Court File No. C51296

COURT OF APPEAL FOR ONTARIO

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 GRANT FOREST PRODUCTS INC., GRANT ALBERTA INC., GRANT FOREST PRODUCTS SALES INC. and GRANT U.S. HOLDINGS GP

Applicants

APPEAL BOOK AND COMPENDIUM OF THE APPELLANT

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TAB 1

Court File No.

COURT OF APPEAL FOR ONTARIO

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 GRANT FOREST PRODUCTS INC., GRANT ALBERTA INC., GRANT FOREST PRODUCTS SALES INC. and GRANT U.S. HOLDINGS GP

Applicants

NOTICE OF APPEAL

THE TORONTO-DOMINION BANK ("TD") APPEALS to the Court of Appeal from the order of the Honourable Justice Newbould of the Superior Court of Justice dated October 13, 2009, made at Toronto.

THE APPELLANT ASKS that the order be set aside and that the motion brought by Peter Grant Sr. be dismissed, with costs both in this court and in the court below.

THE GROUNDS OF APPEAL are as follows:

GFPI and its CCAA proceedings

1. Grant Forest Products Inc. ("GFPI") is in the lumber business. It was founded by and is controlled by the respondent Peter Grant Sr. On June 25, 2009, GFPI filed for and obtained

protection from its creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA"). The CCAA proceedings are ongoing. At present, the stay of proceedings under the CCAA has been extended to December 1, 2009, primarily in order to allow a process for the marketing of GPFI's assets to be advanced.

Mr. Grant's motion

2. On October 5, 2009, Mr. Grant brought a motion before Newbould J. for an order in connection with an agreement (the "Tax Refund Agreement") under which he purchased from GFPI $20 million U.S. in tax refunds to become due from the Canada Revenue Agency (the "CRA") to GFPI in 2008 and 2009. TD opposed the motion. TD is agent for a lending syndicate which holds first ranking security over the assets of GFPI.

3. On October 13, 2009, Newbould J. issued an endorsement granting Mr. Grant the relief that he was seeking. Specifically, Newbould J. held that:

(a) pursuant to the Tax Refund Agreement, Mr. Grant has acquired full right, title and interest in the tax refunds which are owing by the CRA to GFPI in 2009; and

(b) if GFPI receives a 2009 tax refund, the first $10 million U.S. will be received in trust for Mr. Grant and GFPI will be obliged to pay it forthwith to Mr. Grant.

The Tax Refund Agreement and the circumstances leading to the motion

4. In 2008, GFPI was experiencing financial problems. It was proposed the Mr. Grant assist GFPI's cash flow by purchasing certain federal and Ontario tax refunds which GFPI expected to receive in 2008 and 2009.

5. Pursuant to the terms of GPFI's agreements with its lenders, referred to as the first and second lien credit agreements, GPFI was permitted to sell assets outside the ordinary course of business without lender consent and without paying the proceeds to the lenders, but only on the condition that dispositions (as broadly defined in the Credit Agreements) of the Tax Refunds not exceed $10 million U.S. per year. The Tax Refund Agreement was carefully drawn as to comply with this covenant.

6. Pursuant to the Tax Refund Agreement, Mr. Grant paid GFPI $20 million U.S. in March 2008, in exchange for the promise of GFPI to convey $10 million U.S. of GFPI's 2008 tax refund at the 2008 closing and $10 million of its 2009 tax refund to be transferred at the 2009 closing.

7. In order to comply with the covenant in the credit agreements, the Tax Refund Agreement made it clear that the acquisition of GFPI's 2009 tax refund was not to occur until a transfer of the 2009 tax refund was delivered at the 2009 Closing which as scheduled to occur on January 2, 2009, and that until the transfer of the 2009 refund was delivered, Mr. Grant had no interest in GFPI's 2009 tax refund:

> "Section 2.01 Agreement of Purchase and Sale
>
> Subject to the provisions of this Agreement, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser hereby agrees to purchase

from the Vendor: ...

(b) the Sold 2009 refund on January 2, 2009."

"Section 5.02 No Interest of Purchaser in Sold 2009 Refund Until 2009 Closing

The parties agree, notwithstanding any other provision of this Agreement or any other right or purported right of the Purchaser, that *the Purchaser does not acquire any right, title or interest in the Sold 2009 Refund*, and the Vendor does not sell, assign or transfer any right title or interest in the Sold 2009 Refund *until the Vendor delivers to the Purchaser at the 2009 Closing, the transfer referred to in Section 7.04(a)*." [Emphasis added.]

8. The Tax Refund Agreement expressly held that, *once the closing of the purchase of the 2009 tax refunds was completed*, GFPI would hold $10 million U.S. of its 2009 tax refund in trust for Mr. Grant:

"Section 5.06 Sold 2009 Refund Held in Trust by Vendor

The Vendor shall hold in trust for Purchaser, keep segregated from any other funds, accounts or assets of the Vendor and pay to Purchase any amount of the Sold 2009 Refund received by the Vendor *after the completion of the 2009 Closing*." [Emphasis added.]

"2009 Closing" was defined to mean "the closing of the purchase and sale of the Sold 2009 Refund on January 2, 2009".

9. By December, 2008, GFPI was in serious financial difficulty and anticipated being in default of its borrowing covenants by the end of the first quarter of 2009. In order to secure the support of its lenders for a restructuring, GFPI decided not to close the sale of the 2009 tax refunds to Mr. Grant.

Newbould J.'s order

10. Despite the clear language of the Tax Refund Agreement that a trust did not arise until the 2009 Closing had been completed, and despite the undisputed fact that the 2009 Closing had not occurred, Newbould J. found that the trust obligation under Section 5.06 was effective. He so found by applying "the principle that equity considers done what ought to be done". He used that equitable maxim to treat the 2009 Closing as if it had taken place, even though it had not.

11. Newbould J.'s ruling is erroneous in law:

(a) The "principle that equity considers done what ought to be done" does not create a freestanding ability for judges to rewrite commercial agreements, especially those entered into by sophisticated parties. Indeed, the principle has no application where equitable relief is not sought. The parties should have been left to the terms of their agreement, and Newbould J. erred in law in applying an equitable maxim to lead to a result that was the opposite of the one bargained for by the parties.

(b) The effect of Newbould J.'s ruling is to create a preference, with an unsecured creditor (Mr. Grant) being able to recover 100 cents on the dollar in circumstances in which secured creditors are not likely to recover their claims in full and unsecured creditors are likely to recover nothing. Even if it were otherwise applicable, the equitable maxim should not have been applied to create a preference in favour of Mr. Grant.

12. TD also relies on such further and other grounds as counsel may advise and this Honourable Court may permit.

THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS: Pursuant to sections 13 and 14 of the CCAA, an appeal of Newbould J.'s order lies to this court with leave. Leave to appeal was granted by Justices Feldman, Armstrong and Epstein on November 19, 2009.

November 20, 2009

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

IN THE MATTER OF THE A PLAN OF COMPROMISE OR ARRANGEMENT OF GRANT FOREST PRODUCTS INC. et al.

Court File No.

COURT OF APPEAL FOR ONTARIO

NOTICE OF APPEAL

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TAB 2

Court File No. CV -09-8247-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	**TUESDAY, THE 13TH DAY**
	)	
JUSTICE NEWBOULD	)	**OF OCTOBER, 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 GRANT FOREST PRODUCTS INC., GRANT ALBERTA INC., GRANT FOREST PRODUCTS SALES INC. and GRANT U.S. HOLDINGS GP

Applicants

ORDER
(Motion with respect to the Tax Refund Purchase and Sale Agreement, returnable October 5, 2009)

THIS MOTION, made by Peter J. Grant Sr. ("Mr. Grant") for an order, declaration or directions as appropriate in connection with a Tax Refund Purchase and Sale Agreement ("Tax Refund Agreement"), dated March 31, 2008, as set out in the Notice of Motion of Mr. Grant, was heard on October 5, 2009, at 330 University Avenue, Toronto.

ON READING the Notice of Motion, the Affidavit of Mr. Grant sworn September 8, 2009, and the Affidavit of Benjamin Montgomery sworn September 14, 2009, the Reply Affidavit of Mr. Grant sworn September 18, 2009, and the transcript of the cross-examination of Benjamin Montgomery taken on September 25, 2009, and on hearing the submissions of counsel for Mr. Grant, The Toronto-Dominion Bank in its capacity as Agent under the First Lien Credit

Agreement, the Monitor Ernst & Young Inc. and the Applicants:

1. **THIS COURT DECLARES** that the transfer to Mr. Grant of the 2009 tax refund due to him under s. 5.02 of the Tax Refund Agreement has in equity taken place as of January 2, 2009, and that Mr. Grant has acquired full right, title and interest in the tax refund as of that date. Mr. Grant is entitled if he wishes to receive a transfer from Grant Forest Products Inc. ("GFPI") under s. 5.02 effective January 2, 2009.

2. **THIS COURT DECLARES** that Mr. Grant is also entitled if he wishes to direct the Canada Revenue Agency, the Finance Minister (Ontario Ministry of Finance) or any other appropriate person under s. 5.04 of the Tax Refund Agreement to pay the tax refund due to him directly to him.

3. **THIS COURT DECLARES** that if the 2009 tax refund due to Mr. Grant is received by GFPI, it will be received by GFPI in trust for Mr. Grant and GFPI shall be obliged to forthwith pay it to Mr. Grant.

4. **THIS COURT ORDERS** that Mr. Grant is entitled to his costs from TD, the amount of which shall be subsequently determined by this Court.

Geze Argyropoulos

G. Argyropoulos, Registrar
Superior Court of Justice

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

NOV 0 2 2009

PER / PAR: TV

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

IN THE MATTER OF THE A PLAN OF COMPROMISE OR ARRANGEMENT OF GRANT FOREST PRODUCTS INC. et al.

Court File No. CV-09-8247-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

ORDER

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TAB 3

COURT FILE NO.: CV-09-8247-00CL
DATE: 20091013

SUPERIOR COURT OF JUSTICE – ONTARIO
COMMERCIAL LIST

RE: 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 GRANT FOREST PRODUCTS INC., GRANT ALBERTA INC., GRANT FOREST PRODUCTS SALES INC. and GRANT U.S. HOLDINGS GP

Applicants

BEFORE: Justice Newbould

COUNSEL: Richard B. Swan, for Peter Grant Sr.

Kevin P. McElcheran, for Toronto-Dominion Bank, agent for 1st lien lenders

Katherine Mah, for the Monitor Ernst & Young Inc.

Jane O. Dietrich, for Grant Forest Products Inc., Grant Alberta Inc., Grant Forest Products Sales Inc., and Grant U.S. Holdings GP

DATE HEARD: October 5, 2009

ENDORSEMENT

[1] This is a motion by Peter Grant Sr. for an order, declaration or directions as appropriate in connection with an agreement under which Mr. Grant purchased for US $20 million from Grant Forest Products Inc. ("GFPI") US $10 million worth of income tax refunds due from the Canada Revenue Agency ("CRA") to GFPI in each of 2008 and 2009. His purchase of these expected tax refunds was to assist the cash flow of GFPI. He received the refund for 2008 but has not been provided with the necessary transfer document from GFPI under the agreement in

order to receive the 2009 refund that is expected in the near future. He claims that GFPI is in breach of its agreement in not providing him with the transfer document and that the expected tax refund is to be received by GFPI in trust for him and is not an asset of GFPI.

[2] The Toronto-Dominion Bank ("TD") is the agent for the first lien lenders[1]. It opposes the application on the grounds that while GFPI has admittedly broken the agreement with Mr. Grant by not delivering to Mr. Grant a transfer document for the 2009 tax refund, to require the transfer document to now be given would accord preferential treatment to Mr. Grant over other creditors. TD claims that because the transfer has not been given, the tax refund when received by GFPI will not be an asset received and held in trust for Mr. Grant but will be an asset of the company.

[3] In my view it is clear that Mr. Grant is entitled to the relief he seeks to protect his right to the 2009 tax refund.

Background facts

[4] The Grant family has been in the lumber business in Ontario for several generations, going back to the 1880s. Mr. Grant founded the predecessor to GFPI in 1980, and took the company into the oriented strand board ("OSB") market with the opening of the company's first OSB mill in Englehart, Ontario in 1981. OSB is an alternative to plywood and is commonly used in residential construction. The company grew to become one of the three largest OSB producers in North America. Mr. Grant (and a Grant family trust known as Twin Lakes Trust) are the ultimate shareholders of GFPI.

[5] GFPI and the other applicants filed for and obtained protection under the CCAA by Initial Order of this Court dated June 25, 2009. Ernst & Young Inc. was appointed as Monitor. By order dated July 24, 2009, the initial stay was extended to October 15, 2009.

[6] As GFPI's financial performance began to decline in the OSB market, and particularly after GFPI and affiliates incurred significant bank debt to construct the two new South Carolina OSB mills, Mr. Grant became directly involved in steps to assist GFPI's cash-flow. Apart from

[1] At all material times, TD was the agent for both the first and second lien lenders. Now it is the agent only for the first lien lenders. The second lien lenders have not appeared on this motion or taken any position on it.

not being paid his salary for some time and not receiving preferred dividends of $6 million declared in 2006, and his retirement fund being under funded by $18 million, he has provided cash to GFPI.

[7] In July 2004, Mr. Grant caused a company controlled by him to loan $40 million on an unsecured basis to GFPI, and in October 2004 he caused that company to loan GFPI a further $10 million, again on an unsecured basis. These amounts have not been repaid. On behalf of that company, Mr. Grant signed postponement and subordination agreements subordinating these loans to the first and second lien lenders.

[8] In June 2008 Mr. Grant caused additional funds in the amount of $25 million to be advanced to GFPI. This amount is recorded in GFPI's accounts as a capital contribution.

Tax Refund Agreement

[9] As GFPI's financial performance declined in 2008, it was proposed that Mr. Grant assist the company's cash-flow by purchasing a portion of certain Canadian and Ontario tax refunds which GFPI expected to receive in 2008 and 2009.

[10] The terms of the first and second lien credit agreements permitted asset sales each year by GFPI out of the ordinary course of business, without the consent of the lenders and without the proceeds being paid to the lenders, on certain conditions, one being that the total amount sold each year could not exceed US$10 million. As well, no security could be given by the company. The tax refund agreement was carefully drawn so that it would comply with the requirements of these credit agreements. Whether the lenders agreed to the terms of the agreement is a matter of some debate, but it is clear that the lenders and their solicitors were quite involved in its drafting. It is common ground that the tax refund complied with the credit agreements and thus there was no need for the lien agents to canvass the lending syndicates for any consent. Mr. Montgomery, a vice-president and director of TD, confirmed that on his cross-examination.

[11] The concept was that Mr. Grant would pay US$20 million to GFPI in March 2008 to purchase a portion of GFPI's 2008 and 2009 tax refunds, with the purchased portions of the tax refunds amounting to US$10 million in each of 2008 and 2009. This would assist the company

with its immediate cash-flow but ensure that Mr. Grant would ultimately receive the purchased portions when the 2008 and 2009 tax refunds were paid by the government. The agreement was structured so that while the entire US $20 million was paid in 2008, no more than US $10 million of the tax refund asset was sold in 2008 and the balance sold was to be in 2009.

[12] From Mr. Grant's perspective, the agreement provided that once GFPI received the 2008 and 2009 tax refunds from the government, GFPI would be obliged to hold the portions of the refunds which he had purchased in trust for him and then pay them out to him or as he directed. Whether this trust arrangement was effected for the 2009 tax refund is the central issue on this motion.

[13] The tax refund agreement provided for the sale of the tax refunds in two tranches, the first on March 31, 2008 and the second on January 2, 2009. It provided for the payment of the entire purchase price on March 31, 2008, with the payment for the 2009 tax refund being by way of deposit. The agreement provides:

> Section 2.01 <u>Agreement of Purchase and Sale</u>
>
> Subject to the provisions of this Agreement, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser hereby agrees to purchase from the Vendor:
>
> (a) the Sold 2008 Refund on March 31, 2008; and
>
> (b) the Sold 2009 Refund on January 2, 2009
>
> Section 3.02 <u>Payment of Purchase Price</u>
>
> The Purchaser shall pay the purchase prices to the Vendor by certified cheque, bank draft or wire transfer of immediately available funds to an account specified by the Vendor as follows:
>
> (a) The Purchaser shall pay the 2008 Purchase Price to the Vendor on March 31, 2008 at the 2008 Closing; and
>
> (b) The Purchaser shall pay the 2009 Purchase Price Deposit to the Vendor on March 31, 2008 at the 2008 Closing.

[14] The agreement provides that Mr. Grant receives no interest in the 2009 tax refund until the company delivered to him a transfer of the 2009 refund. It provided:

> Section 5.02 No Interest of Purchaser in Sold 2009 Refund Until 2009 Closing
>
> The parties agree, notwithstanding any other provision of this Agreement or any other right or purported right of the Purchaser, that the Purchaser does not acquire any right, title or interest in the Sold 2009 Refund, and the Vendor does not sell, assign or transfer any right, title or interest in the Sold 2009 Refund until the Vendor delivers to the Purchaser at the 2009 Closing, the transfer referred to in Section 7.04(a).
>
> Section 7.04 Deliveries or Payments on 2009 Closing by the Vendor
>
> The Vendor shall deliver or pay to the Purchaser at the 2009 Closing, in form and substance satisfactory to the Purchaser, acting reasonably:
>
> (a) a transfer by the Vendor to the Purchaser of the Sold 2009 Refund.

[15] The provision in section 5.02 that Mr. Grant was not to have any interest in the 2009 tax refund until the company delivered the transfer to him on January 2, 2009 was to make clear that the 2009 tax refund sale could not be considered a disposition in 2008 contrary to the lien credit agreements. Such a provision was said by the TD solicitor who was dealing with the draft agreement to be "critical".

[16] The trust provisions that are relevant to this motion differentiate between the years 2008 and 2009. They provide:

> Section 5.05 Sold 2008 Refund Held in Trust by Vendor
>
> The Vendor shall hold in trust for the Purchaser, keep segregated from any other funds, accounts or assets of the Vendor and pay to the Purchaser any amount of the Sold 2008 Refund received by the Vendor after the completion of the 2008 Closing.
>
> Section 5.06 Sold 2009 Refund Held in Trust by Vendor
>
> The Vendor shall hold in trust for Purchaser, keep segregated from any other funds, accounts or assets of the Vendor and pay to Purchaser any amount of the Sold 2009 Refund received by the Vendor after the completion of the 2009 Closing.

[17] It is to be noted that the trust for 2009 is to attach to the tax refund received by the company from CRA "after the completion of the 2009 Closing". The "2009 Closing" is defined:

> "2009 Closing" means the closing of the purchase and sale of the Sold 2009 Refund on January 2, 2009.

[18] The agreement also provided that on each of the 2008 and 2009 closings, a partial discharge of the security held by the first and second lien agents and a release of any interest they may have in the sold refunds would be provided to Mr. Grant. This would appear to have been a bootstrap measure to give Mr. Grant some comfort. If the tax refunds were to be received by GFPI in trust for Mr. Grant, as was clearly the intent of the agreement, they would not be assets of the company subject to the lenders security. Moreover, the lenders security permitted these asset sales free of the security without the proceeds being paid to the lenders.

[19] Thus scheme of the tax refund agreement was quite straightforward. On January 2, 2009 a transfer was to be delivered to Mr. Grant delivering him his interest in the 2009 tax refund to be received by GFPI up to the amount of US $10 million. When the refund was received by GFPI, it was to be received and held by GFPI in trust for him. It was not to be an asset of GFPI or subject to the security of the company's lenders.

[20] This scheme of the agreement was well-known by TD, the agent for the first and second lien lenders as is evident from an internal TD credit memorandum prepared by Mr. Montgomery on March 28, 2008, three days before the 2008 closing. That memorandum included the following:

> The capital will be injected in a manner that does not require any consents from the lenders.
>
> The proposed structure is summarized as follows:
>
> > i) on [March 31/08] a related company outside our the restricted group which we understand will be a holdco above our Borrower (the "Purchaser") will acquire US$20MM of the Borrower's 2008 and 2009 tax refunds;
> >
> > ii) on [March 31/08] the Borrower will receive US$20MM from the Purchaser consisting of:

a) US$10MM on the sale of a portion of the Borrower's 2008 tax refunds received between Sept 1/08 – Dec 31/08;

b) US$10MM deposit against the sale of a portion of the Borrower's 2009 tax refunds.

iii) on Jan 2/09 the Borrower will sell $10MM of its 2009 tax refund received between Sept 1/09 to Dec 31/09 to the Purchaser (consideration coming from (ii) (b));

iv) the Agent (1st and 2nd lien) will provide the Purchaser with a partial discharge of its security with the respect to: (ii)(a) in March/08, and (ii)(b) in Jan/09;

v) the Purchaser will receive the proceeds of the monetized 2008 tax refunds in late 2008, and the proceeds of the monetized 2009 tax refunds in late 2009; the Borrower may direct CRA to pay the monetized 2008 and 2009 refunds directly to the Purchaser, or alternatively, to the extent the Borrower receives the monetized tax refunds from CRA, the Borrower will agree to hold in trust and segregate the proceeds of the monetized refunds for the Purchaser.

[21] While TD was not a party to the tax refund agreement, it is quite evident that it understood that it would provide a partial discharge of its security in March 2008 and in January 2009.

[22] The argument now made on behalf of TD is that the 2009 closing has not taken place because the company failed to deliver the transfer document it was required to deliver to Mr. Grant on January 2, 2009 and therefore the tax refund once received will not be subject to a trust in favour of Mr. Grant.

Post-agreement events

[23] The 2008 Closing as defined in the tax refund agreement took place on March 31, 2008. At that time Mr. Grant paid to GFPI US$10 million to purchase the 2008 tax refund and at the same time paid a further US$10 million to purchase the 2009 tax refund. The latter amount was paid as a deposit under the section 3.02(b) of the agreement. GFPI had immediate use and benefit of the US$20 million in funds paid to it. In exchange, Mr. Grant received a transfer

acknowledgment and partial discharges from the first and second lien agents in respect of the 2008 refund. Mr. Montgomery of TD said on his cross-examination that the discharges were freely given because the lenders were asked to give them, and that there was no need to canvass the lending syndicates to do so.

[24] Later in 2008, after GFPI received its 2008 tax refund from CRA, Mr. Grant received from GFPI approximately US$10 million in respect of his purchase of the 2008 tax refund.

[25] The 2009 closing was to take place on January 2, 2009. However GFPI failed to deliver the transfer required under s. 7.04(a). It is common ground that GFPI is in breach of its agreement for failing to do so.

[26] It is quite apparent from the evidence that it was the position of the lenders that influenced the company to take the position that it did, and that the company felt it was between a rock and a hard place. GFPI was running into financial problems and anticipated being in default of its borrowing covenants by the end of the first fiscal quarter for 2009. There is some evidence in an e-mail sent by Mr. Peter Lynch of GFPI to Mr. Grant's solicitors and others, (i) that TD, which was the agent at the time for both the first and second lien lenders, advised that it would not provide discharges of their security without the consent of the requisite number of lenders in each syndicate, which was different from the position taken by TD regarding the 2008 tax refund that the consent of the members of lending syndicate was not required, and (ii) that TD indicated to Mr. Lynch that it would not be supportive of the request for a discharge of its security.

[27] Mr. Montgomery on his cross-examination made it clear that the position of TD was that in order that GFPI would have the support of TD in a restructuring, the US$10 million should not be paid to Mr. Grant. He said on his cross-examination:

> "A. I do know from Bill [O'Connor, a V-P at TD] that this – that this would have been our position.
> Q. What did Bill tell you in this regard?
> A. That as -- you know, in order to -- in order to continue to support the company and, you know, put a structure in place that would allow it to continue to operate, that the lenders would look for the 10 million to remain in the company
> --

Q. Okay.
A. -- in order to induce the lenders to continue to fund, or to continue to forebear, I guess, or continue to re -- to restructure the credit facilities to allow it to continue to operate."

[28] When Mr. Montgomery was involved in the drafting of a term sheet for a proposed refinancing of GFPI he made sure that there was included in the term sheet a negative covenant that the 2009 tax refund not be paid to Mr. Grant. He stated in an internal e-mail at TD "if we restructure we would want to make sure that shareholders do not take payment on this "deposit". Mr. Grant never agreed to this.

[29] On June 19, 2009 Mr. Grant's solicitors wrote to GFPI demanding that GFPI deliver the transfer document required for the 2009 tax refund no later than 5:00 p.m. on June 22, 2009. The letter further demanded that the partial discharges and releases from the first and second lien agents be sought by GFPI from the lenders and provided to Mr. Grant no later than 5:00 p.m. on June 22, 2009. The letter stated that if these discharges and releases from the first and second lien agents were not provided, Mr. Grant might waive these conditions that were inserted in the agreement for his benefit. Section 6.03 of the agreement provided that conditions in favour of Mr. Grant could be waived by him in his sole discretion. The obvious reason for the urgency of the letter and for the demand that these documents be delivered by June 22, 2009 was that it was known that GFPI was about to file for protection under the CCAA, which protection was obtained in the Initial Order made on June 25, 2009.

Issues

[30] TD takes the position that under section 5.02 of the tax refund agreement, Mr. Grant did not acquire any right or interest in the 2009 tax refund as that section provided he would not receive such a right until GFPI delivered a transfer document to Mr. Grant at the 2009 closing that was to take place on January 2, 2009. As that transfer was not delivered, the position of TD is that Mr. Grant therefore has not acquired any interest in the 2009 tax refund.

[31] Further, TD takes the position that the trust provision requiring GFPI to hold the 2009 tax refund in trust once received from CRA has not come into force because that section provides for such a trust for a 2009 tax refund that is received after the completion of the 2009 closing. TD

asserts that because the 2009 closing did not take place as there was no delivery of a transfer from GFPI to Mr. Grant, the trust provision does not yet arise. It is common ground that the 2009 tax refund to come from CRA has not yet been received by GFPI.

[32] The position of Mr. Grant is that GFPI has a trust obligation to hold the 2009 tax refund in trust for Mr. Grant and that it cannot rely upon its own failure to deliver a transfer document to Mr. Grant on January 2, 2009 to argue otherwise. Mr. Grant relies upon the equitable doctrine that equity considers done what ought to be done.

[33] Mr. Grant further contends that it is open to a court to now compel GFPI to deliver the transfer document that was to have been delivered on January 2, 2009, thus giving Mr. Grant his right to the 2009 tax refund under section 5.02. He takes the position that delivery of the transfer now by GFPI would mean that once the 2009 tax refund is received from CRA, it will be impressed with a trust in his favour. TD takes the position that making an order requiring GFPI to now deliver a transfer to Mr. Grant would amount to a preference in favour of Mr. Grant over other creditors of GFPI.

Analysis

[34] There is no question but that GFPI has breached its obligation to deliver the transfer to Mr. Grant on January 2, 2009. It is also clear that while TD understood at the outset that the 2009 tax refund when received by the company would be held in trust for Mr. Grant and that TD would provide a discharge of its security at that time, TD has made clear that it will not deliver any discharge of its security. The fact that TD contends that it was not asked by GFPI to deliver a discharge of its security is, in my view, neither here nor there. It was made quite clear by TD to GFPI that if there was to be a restructuring, the US $10 million should stay in the company.

[35] The issue is what right Mr. Grant has, if any, to receive the 2009 tax refund.

[36] There was no condition in the tax refund agreement that was required to be fulfilled before the transfer was to be delivered to Mr. Grant on January 2, 2009, nor any test or judgment call of any kind to be made by GFPI. The only purpose in having half of the US $20 million tax refund being purchased by Mr. Grant to be a purchase in 2009 was to stay onside the lending

agreements which permitted only US $10 million in assets to be sold in any year out of the ordinary course of business. The 2009 closing to take place on January 2, 2009 was thus a technical, albeit important, provision that was to be automatically carried out by GFPI. Nor was the obligation of GFPI to deliver the transfer in any way conditional on the lenders providing a release of their security.

[37] It would be completely inequitable, in my view, for GFPI to take advantage of its own breach in failing to deliver the transfer to Mr. Grant and then contend that because of that failure, its requirement to hold the funds received from CRA in trust under s. 5.02 does not arise because the 2009 closing has not taken place, i.e., for GFPI to contend that as it is only funds received from CRA "after the completion of the 2009 Closing" that are to be held in trust, and if the funds are received before the closing has taken place they are not subject to the trust in favour of Mr. Grant. That was not at all the intent of the agreement. GFPI does not argue this, as it takes no position on the motion by Mr. Grant. TD however does. Mr. McElcheran said in argument that TD is taking this position on behalf of GFPI.

[38] In my view, the principle that equity considers done what ought to be done is applicable and the transfer by GFPI of the 2009 tax refund to Mr. Grant that was to occur on January 2, 2009 is to be treated as if it did take place.

[39] The principle is well known and of some antiquity. It was explained in *Bliss v. Doyle* (1983), 44 O.R. (2d) 129 by Krever J. (as he then was) by the following:

> In Snell's Principles of Equity, 27th ed. (1973), one finds the following explanation of the maxim at p. 40:
>
>> This maxim has its most frequent application in the case of contracts. Equity treats a contract to do a thing as if the thing were already done, though only in favour of persons entitled to enforce the contract specifically and not in favour of volunteers. Agreements for value are thus often treated as if they had been performed at the time when they ought to have been performed, with the same consequences as if they had then been completely performed. For example, a person who enters into possession of land under a specifically enforceable agreement for a lease is regarded in any court which has jurisdiction to enforce the agreement as being in the same position as between himself and the other party to the agreement as if the lease had actually been granted to him.

> Other examples of the maxim will be found in the enforcement of an imperfect trust made for value, the qualified trust for a purchaser imposed by equity upon the vendor, the rule in *Howe v. Earl of Dartmouth*, and the doctrine of conversion.

[40] The maxim was applied in *Wood v. Guarantee Co. of North America* (1975), 10 O.R. (2d) 661. In that case an insurer failed to issue a policy that its agent had committed it to issue. The insurer sought to avoid an obligation under the Judicature Act to pay interest by way of damages on an insurance policy by contending that the policy had not been issued. Southey J. rejected the argument and stated:

> The present action is not an action on a policy of insurance, because no policy was in fact issued by the insurer. The insurer, however, was under an obligation to issue a policy of insurance in accordance with the agreement made with the plaintiff and it would be a strange result, indeed, if the insurer could avoid liability for interest in the nature of damages under the Judicature Act because of its failure to issue a policy. The plaintiff could have sued for specific performance of the contract of insurance and thereby forced the Guarantee Company to issue a policy. I think I am entitled under s. 18(1) of the Judicature Act to apply the equitable principle that equity looks on that as done which ought to be done (14 Hals., 3rd ed., p. 532), and proceed in this case as though a policy had been issued.

[41] It was contended on behalf of TD that to apply this equitable maxim flies in the face of s. 5.02 of the tax refund agreement that provides that Mr. Grant obtains no interest in the 2009 tax refund before the vendor delivers the transfer at the closing on January 2, 2009 and, that as the transfer was not delivered, it would be effectively re-writing the agreement to provide for it now. I do not agree. The application of the maxim does not mean that Mr. Grant will have received his interest in the second half of the tax refund in 2008. The application of the maxim results in the court proceeding as if the transfer took place on January 2, 2009, which is what the agreement contemplated.

[42] As the transfer is thus taken to have occurred on January 2, 2009, the trust obligation imposed on GFPI under s. 5.06 of the agreement is effective and requires GFPI to hold for Mr. Grant US $10 million of the tax refund for 2009 when it is received from CRA. Moreover, under s. 5.04 of agreement, Mr. Grant is entitled to direct the CRA to deliver that amount to him rather than to GFPI. S. 5.04 provides in part:

> Either party may, after the delivery to the Purchaser of the transfer of the Sold 2009 Refund referred to in Section 7.04(a), direct CRA, the Finance Minister and any other appropriate person to pay the Sold 2009 Refund to the Purchaser.

[43] I do not think that the lack of discharges from TD of the first and second lien lenders affects the substance of the rights of Mr. Grant to the 2009 tax refund. The obligation in the tax refund agreement to deliver the discharges on the 2009 closing was that of GFPI, and thus GFPI was required under the agreement to do what was necessary to acquire those discharges from TD. Under s. 5.02 of the agreement, Mr. Grant was to acquire his title or ownership to the 2009 tax refund on January 2, 2009 solely by the transfer being delivered to him. The failure of GFPI to obtain the discharges from TD could not affect that delivery of title from GFPI to Mr. Grant. At most, if the lenders had security over the 2009 tax refund, it would mean that Mr. Grant's ownership of that asset was subject to the lenders' security. I do not see how the failure of GFPI to obtain discharges from the lenders for delivery to Mr. Grant could affect the trust provision in s. 5.06. It would amount to GFPI taking advantage of its own breach of agreement to argue there was no closing because it did not provide the discharges from the lenders to Mr. Grant.[2]

[44] In my view, and I so find, as the transfer from GFPI to Mr. Grant is deemed at equity to have been delivered on January 2, 2009, the trust provisions of s. 5.06 mean that if the tax refund due to Mr. Grant is received by GFPI, it is to be held in trust for him and the first and second lien lenders do not have any security over it.

[45] I do not agree with the assertion by TD that to now order GFPI to deliver a transfer of the 2009 tax refund would amount to a preference in favour of Mr. Grant. It would not be providing Mr. Grant as an unsecured creditor with a payment from the company's assets ahead of other creditors. Rather it would be effecting delivery to him of an asset belong to him. It is not the company's asset.

[46] Moreover, while Mr. McElcheran contends that the tax recovery is not something that TD is asking for itself, but something TD is asking for GFPI, and that TD as agent for the first lien

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[2] TD does not argue that the lack of discharges from the first and second lien holders prevents the trust provisions of s. 5.06 from being applicable. It relies on the failure of GFPI to deliver the transfer on January 2, 2009 for its contention that the 2009 closing did not take place.

lenders is not trying to scoop the tax refund, this appears inconsistent with the position taken by TD in August of this year on the motion regarding the validity of the KERP payment for Mr. Lynch, which TD supported. TD relied on marketing information provided by the Monitor and Mr. Stephen to the Court on a confidential basis that the secured creditors will likely incur substantial shortfalls and that there likely will be no recovery for the unsecured creditors. If that is the case, the result of TD being successful in its position on this motion would be a benefit to its position as agent for the first lien lenders.[3] This would be quite inconsistent with the lending agreements which expressly permitted the sale of these tax refunds free of the security of the lenders.

[47] Whether the result in favour of Mr. Grant is by reason of the application of the equitable maxim that equity considers done what ought to be done or by reason of an order that GFPI now deliver a transfer to Mr. Grant, in substance the result would be the same. I do not think that the equities of the situation should be affected by the form of the relief granted. If requested, I would order the transfer to Mr. Grant by GFPI to be now made under s. 5.02 of the agreement, but I do not see the need for that to be done.

Conclusion

[48] I declare:

(a) The transfer to Mr. Grant of the 2009 tax refund due to him under s. 5.02 of the tax refund agreement has in equity taken place as of January 2, 2009 and that Mr. Grant has acquired full right, title and interest in the tax refund as of that date. Mr. Grant is entitled if he wishes to receive a transfer document from GFPI under s. 5.02 effective January 2, 2009.

[3] The fourth report of the Monitor dated October 8, 2009 contains a cash flow projection from September 28, 2009 to December 6, 2009 which the Monitor states indicates that the applicants will have sufficient liquidity to sustain ordinary course operations during the projection period. This statement projects US 14,444 million being received as a corporate tax refund in the week ending December 6, 2009 and US $10 million of that being transferred to an escrow in accordance with my interim ruling at the conclusion of the argument on this motion. That is, the refund due to Mr. Grant is not necessary for the applicants' cash flow for the period, at the end of which the projected cash position of the applicants will be a positive US $26,491 million.

(b) Mr. Grant is also entitled if he wishes to direct CRA, the Finance Minister or any other appropriate person under s. 5.04 of the tax refund agreement to pay the tax refund due to him directly to him.

(c) If the 2009 tax refund due Mr. Grant is received by GFPI, it will be received by GFPI in trust for Mr. Grant and GFPI shall be obliged to forthwith pay it to Mr. Grant.

[49] Mr. Grant is entitled to his costs from TD. If not agreed, brief submissions in writing with a draft bill of costs may be made on his behalf within 10 days and TD shall have 10 days to reply.

NEWBOULD J.

DATE: October 13, 2009

TAB 4

Court File No. 09-8247-00CL

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 GRANT FOREST PRODUCTS INC., GRANT ALBERTA INC., GRANT FOREST PRODUCTS SALES INC. and GRANT U.S. HOLDINGS GP (the "Applicants")

NOTICE OF MOTION
(Re: Tax Refund Purchase and Sale Agreement)
[Returnable September 16, 2009]

The Moving Party, Peter Grant Sr. ("Peter Sr."), will make a motion to the Honourable Mr. Justice Newbould, presiding over the Commercial List, on Wednesday, September 16, 2009, at 10:00 a.m., or as soon after that time as the motion may be heard, at the Courthouse, 330 University Avenue, 8th Floor, Toronto, Ontario;

THE MOTION WILL BE HEARD orally.

THE MOTION IS FOR:

1. An order, declaration or directions, as appropriate:

   (a) that Peter Sr. has purchased and is entitled to receive from Grant Forest Products Inc. ("GFPI") a transfer of the "Sold 2009 Refund", as defined under a Tax Refund Purchase and Sale Agreement between Peter Sr. and GFPI, dated March 28, 2008 (the "Agreement");

(b) that forthwith upon receipt by GFPI (or other applicants, affiliates or subsidiaries) of the 2009 Tax Refund, as defined under the Agreement, or any portion thereof, GFPI (or other applicants, affiliates or subsidiaries) shall pay over to Peter Sr., or as he may direct, the full amount of the Sold 2009 Refund, and pending which payment GFPI (or other applicants, affiliates or subsidiaries) shall hold the Sold 2009 Refund in a segregated trust account for Peter Sr.;

(c) that, if necessary, GFPI is obliged to provide to Peter Sr. any documents or items to give effect to the relief requested above, as the Court may direct; and

(d) that the Sold 2009 Refund does not form part of the assets of GFPI available to other creditors of GFPI;

2. If necessary, an interim order requiring that GFPI, or alternatively the Monitor, hold in a segregated trust account pending final disposition of this motion (including any appeals or leave to appeal applications from the order granted on this motion), the full amount of the Sold 2009 Refund from and upon receipt of the 2009 Tax Refund (or any portion thereof);

3. Costs of this motion as appropriate; and

4. Such further or other order as may appear just or appropriate to this Honourable Court.

THE GROUNDS FOR THE MOTION are:

Background

1. Peter Sr. founded the predecessor to GFPI in 1980, and took the company into the oriented strand board ("OSB") market with the opening of the company's first OSB mill in Englehart, Ontario in 1981. Peter Sr. (and a Grant family trust known as Twin Lakes Trust) are the ultimate shareholders of GFPI. GFPI (and the other applicants) own OSB mills in Englehart and Timmins, Ontario, hold a 50% interest in an OSB mill in Footner, Alberta, and indirectly own OSB mills in Allendale and Clarendon, South Carolina.

2. GFPI and the other applicants filed for and obtained protection under the *Companies Creditors Arrangement Act* (Canada) by Initial Order of this Court dated June 25, 2009. Ernst & Young Inc. was appointed as Monitor. By Order dated July 24, 2009 the initial stay was extended to October 15, 2009.

Peter Sr.'s Recent Efforts to Assist GFPI Financially

3. As GFPI's financial performance began to come down from 2004 historic highs in the OSB market (and particularly after GFPI and affiliates incurred significant bank debt to construct the two new South Carolina OSB mills), Peter Sr. became directly involved in steps to assist GFPI's cash-flow. In July 2004, he caused 1308406 Ontario Inc. ("1308406"), a company which he controls, to loan $40 million on an unsecured basis to GFPI, and in October 2004 caused 1308406 to loan GFPI a further $10 million, again on an unsecured basis. These amounts have not been repaid, and have been subordinated to the First Lien Credit Agreement and Second Lien Credit Agreement.

4. GFPI declared preferred dividends in the amount of $6 million in favour of Grant Forest Products Corp., which Peter Sr. controls. These dividends have not been paid by GFPI.

5. Peter Sr. has not received a salary from GFPI for many months, even though he is the Chairman and CEO. An Executive Retirement Plan established by GFPI for Peter Sr.'s benefit is underfunded to the extent that it would require a contribution of approximately $18 million for the Plan to provide Peter Sr. with the retirement income that he was to receive under that Plan at age 70. No contributions have been made to the funding of that Plan for many months.

6. In order to provide further financial assistance to GFPI, in June 2008 Peter Sr. caused additional funds in the amount of $25 million to be advanced to GFPI. This amount is recorded in GFPI's accounts as a capital contribution.

Tax Refund Purchase and Sale Agreement

7. As GFPI's financial performance declined in 2008, it was proposed that Peter Sr. might assist the company's cash-flow by purchasing a portion of certain Canadian and Ontario tax refunds which GFPI expected to receive in 2008 and 2009. The concept was that Peter Sr. would pay US$20 million to GFPI in March 2008 to acquire a portion of GFPI's 2008 and 2009 tax refunds, with the purchased portions of the tax refunds amounting to approximately US$10 million in each of 2008 and 2009. This would assist the company with immediate cash-flow but ensure that Peter Sr. would ultimately receive the purchased portions when the 2008 and 2009 tax refunds were paid by the government.

8. The arrangement was such that once GFPI received the 2008 and 2009 tax refunds from the government, it would be obliged to hold the portions of the refunds which Peter Sr. had

purchased (approximately US $10 million each year) in trust for him and then pay them out to him, or as he directed.

9. The Board of Directors of GFPI approved the tax refund purchase arrangement on March 27, 2008.

10. The operative contract, styled as a Tax Refund Purchase and Sale Agreement (the "Agreement") was signed by Peter Sr. and GFPI effective March 31, 2008.

Events Subsequent to the Execution of the Agreement

11. The "2008 Closing" as defined in the Agreement took place on March 31, 2008. At that time, Peter Sr. personally paid to GFPI US$10 million to purchase the "Sold 2008 Refund" and paid a further US$10 million to purchase the "Sold 2009 Refund", as defined under the Agreement. In exchange, he received a transfer acknowledgment and partial discharges from the First and Second Lien Lenders in respect of the Sold 2008 Refund.

12. The Lien Lending Agents in respect of the First and Second Lien Credit Agreements knew of and approved of the Agreement, and provided the partial discharges in respect of the Sold 2008 Refund thereunder.

13. Later in 2008, after GFPI received its 2008 tax refund from the Canada Revenue Agency, Peter Sr. received from GFPI approximately US$10 million in respect of his purchase of the Sold 2008 Refund.

14. The "2009 Closing" was to occur on January 2, 2009, as specified in the Agreement. Peter Sr. was not obliged to provide anything at the 2009 Closing as he had already paid the

US$10 million purchase price in March 2008, and exchange rate adjustments meant that a small additional amount was to be paid by way of an adjustment under the Agreement. GFPI was to deliver a transfer acknowledgment and partial discharges of security from the First and Second Lien Lenders in relation to the 2009 Closing.

15. GFPI delivered neither of these documents on January 2, 2009, nor at any time thereafter. The Lien Lenders apparently indicated informally that they would not approve providing the partial discharges, and GFPI thereafter took the position that it would not provide the transfer acknowledgment (although the consent of the Lien Lenders is in no way a necessary condition under the Agreement). GFPI made no written demand of the Lien Lenders to provide the partial discharges in respect of the Sold 2009 Refund. Peter Sr. did not agree with or consent to this.

Other Grounds

16. GFPI now takes the position that it will not deliver the transfer acknowledgment, and (subject only to this motion) intends not to hold in trust or pay to Peter Sr. the Sold 2009 Refund when it receives its tax refunds in 2009, or thereafter.

17. GFPI has acknowledged that it is in default to Peter Sr. under the Agreement. Peter Sr. has written to GFPI demanding the delivery of the transfer acknowledgement and completion of the transaction in respect of the Sold 2009 Refund.

18. The approach that GFPI has taken is at odds with the purchase and sale transaction as approved by the directors in 2008 and is in breach of the Agreement. Peter Sr. purchased an asset and is entitled to it once received by GFPI. The tax refund purchase transaction was structured as it was because it involved the purchase of an asset, and was not a loan or capital

injection. The Sold 2009 Refund, once received, should be held in trust for Peter Sr. and thereafter paid to him or as he may direct, by GFPI.

19. Equity will assist, if necessary, to facilitate the completion of the transaction as agreed upon by the parties.

20. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36.

21. Such further or other grounds as counsel may advise and the Court may allow.

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

1. The Affidavit of Peter Grant Sr., sworn September 8, 2009, and exhibits thereto;

2. Such further or other material as counsel may advise and this Court may allow.

Date: September 8, 2009

BENNETT JONES LLP
One First Canadian Place
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Toronto, ON M5X 1A4

Richard B. Swan (LSUC 32076A)
Telephone: (416) 777-7479
Facsimile: (416) 863-1716

Lawyers for Peter Grant Sr.

TO: Service List

IN THE MATTER OF THE *COMPANIES CREDITORS ARRANGEMENT ACT*, R.S.C. 1986, c. C-36, as amended;
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF GRANT FOREST PRODUCTS INC., GRANT ALBERTA INC. GRANT FOREST PRODUCTS SALES INC. and GRANT U.S. HOLDINGS GP (the "Applicants")

Court File No. 09-8247-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

NOTICE OF MOTION
(Re: Tax Refund Purchase and Sale Agreement)
[Returnable September 16 , 2009]

BENNETT JONES LLP
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Lawyers for Peter J. Grant Sr.

WSLegal\064489\00001\5511595v1

TAB # 5.

TAB B

This is Exhibit "B" referred to in the
Affidavit of Peter J. Grant Sr.
Sworn before me this 8th
day of September, 2009

A Commissioner for Taking Affidavits

Monique Marie Plante, a Commissioner, etc.,
District of Timiskaming
for Grant Forest Products Inc. and its associated companies.
Expires May 7, 2011.

similar); nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing duly executed by the party to be bound thereby.

Section 1.04 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, and the federal laws of Canada applicable therein (excluding any conflict of law rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction). Each party hereto irrevocably submits to the non-exclusive jurisdiction of the courts of Ontario with respect to any matter arising hereunder or relating hereto.

Section 1.05 Singular, Plural and Gender

Words importing the singular include the plural and vice versa, and words importing gender include the masculine, feminine and neuter genders.

Section 1.06 Certain Words

In this Agreement, the words "including" and "includes" means "including (or includes) without limitation".

Section 1.07 Headings

The headings contained in this Agreement are for convenience of reference only, and shall not affect the meaning or interpretation hereof.

ARTICLE 2
PURCHASE AND SALE OF PURCHASED ASSETS

Section 2.01 Agreement of Purchase and Sale

Subject to the provisions of this Agreement, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser hereby agrees to purchase from the Vendor:

(a) the Sold 2008 Refund on March 31, 2008; and

(b) the Sold 2009 Refund on January 2, 2009.

Section 2.02 Without Recourse and As Is, Where Is

The Purchaser acknowledges that the Vendor is selling the Purchased Assets to the Purchaser on a non-recourse, "as is, where is" basis. No representation, warranty or condition is expressed or can be implied pursuant to this Agreement or otherwise as to title, encumbrances, description, fitness for purpose, merchantability, condition, assignability, collectability, quantity, outstanding amount, value or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendor to sell same.

ARTICLE 3
PURCHASE PRICE

Section 3.01 Purchase Price

The purchase price for the Sold 2008 Refund shall be the 2008 Purchase Price. ~~The purchase price for the Sold 2009 Refund shall be the 2009 Purchase Price.~~ The amount of these purchase prices shall be adjusted in accordance with the provisions of this Agreement.

Section 3.02 Payment of Purchase Price

The Purchaser shall pay the purchase prices to the Vendor by certified cheque, bank draft or wire transfer of immediately available funds to an account specified by the Vendor as follows:

(a) the Purchaser shall pay the 2008 Purchase Price to the Vendor on March 31, 2008, at the 2008 Closing; and

(b) the Purchaser shall pay the 2009 Purchase Price Deposit to the Vendor on March 31, 2008 at the 2008 Closing.

Section 3.03 Transfer Taxes

The Purchaser shall pay directly to the appropriate taxing authority when due, any applicable federal and provincial sales and transfer taxes exigible in connection with the transactions contemplated by the Agreement.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES

Section 4.01 Vendor's Representations

The Vendor hereby represents and warrants to the Purchaser that:

(a) the Vendor is a corporation duly incorporated and validly subsisting under the laws of the jurisdiction of its incorporation or amalgamation, as the case may be; and

(b) the Vendor is not a non-resident of Canada within the meaning of Section 116 of the *Income Tax Act*.

ARTICLE 5

COVENANTS

Section 5.01 Purchaser's Access to Books and Records

The Vendor shall during normal business hours allow the Purchaser reasonable access to all Books and Records and allow the Purchaser to make copies of all Books and Records.

Section 5.02 No Interest of Purchaser in Sold 2009 Refund Until 2009 Closing

The parties agree, notwithstanding any other provision of this Agreement or any other right or purported right of the Purchaser, that the Purchaser does not acquire any right, title or interest in the Sold 2009 Refund, and the Vendor does not sell, assign or transfer any right, title or interest in the Sold 2009 Refund until the Vendor delivers to the Purchaser at the 2009 Closing, the transfer referred to in Section 7.04(a).

Section 5.03 No Transfer of Interest

Neither the Sold 2008 Refund nor the Sold 2009 Refund shall include any interest payable by CRA with respect to such refund and the Vendor shall be entitled to receive and retain any and all such interest.

Section 5.04 Directions to CRA and Finance Minister

Either party may, after delivery to the Purchaser of the transfer of the Sold 2008 Refund referred to in Section 7.02(a), direct CRA, the Finance Minister and any other appropriate person to pay the Sold 2008 Refund to the Purchaser. Either party may, after the delivery to the Purchaser of the transfer of the Sold 2009 Refund referred to in Section 7.04(a), direct CRA, the Finance Minister and any other appropriate person to pay the Sold 2009 Refund to the Purchaser.

Section 5.05 Sold 2008 Refund Held in Trust by Vendor

The Vendor shall hold in trust for the Purchaser, keep segregated from any other funds, accounts or assets of the Vendor and pay to the Purchaser any amount of the Sold 2008 Refund received by the Vendor after the completion of the 2008 Closing.

Section 5.06 Sold 2009 Refund Held in Trust by Vendor

The Vendor shall hold in trust for Purchaser, keep segregated from any other funds, accounts or assets of the Vendor and pay to Purchaser any amount of the Sold 2009 Refund received by the Vendor after the completion of the 2009 Closing.

ARTICLE 5

COVENANTS

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Section 5.03 No Transfer of Interest

Neither the Sold 2008 Refund nor the Sold 2009 Refund shall include any interest payable by CRA with respect to such refund and the Vendor shall be entitled to receive and retain any and all such interest.

Section 5.04 Directions to CRA and Finance Minister

Either party may, after delivery to the Purchaser of the transfer of the Sold 2008 Refund referred to in Section 7.02(a), direct CRA, the Finance Minister and any other appropriate person to pay the Sold 2008 Refund to the Purchaser. Either party may, after the delivery to the Purchaser of the transfer of the Sold 2009 Refund referred to in Section 7.04(a), direct CRA, the Finance Minister and any other appropriate person to pay the Sold 2009 Refund to the Purchaser.

Section 5.05 Sold 2008 Refund Held in Trust by Vendor

The Vendor shall hold in trust for the Purchaser, keep segregated from any other funds, accounts or assets of the Vendor and pay to the Purchaser any amount of the Sold 2008 Refund received by the Vendor after the completion of the 2008 Closing.

Section 5.06 Sold 2009 Refund Held in Trust by Vendor

The Vendor shall hold in trust for Purchaser, keep segregated from any other funds, accounts or assets of the Vendor and pay to Purchaser any amount of the Sold 2009 Refund received by the Vendor after the completion of the 2009 Closing.

Section 5.07 No Security, Interest or Fee

The Vendor shall not grant to the Purchaser any security for the Vendor's obligations to Purchaser with respect to the Sold 2008 Refund or the Sold 2009 Refund and shall not pay to the Purchaser any interest on the 2009 Purchase Price Deposit paid to the Vendor on March 31, 2008 with respect to the Sold 2009 Refund or any fee related to the refund sales.

Section 5.08 No Security Interest

The Purchaser agrees that it does not acquire and shall not acquire any security interest in any of the Purchased Assets and, for greater certainty, hereby discharges any present or future security interest it now or hereafter acquires in any of the Purchased Assets; provided that the foregoing shall not affect the Purchaser's ownership of any Purchased Assets acquired by the Purchaser by the transfers referred to in sections 7.02(a) and 7.04(a) hereof.

Section 5.09 Purchased Assets may be the First Part or Parts of Refunds Received

The Sold 2008 Refund shall, unless otherwise specified by the Purchaser to the Vendor in writing, be the first part or parts of the 2008 Tax Refund received by the Vendor or the Purchaser, up to the amount of the Sold 2008 Refund. The Sold 2009 Refund shall, unless otherwise specified by the Purchaser to the Vendor in writing, be the first part or parts of the 2009 Tax Refund received by the Vendor or the Purchaser, up to the amount of the 2009 Tax Refund.

Section 5.10 Direction by Purchaser

The Purchaser may, before the delivery of the applicable transfer referred to in sections 7.02(a) or 7.04(a) hereof, direct the Vendor in writing to transfer the Sold 2008 Refund or the Sold 2009 Refund, as applicable, to any other person or persons specified by Purchaser and the Vendor shall do so.

Section 5.11 2009 Purchase Price Deposit not held in Trust by Vendor

The 2009 Purchase Price Deposit paid by the Purchaser to the Vendor at the 2008 Closing shall not be held by the Vendor in trust and may be used by the Vendor.

Section 5.12 No Default under Credit Agreements

Notwithstanding any provision of this Agreement, the Vendor shall not be required to make any adjustment referred to in this Agreement if such adjustment would constitute or result in a default by the Vendor under any provision of the First Lien Credit Agreement or the Second Lien Credit Agreement. Without limitation to the foregoing, in no circumstance shall the proceeds received by the Vendor with respect to the sale of the 2008 Sold Refund exceed the Canadian dollar equivalent of US $10 million and in no circumstance shall the proceeds received by the Vendor with respect to the sale of the Sold 2009 Refund exceed the Canadian dollar equivalent of US $10 million. In the event the Vendor does not, as a result of the foregoing, make any adjustment otherwise required by this Agreement, the Vendor and the Purchaser shall make such adjustment promptly after the making of such adjustment no longer

TAB G

This is Exhibit "G" referred to in the
Affidavit of Peter J. Grant Sr.
Sworn before me this 8th
day of September, 2009

A Commissioner for Taking Affidavits

Monique Marie Plante, a Commissioner, etc.,
District of Timiskaming
for Grant Forest Products Inc. and its associated companies.
Expires May 7, 2011.

Bennett Jones LLP

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Richard B. Swan
Direct Line: 416.777.7479
e-mail: swanr@bennettjones.com

June 19, 2009

Mr. Peter Lynch
Executive Vice President
Grant Forest Products Inc.
Suite 1520
181 Bay Street
Toronto, ON M5H 2T3

Dear Sir:

We act for Mr. Peter Grant Sr., as you know.

We write to ensure that all necessary steps have been or immediately will be taken by Grant Forest Products Inc. ("GFPI") to make certain that our client receives what he bargained and paid for pursuant to the Tax Refund Purchase and Sale Agreement dated March 31, 2008 ("the Agreement") between himself and GFPI. All words capitalized in this letter have the meanings specified by the Agreement.

The agreement of the parties was that upon receipt of any part of the 2009 Tax Refund GFPI would hold such funds (in an amount equal to the Sold 2009 Refund) in trust for Mr. Grant, keep them segregated from GFPI's funds, accounts or assets, and pay such trust funds to Mr. Grant. This structure was to ensure that the Sold 2009 Refund, when received by GFPI, would belong to Mr. Grant and that neither GFPI nor any of its creditors could assert any claim to it.

As part of the process for the 2009 Closing it was necessary to determine whether any adjustments to the Sold 2009 Refund were required due to exchange rate fluctuations as provided in section 8.03 of the Agreement. You addressed this issue in your letter to Mr. Grant dated January 15, 2009 in respect of the 2009 Sold Refund.

GFPI has not provided partial discharges and releases from the First and Second Lien Agents under section 7.04 of the Agreement, and we understand that GFPI failed to make formal demand for these from the Lien Agents. Mr. Grant demands that these be sought and provided to him by no later than 5:00 p.m. EDT on June 22, 2009. In the event that these are not provided, Mr. Grant may waive these conditions that were inserted in the Agreement for his benefit, without waiving any of his substantive rights under the Agreement, at law or in equity.

June 19, 2009
Page Two

Further, the Agreement obliged GFPI to deliver a transfer on January 2, 2009 in respect of the 2009 Sold Refund, in a form and substance satisfactory to the Purchaser. Mr. Grant is prepared to treat the January 15, 2009 letter as a satisfactory transfer; if GFPI disagrees, Mr. Grant demands that GFPI deliver a transfer immediately, and in any event by 5 p.m. EDT on June 22, 2009.

Please be advised that Mr. Grant does not waive any substantive rights under the Agreement, at law or in equity. Mr. Grant expects GFPI to fully comply with its obligations, including those arising under the Agreement and as trustee for Mr. Grant.

Yours truly,

BENNETT JONES LLP

Richard B. Swan

TAB # 6.

Introduction

3. The relationships between GFPI and each of the First Lien Agent and the Second Lien Agent (as well as with the first and second lien lenders), are governed by the First and Second Lien Credit Agreements. The provisions of the First Lien Credit Agreement that are relevant to this motion are excerpted and attached hereto as Exhibit "A". The provisions of the Second Lien Credit Agreement that are relevant to this motion are excerpted and attached hereto as Exhibit "B". In this affidavit, I will refer to the First Lien Credit Agreement (as amended by the First Amendment to the Credit Agreement made as of March 21, 2007) and the Second Lien Credit Agreement together as the "Credit Agreements".

4. Until May, 2009, TD Bank was both the First Lien Agent and the Second Lien Agent. When TD Bank resigned as the Second Lien Agent, it was replaced by Bank of New York. TD Bank continues as the First Lien Agent.

5. GFPI and its affiliates used, among other sources of funding, the proceeds of the loans made under the Credit Agreements to fund the construction of the two operating facilities owned by Grant Claredon LP and Grant Allendale LP, both indirect subsidiaries of GFPI (the "Carolina Mills").

6. The development and construction costs of the Carolina Mills substantially exceeded the budgets provided to the Agents pursuant to the Credit Agreements. Additionally, substantial capital spending on non core assets, including a private golf course, a 65ft yacht and an elaborate renovation of the head office in Haileyberry, Ontario, also absorbed significant cash resources. These cost overruns and non-core capital asset expenditures contributed to GFPI'S liquidity issues that ultimately resulted in these proceedings.

7. In the Grant Affidavit, Mr. Grant states that the Tax Refund Purchase and Sale Agreement (the "Agreement") was "devised and structured" by Mr. Lynch and Ross Walker of Fraser Milner. As I understand its import, this description is a reference to the fact that the Agreement was intended to assist GFPI by providing it with additional cash in a way that was "devised and structured" to comply with the Credit Agreements.

12. Neither the Agents nor the lenders agreed to give a partial discharge of the First or Second Lien security in respect of the 2009 Refund and neither Agent was ever requested to give such a partial discharge.

The Transfer was never delivered

13. I understand from the Grant Affidavit that the 2009 Closing did not occur and GFPI never delivered the transfer of the 2009 Refund. Therefore, by the express terms of the Agreement, Mr. Grant has no rights, beneficial or legal in the 2009 Refund.

14. Additionally, as expressly stated in the Agreement, Mr. Grant has no security for any breach by GFPI of its obligation to complete the transactions contemplated by the Agreement. Therefore, if there was such a breach, Mr. Grant must simply be an unsecured creditor for any damages he may suffer as a consequence of any such breach.

Subsequent events and restructuring efforts

15. For the reasons stated by Mr. Lynch in his affidavit supporting the Applicants' application for an Initial Order in these proceedings and, in my view, because of the cost overruns and non-capital expenses described above, the Applicants and their subsidiaries came under severe financial strain in late 2007 that continued through 2008 and 2009.

16. The strains on the Applicants' business were reflected in their reported financial results that were delivered to the Agents pursuant to the Credit Agreements through 2008 and 2009. Through the reporting that I reviewed on behalf of TD Bank, it became apparent that GFPI would be unable to meet the interest coverage financial covenant that, under the First Lien Credit Agreement, would be reinstated when cash payments of interest became due under the Second Lien Credit Agreement in the first quarter of 2009. It was obvious that the weakness in the business operations of GFPI and its subsidiaries would ultimately lead to defaults under the First Lien Credit Agreement as of March 31, 2009 (subject to applicable reporting and cure periods). Further, I was also concerned about GFPI's ability to maintain compliance with the

TAB # 7.

(d) The sale of the 2009 Refund would be triggered only by the delivery of a transfer of the 2009 Refund and was not effective until then;

(e) The payment of $10 million on account of the 2008 Refund was a payment of purchase price paid on the 2008 Closing;

(f) The payment of $10 million on account of the 2009 Refund was expressly a deposit to be applied on the purchase price only on the 2009 Closing;

(g) In order to assist GFPI's liquidity position while remaining in compliance with the Credit Agreements, the deposit paid by Mr. Grant was expressly made available under the Agreement for immediate use by GFPI in its business;

(h) The obligation of GFPI under the Agreement, including the obligation to deliver a transfer of the 2009 Refund at the 2009 Closing was not secured such that any loss suffered by Mr. Grant resulting from GFPI'S obligation to complete the 2009 Closing was an unsecured claim against GFPI; and

(i) The 2009 Refund, if received by GFPI prior to the 2009 Closing and/or the transfer of the 2009 Refund, was expressly stated not to be held in trust for Mr. Grant.

10. Contrary to the statement in the Grant Affidavit at paragraph 18, neither the lenders nor the Agents were requested to approve the Agreement and they did not approve the Agreement or the proposed transactions.

11. Rather, the First Lien Agent was advised by GFPI that it intended to enter into the Agreement which GFPI and its counsel advised the First Lien Agent could be performed by GFPI in compliance with the Credit Agreements. I attach hereto as Exhibit "C" is a copy of an e-mail sent by Ross Walker, as counsel for GFPI to the First Lien Agent's counsel confirming that, at the time the Agreement was executed, the Agreement did not breach the Credit Agreements.

TAB # 8.

12. Neither the Agents nor the lenders agreed to give a partial discharge of the First or Second Lien security in respect of the 2009 Refund and neither Agent was ever requested to give such a partial discharge.

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minimum liquidity covenant in 2009, particularly given that the shareholders injected new capital to maintain compliance with the minimum liquidity covenant twice in 2008.

17. In anticipation of these pending defaults and the financial difficulties facing the Applicants and their subsidiaries, GFPI began to plan its restructuring in late 2008 by taking three important steps. First, GFPI hired Stonecrest Capital Inc. as a restructuring advisor on December 12, 2008. Second, GFPI hired Goldman Sachs as a financial advisor to run a process to attract new investment in its business. Third, and as part of the Goldman Sachs process, GFPI approached TD Bank in January, 2009 seeking terms under which the First Lien Credit Agreement could be modified to encourage new investment.

18. At the time that the Applicants approached the First Lien Agent seeking modifications of the First Lien Credit Agreement to accommodate new investment, the 2009 Closing had not taken place. Further, as noted above, GFPI did not, at any time, request that the Agents deliver partial discharges as required by the Agreement to be delivered on the 2009 Closing.

19. In response to GFPI'S request, TD Bank considered modifications to the Credit Agreement that it would be prepared to present to the First Lien Lenders for consideration. A first draft of a term sheet was sent to GFPI on or about February 20, 2009. Among the express terms of the term sheet was a requirement that the 2009 Refund would not be transferred to Mr. Grant but would be retained by GFPI.

20. TD Bank and GFPI conducted negotiations in respect of the term sheet for a number of weeks. At no time did GFPI object to the requirement proposed by TD Bank that GFPI retain the 2009 Refund. The discussion of the 2009 Refund between GFPI and TD Bank only occurred in the context of the "straw man" restructuring term sheet and not otherwise.

21. In March, GFPI settled a "straw man" term sheet with TD Bank. TD Bank was advised that the "straw man" term sheet would be provided by Goldman Sachs to prospective investors with the authority of GFPI. The "straw man" term sheet expressly required that the 2009 Refund would be retained by GFPI. That "straw man" term sheet was also provided to the

TAB # 9.

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TAB # 10.

First Lien Lenders on March 16, 2009 as a discussion paper setting out the basis on which the First Lien Lenders would consider restructuring of the First Lien Facility.

22. As a further demonstration that GFPI did not intend to complete the 2009 Closing, the cash flow information that it provided to the Agents expressly contemplated the receipt by GFPI of the entire 2009 Refund by GFPI in the fourth quarter of 2009 and the use of such funds in its business.

Concluding Statements

23. The Agreement was executed in March 2008 contemplating a transfer of the 2009 Refund to Mr. Grant only on the delivery of transfer to him in 2009. Mr. Grant expressly obtained no legal or beneficial interest in the 2009 Refund until the transfer was delivered.

24. No transfer of the 2009 Refund has been delivered to date and consequently Mr. Grant has no interest in the 2009 Refund.

25. The fact that no transfer had been delivered was not inadvertent or accidental. It was deliberate and, from our observation, a necessary step to preserve cash as the business of GFPI struggled with tight liquidity. Further, as Mr. Grant was the CEO and a member of the board of directors of GFPI, he must have participated in the decision not to complete the transfer of the 2009 Refund.

26. This affidavit is sworn in response to the Grant Affidavit and for no improper purpose.

SWORN before me at the City of Vancouver, in the Province of British Columbia this 14th day of September, 2009.	)
Notary Public by and for the Province of British Columbia	BENJAMIN MONTGOMERY

CONRAD REGO
Barrister & Solicitor
McCarthy Tétrault LLP
1300 - 777 DUNSMUIR STREET
VANCOUVER, B.C. V7Y 1K2
DIRECT 604-643-5882

TAB # 11.

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TAB # 12.

Court File No.

COURT OF APPEAL FOR ONTARIO

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 GRANT FOREST PRODUCTS INC., GRANT ALBERTA INC., GRANT FOREST PRODUCTS SALES INC. and GRANT U.S. HOLDINGS GP

Applicants

APPELLANT'S CERTIFICATE

The appellant The Toronto-Dominion Bank certifies that the following evidence is required for the appeal, in the appellant's opinion:

1. the affidavit evidence of Peter Grant Sr. (sworn September 8, 2009), Benjamin Montgomery (sworn September 14, 2009) and Peter Grant Sr. (sworn September 18, 2009); and

2. the transcript of the cross-examination of Benjamin Montgomery taken on September 25, 2009, including exhibits marked on that cross-examination.

November 20, 2009

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IN THE MATTER OF THE A PLAN OF COMPROMISE OR ARRANGEMENT OF GRANT FOREST PRODUCTS INC. et al.

Court File No.

COURT OF APPEAL FOR ONTARIO

APPELLANT'S CERTIFICATE

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Lawyers for the Responding Party (Appellant) The Toronto-Dominion Bank

#842210

TAB # 13.

M38119

Court File No. M38120

COURT OF APPEAL FOR ONTARIO

THE HONOURABLE	)	**TUESDAY, THE 27TH DAY**
	)	
JUSTICE MACPHERSON	)	**OF OCTOBER, 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 GRANT FOREST PRODUCTS INC., GRANT ALBERTA INC., GRANT FOREST PRODUCTS SALES INC. and GRANT U.S. HOLDINGS GP

Applicants

ORDER

(Motion to expedite motion for leave to appeal and for a stay pending the motion for leave to appeal, returnable October 27, 2009)

THIS MOTION, made by The Toronto-Dominion Bank in its capacity as Agent for the First Lien Lenders ("TD") to expedite its motion for leave to appeal the judgment of Newbould J. dated October 13, 2009 and for a stay of that judgment pending the application for leave to appeal, was heard this day, at Osgoode Hall, Toronto.

ON READING the Notice of Motion and the Affidavit of William O'Connor sworn October 20, 2009, and on hearing the submissions of counsel for TD, Peter Grant Sr., the Monitor Ernst & Young Inc. and Grant Forest Products Inc.:

1. **THIS COURT ORDERS** that, on consent, TD shall file its leave to appeal factum by November 3, 2009 and Mr. Grant shall file his responding factum by November 16, 2009. The

file will then be distributed to a panel of this court which will attempt to determine whether leave to appeal is granted by November 20, 2009. If leave to appeal is granted, the goal would be that the appeal would be heard soon after November 20, 2009. The Honourable Justice MacPherson will serve as case management judge for the matters set out in this paragraph.

2. **THIS COURT ORDERS** that the motion for a stay pending the motion for leave to appeal, and if leave is granted, pending the disposition of the appeal, is dismissed without costs.

Erica Ramnarinesingh
Registrar
Court of Appeal for Ontario

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

NOV 17 2009

PER/PAR: ZL

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

IN THE MATTER OF THE A PLAN OF COMPROMISE OR ARRANGEMENT OF GRANT FOREST PRODUCTS INC. et al.

M38119 &

Court File No. M38120

COURT OF APPEAL FOR ONTARIO

ORDER

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Lawyers for The Toronto-Dominion Bank

#777079

TAB # 14.

Court File No. C15296

COURT OF APPEAL FOR ONTARIO

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 GRANT FOREST PRODUCTS INC., GRANT ALBERTA INC., GRANT FOREST PRODUCTS SALES INC. and GRANT U.S. HOLDINGS GP

Applicants

CERTIFICATE OF COMPLETENESS

I, Geoff R. Hall, lawyer for the Appellant, certify that the appeal book and compendium in this appeal is complete and legible.

December 2, 2009

GRHall

McCarthy Tétrault LLP
Suite 5300, Toronto Dominion Bank Tower
Toronto ON M5K 1E6

Geoff R. Hall LSUC#: 34701O
Tel: 416-601-7856
Fax: 416-868-0673

Lawyers for the Appellant

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 GRANT FOREST PRODUCTS INC., GRANT ALBERTA INC., GRANT FOREST PRODUCTS SALES INC. and GRANT U.S. HOLDINGS GP

Court File No: C15296

COURT OF APPEAL FOR ONTARIO

CERTIFICATE OF COMPLETENESS

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Lawyers for the Appellant

#874525

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

IN THE MATTER OF THE A PLAN OF COMPROMISE OR ARRANGEMENT OF GRANT FOREST PRODUCTS INC. et al.

Court File No. C51296

COURT OF APPEAL FOR ONTARIO

APPEAL BOOK AND COMPENDIUM OF THE APPELLANT

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