the parties in July 2012, all of which provided for the implementation of new pension plans effective as of the closing date.

15. The Monitor has been informed that as of the date of this report, the final texts of the new plans have not yet been finalized and filed with the Régie des Rentes du Québec. The Monitor expects that the Purchaser and Unifor (formerly, the Syndicat Canadien des Communications, de l'Énergie et du Papier)[9] will report more fully to the Court on this situation at the upcoming hearing. Given the delays to date, the importance of this issue and the fact that the Monitor is not involved in these discussions, the Monitor recommends that the Purchaser and Unifor be directed to report in writing no later than December 15, 2014, concerning the implementation of these new pension plans and the issuance of payments to retirees.

Allocation of proceeds between WB Canada and Bipco

16. After the expiry of the delay to file an appeal of the judgment regarding the Timminco issue, the discussions were re-initiated, with a view to resolve the allocation of proceeds between WB Canada and Bipco.

17. The Monitor considers the latest discussions to be productive and is hopeful that the parties can reach a consensual resolution of the allocation issue.

Proceedings in the US to recharacterize the claim of WB Canada against Bipco

18. The hearings in the U.S. keep being postponed and the issue is left pending for the time being, as there is a possibility that this issue could become moot if a settlement is reached concerning the allocation of proceeds between the estates of Bipco and WB Canada.

[9] The SCEP has since changed its name as a result of a merger and is now called Unifor.

Claims Process to address potential claims against Directors and Officers

19. The August 2012 Asset Sale Agreement provided for the release of the CCAA Charges, including the D&O Charge to be replaced by a $10 million letter of credit, and the obligation of WB Canada to implement a D&O Claim Process with a view of releasing said letter of credit as part of these CCAA proceedings. A D&O Claims Process was duly authorized by an order of the Court made on February 10, 2014.[10]

20. As mentioned in the Monitor's report dated September 25, 2014, the Monitor received ten claims purporting to be D&O claims, further to the notice sent to creditors and publication made in compliance with the D&O Claims Process Order. To date, all claims have been contested.

21. With respect to nine of the claims, no appeal was lodged of the decision of the Monitor and the Companies regarding these notices of contestation.

22. One of the claims (submitted on behalf of several claimants) was contested by way of a notice sent on July 7, 2014. An appeal has been filed in respect of this notice of contestation, within the required delay. The hearing on this appeal of the decision contesting the D&O Claim was set tentatively for September 30, 2014, but was postponed *sine die*. The Monitor has received a new notice of presentation in connection with the motion in appeal of the Monitor's decision disallowing the claim, indicating that the motion will be made presentable on a *pro forma* basis on November 20, 2014.

Motions to extend the time to file claims

23. The Monitor received service of two motions for authorization to file claims after the claims bar date. The first motion was served on October 27, 2014 on behalf of Credit Suisse Loan Funding LLC, and the second motion was served on October 28, 2014 on behalf of Avenue Investments LP. The two motions are filed on behalf of entities that were part of the Second Term Loan[11] lenders. The first motion indicates that Credit Suisse Loan Funding LLC is owed an amount of US$3.7 million, and the second motion indicates that Avenue Investments LP is owed an amount of US$3.1 million. The amounts claimed correspond to the amounts recorded in the books and records of the WB Group.

24. The Monitor has received a notice of presentation in connection with these motions, indicating that the motions will be made presentable on a *pro forma* basis on November 20, 2014.

25. The Monitor has not had an opportunity to take a position regarding these motions.

Formulation of a Plan

26. The Monitor is aware that discussions are being held between the Companies and some of the larger creditors, in connection with the parameters of an eventual plan of compromise and arrangement providing for substantive consolidation of the WB Group for distribution purposes and the approval of the proposed allocation, including the various releases to be provided

[10] A copy of the order made by the Court is accessible through the Monitor's website at www.ey.com/ca/WhiteBirch.

[11] As defined in the Monitor's report dated February 23, 2010.

therein. The Monitor is also aware that the attorneys representing the Companies are currently working on a draft of a plan.

27. The Monitor is hopeful that a plan of compromise and arrangement can be filed in the upcoming weeks.

CONCLUSIONS AND RECOMMENDATION

28. The Initial Order as previously extended is scheduled to expire on November 21, 2014, and the Debtors have indicated their intention to seek a further extension of the Initial Order, until January 16, 2015.

29. The estate allocation issues are not yet settled but the discussions are progressing well. As well, certain issues arising from the closing of the transaction with BDWBI have not been completed, but are also progressing.

30. In the present circumstances, the Monitor believes that a further extension of the stay of proceedings would not be prejudicial to the creditors of WB Group.

31. Given the delays to date, the critical importance of dealing fairly and in a timely manner with retirees and the fact that the Monitor is not involved in these discussions concerning the implementation of the new pension plans and the issuance of payment to unionized retirees, the Monitor recommends that the parties to these discussions be directed to report in writing to the Court, with a copy to the Monitor, no later than December 15, 2014,[12] unless said pension plans are duly implemented and payments to retirees made in the interim.

32. Based on discussions with representatives of WB Group, the Monitor believes WB Group has acted and is continuing to act in good faith and with due diligence.

33. Based on the foregoing, the Monitor recommends that the Court grant an extension of the stay of proceedings as requested by WB Canada.

All of which is respectfully submitted this 18th day of November 2014.

ERNST & YOUNG INC.
In its capacity as the monitor appointed by the Court
in the matter of the proposed compromise and
arrangement of White Birch Paper Holding Company *et al.*

Per: Martin P. Rosenthal, CPA, CA, CIRP
Senior Vice-President

Per: Jean-Daniel Breton, CPA, CA, FCIRP
Senior Vice-President

[12] Conclusion [167] of the October 3, 2014 judgment already provides, with respect to the commitments made in favour of the Stadacona retirees, for the following: « **ORDONNE** à ces parties de faire rapport au Tribunal dans les soixante (60) jours de la date du présent jugement et derechef aux trente (30) jours jusqu'à la conclusion d'un accord. ».