

Court File No. CV-09-8062-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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 OF TERRACE BAY PULP INC.

Applicant

**MOTION RECORD
(Returnable November 20, 2009)**

November 19, 2009

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IN THE MATTER OF THE *COMPANIES' CREDITORS
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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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Applicant

**NOTICE OF MOTION
(Returnable November 20, 2009)**

The Applicant will make a motion to a Judge presiding over the Commercial List on Friday, November 20, 2009, at 10:10 a.m., or as soon after that time as the motion can be heard, at the Court House, 330 University Avenue, 8th Floor, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard

☐ in writing under subrule 37.12.1(1)

☐ in writing as an opposed motion under subrule 37.12.1(4);

☒ orally.

THE MOTION IS FOR an Order substantially in the form attached hereto as Schedule "A":

- (a) abridging the time for service of the Notice of Motion and Motion Record herein, validating the service of such motion material and dispensing with the service of such motion material on interested parties not served;
- (b) directing that capitalized terms not otherwise defined in the draft Order have the same meaning as in the Monitor's Eighth Report dated November 19, 2009 (the "Eighth Report");
- (c) extending the Stay Period until February 26, 2010;
- (d) pursuant to paragraph 11 of the Orders of the Honourable Mr. Justice Morawetz dated March 11, 2009 and May 14, 2009 in these proceedings, permitting the Plaintiffs in the action in Court File Number CV-09-0228 (the "Action), until December 20, 2009 to serve the Statement of Claim in the Action on the Applicant on the condition that the Plaintiffs shall not be entitled to proceed further with the Action as against the Applicant without further order of this Court obtained on notice to the Applicant and the Monitor, that the time for delivery of any Defence by the Applicant shall be extended to a date to be determined by this Court and that no party is permitted to take action as against the Applicant by way of counterclaim or third party proceeding, or otherwise, without (i) the consent of the Applicant and the Monitor, or (ii) further Order of this Court obtained on notice to the Applicant and the Monitor;

- (e) approving the Eighth Report and the conduct and activities of the Monitor described therein; and
- (f) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE

- (a) the reasons described in the Eighth Report and the Affidavit of Taras Sawula sworn November 19, 2009 (the “Sawula Affidavit”);
- (b) Section 11 of the CCAA; and
- (c) such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Eighth Report and the Sawula Affidavit; and
- (b) such other materials as counsel may advise and this Honourable Court permit.

November 19, 2009

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SCHEDULE "A"

Court File No. CV-09-8062-00CL

ONTARIO
 SUPERIOR COURT OF JUSTICE
 COMMERCIAL LIST

THE HONOURABLE	)	FRIDAY, THE 20 TH
	)	
MR. JUSTICE MORAWETZ	)	DAY OF NOVEMBER, 2009

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 OF TERRACE BAY PULP INC.

ORDER

THIS Motion, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") for an Order:

- (a) abridging the time for service of the Notice of Motion and Motion Record herein, validating the service of such motion material and dispensing with the service of such motion material on interested parties not served;
- (b) directing that all capitalized terms not otherwise defined herein have the same meaning as in the Eighth Report of Ernst & Young Inc. in its capacity as Monitor (the "Monitor") dated November 19, 2009 (the "Eighth Report");
- (c) extending the Stay Period until February 26, 2010;
- (d) pursuant to paragraph 11 of the Orders of the Honourable Mr. Justice Morawetz dated March 11, 2009 and May 14, 2009 in these proceedings, permitting the Plaintiffs in the action in Court File Number CV-09-0228 (the "Action"), until December 20, 2009 to serve the Statement of Claim in the Action on the condition

that the Plaintiffs shall not be entitled to proceed further with the Action as against the Applicants without further order of this Court obtained on notice to the Applicants and the Monitor, that the time for delivery of any Defence by the Applicant shall be extended to a date to be determined by this Court and that no party is permitted to take action as against the Applicant by way of counterclaim or third party proceeding, or otherwise, without (i) the consent of the Applicant and the Monitor, or (ii) further Order of this Court obtained on notice to the Applicant and the Monitor;

- (e) approving the Eighth Report and the conduct and activities of the Monitor described therein; and
- (f) such further and other relief as this Honourable Court may deem just;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Eighth Report and the Affidavit of Taras Sawula sworn November 19, 2009, all filed, and on hearing the submissions of counsel for the Applicant and counsel for the Monitor,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and that any requirement for service of the Motion and the Motion Record on any parties other than the parties actually served with the Notice of Motion and the Motion Record is hereby dispensed with.
2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein have the same meaning as in the Eighth Report.
3. **THIS COURT ORDERS** that the Stay Period be and is hereby extended until February 26, 2010.

4. **THIS COURT ORDERS** that pursuant to paragraph 11 of the Orders of the Honourable Mr. Justice Morawetz dated March 11, 2009 and May 14, 2009 in these proceedings, the Plaintiffs in the action in Court File Number CV-09-0228 (the "Action") are hereby permitted until December 20, 2009 to serve the Statement of Claim in the Action on the Applicant on the condition that the Plaintiffs shall not be entitled to proceed further with the Action as against the Applicant without further order of this Court obtained on notice to the Applicant and the Monitor, that the time for delivery of any Defence by the Applicant shall be extended to a date to be determined by this Court and that no party is permitted to take action as against the Applicant by way of counterclaim or third party proceeding, or otherwise, without (i) the consent of the Applicant and the Monitor, or (ii) further Order of this Court obtained on notice to the Applicant and the Monitor.

 5. **THIS COURT ORDERS** that the Eighth Report and the conduct and activities of the Monitor described therein be and are hereby approved.
-

Applicant	
	<i>ONTARIO</i> SUPERIOR COURT OF JUSTICE COMMERCIAL LIST Proceeding commenced at Toronto
	ORDER
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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36
AND IN THE MATTER of a Plan of Compromise or Arrangement of Terrace Bay Pulp Inc.

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

NOTICE OF MOTION
(RETURNABLE NOVEMBER 20, 2009)

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TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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
of TERRACE BAY PULP INC.

Applicant

AFFIDAVIT OF TARAS SAWULA
(Sworn November 19, 2009)

I, **TARAS SAWULA**, of the City of Thunder Bay, in the Province of Ontario,
MAKE OATH AND SAY AS FOLLOWS:

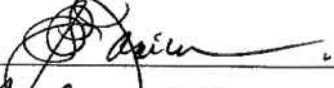
1. I am the Vice-President, Taxation and Compliance, of Buchanan Sales Inc.
("BSI") and former Vice-President of the Applicant, Terrace Bay Pulp Inc.
("Terrace Bay"), and am currently providing services to Terrace Bay pursuant to a
Temporary Services Agreement between BSI and Terrace Bay approved by this
Court, and as such, have knowledge of the matters deposed to in this Affidavit.
Where this Affidavit is not based on my personal knowledge, it is based on
information and belief, the source of which I have identified and I verily believe
such information to be true.
2. This Affidavit is sworn in support of Terrace Bay's motion returnable
November 20, 2009 for, among other things, an order extending the stay of

proceedings (the “Stay Period”) pursuant to the Initial Order of this Honourable Court dated March 11, 2009 (the “Initial Order”), a copy of which is attached hereto as **Exhibit “A”**, until February 26, 2010.

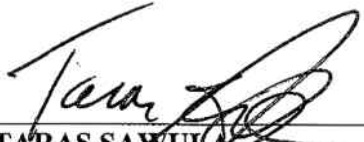
3. The Stay Period has been extended from time to time since the issuance of the Initial Order and most recently until November 20, 2009 pursuant to the Order of the Honourable Mr. Justice Morawetz dated November 2, 2009 (the “November 2 Order”), a copy of which is attached hereto as **Exhibit “B”**. In support of the November 2 Order, Terrace Bay filed the Affidavit of Russell York sworn October 30, 2009, a copy of which, with Exhibits, is attached hereto as **Exhibit “C”**.
4. Terrace Bay has been engaged in ongoing discussions with a potential non-traditional term loan lender, the Province of Ontario (the “Province”). These negotiations concluded on or about November 19, 2009 with the Province agreeing to a term sheet (the “Term Sheet”) providing for the financing of a \$25 million term loan which would ultimately facilitate Terrace Bay’s exit from these CCAA proceedings and the re-start of Terrace Bay’s operations. A copy of an announcement dated November 19, 2009 with respect to this financing arrangement is attached hereto as **Exhibit “D”**.
5. Terrace Bay’s term loan from the Province is conditional upon, among other things, the sanctioning and implementation of a Plan of Arrangement in these CCAA proceedings (a “Plan”) and a number of other matters.

6. Accordingly, in order to permit Terrace Bay to complete the steps required to meet the requirements of the Term Sheet, Terrace Bay requires an extension of the Stay Period until February 26, 2010. In particular, Terrace Bay, with the assistance of the Monitor, would utilize this extension to, among other things, complete financing, establish and seek Court approval of a claims process, negotiate and develop a Plan and facilitate creditor approval for a Plan.
7. Terrace Bay will return to Court in due course to report on, and obtain approval for, the necessary steps moving forward.
8. Further, on this motion, Terrace Bay will be seeking permission for the Plaintiffs in the action in Court File Number CV-09-0228 (the "Action"), to have until December 20, 2009 to serve the Statement of Claim in the Action on the condition that the Plaintiffs shall not be entitled to proceed further with the Action as against Terrace Bay without further order of this Court obtained on notice to the Applicants and the Monitor. Pursuant to the Order of the Honourable Mr. Justice Morawetz dated May 14, 2009, a copy of which is attached hereto as **Exhibit "E"**, the Plaintiffs were permitted to issue their Statement of Claim. I am advised by counsel for Terrace Bay that both Terrace Bay and the Monitor have consented to an extension of the time for service pending approval of this Court.
9. This Affidavit is therefore made in support of Terrace Bay's motion for, among other things, an extension of the Stay Period until February 26, 2010 and for no other or improper purpose.

SWORN BEFORE ME at the City of
Thunder Bay, in the Province of Ontario
this 19th day of November, 2009


A Commissioner, etc.

E. PAUL CASIURA


TARAS SAWULA