

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

EXHIBIT BOOK OF THE APPELLANT

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TAB 1

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")

AFFIDAVIT OF PETER J. GRANT SR.
(Sworn September 8, 2009)

I, Peter J. Grant Sr., of the City of Temiskaming Shores, in the Province of Ontario,
businessman, MAKE OATH AND SAY:

1. I am the Chairman and Chief Executive Officer of the applicant Grant Forest Products
Inc. ("GFPI"). As such, I have personal knowledge of the matters to which I hereinafter depose.
Where matters are not based on my personal knowledge, I have stated the source of my
information and in all such cases verily believe it to be true.

BACKGROUND

2. My family has been in the lumber business in Ontario for several generations, going back
to the 1880s. I 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

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construction. The company grew to become one of the three largest OSB producers in North America.

3. I (and a Grant family trust known as Twin Lakes Trust) are the ultimate shareholders of GFPI.

4. Background information in respect of GFPI and affiliated companies is set out in the affidavit of Peter Lynch, the Executive Vice-President and Secretary of GFPI, sworn June 22, 2009 and filed on the application for an initial order in this proceeding. I have reviewed that affidavit in respect of this motion. For the sake of efficiency, I do not propose to repeat what is stated in that affidavit concerning the corporate background and structure, although I should not necessarily be taken to adopt everything stated in that affidavit.

MY RECENT EFFORTS TO ASSIST GFPI FINANCIALLY

5. 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), I became directly involved in steps to assist GFPI's cash-flow.

6. In July 2004, I caused 1308406 Ontario Inc. ("1308406"), which is controlled by me, to loan \$40 million on an unsecured basis to GFPI, and in October 2004 I caused 1308406 to loan GFPI a further \$10 million, again on an unsecured basis. These amounts have not been repaid. On behalf of 1308406, I have signed postponement and subordination agreements (subordinating these loans to the First Lien Credit Agreement and Second Lien Credit Agreement referenced in Mr. Lynch's initial affidavit).

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7. In 2006 GFPI declared preferred dividends in the amount of \$6 million in favour of Grant Forest Products Corp., which I control. These dividends have not been paid by GFPI.

8. In order to provide further financial assistance to GFPI, in June 2008 I 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.

9. Although I serve as Chairman and CEO of GFPI, I have not received a salary from GFPI for many months.

10. I am informed by GFPI's pension consultant, Roy Craik, and believe that an Executive Retirement Plan established for my benefit by GFPI is underfunded to the extent that it would require a contribution of approximately \$18 million for the Plan to provide me with the retirement income I was to receive under that Plan at age 70. No contributions have been made to the funding of that Plan for many months.

TAX REFUND PURCHASE AND SALE AGREEMENT

11. As GFPI's financial performance declined in 2008, it was proposed that I 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.

12. The concept was that I 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 I would ultimately receive the purchased portions when the 2008 and 2009 tax refunds were paid by the government.

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13. 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 I had purchased (approximately US \$10 million each year) in trust for me and then pay them out to me or as I directed.

14. The arrangement was principally devised and structured by Mr. Lynch and Ross Walker, a solicitor and partner of Fraser Milner Casgrain, which firm prepared the Agreement referred to below in paragraph 16.

15. The Board of Directors of GFPI approved the tax refund purchase arrangement at a directors meeting held on March 27, 2008. Attached as Exhibit "A" is a copy of the minutes of the directors meeting of March 27, 2008, together with the Schedule "A" thereto which outlines the transaction approved by the Board.

16. The Tax Refund Purchase and Sale Agreement (the "Agreement") was signed by me and GFPI effective March 31, 2008. A copy of the Agreement is attached as Exhibit "B".

17. The "2008 Closing" as defined in the Agreement took place on March 31, 2008. At that time I 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. The latter amount is described as the "2009 Purchase Price Deposit" under the Agreement. In exchange, I received a transfer acknowledgment and partial discharges from the First and Second Lien Lenders in respect of the Sold 2008 Refund, copies of which are attached hereto as Exhibits "C" and "D".

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18. 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.

19. Later in 2008, after GFPI received its 2008 tax refund from the Canada Revenue Agency, I received from GFPI approximately US\$10 million in respect of my purchase of the Sold 2008 Refund.

20. The "2009 Closing" was to occur on January 2, 2009, as specified in the Agreement. I was not obliged to provide anything at the 2009 Closing as I 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 to me 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.

21. GFPI delivered neither of these documents on January 2, 2009, nor at any time thereafter. I understand from Mr. Lynch that the Lien Lenders 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). According to a recent email received by my counsel from Mr. Lynch on June 19, 2009 (a copy of which is attached as Exhibit "E"), GFPI made no written demand of the Lien Lenders to provide the partial discharges in respect of the Sold 2009 Refund. I did not agree with or consent to this.

22. Mr. Lynch sent a letter to me on January 15, 2009 in respect of the Sold 2009 Refund. A copy is attached as Exhibit "F".

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23. 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 me or as I may direct the Sold 2009 Refund when it receives its tax refunds in 2009, or thereafter.

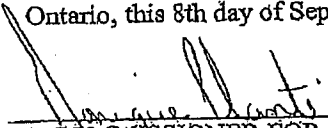
24. Mr. Lynch acknowledged in his June 22, 2009 affidavit, referenced above, that the company is in default to me under the Agreement.

25. Through my counsel, I have written to GFPI demanding the delivery of the transfer acknowledgement and completion of the transaction in respect of the Sold 2009 Refund. A copy of my counsel's letter to Mr. Lynch, dated June 19, 2009, is attached and marked as Exhibit "G".

26. 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. I purchased an asset from GFPI. This was not a loan or capital injection. The Sold 2009 Refund, once received, should be held in trust for me and thereafter paid to me or as I may direct, by GFPI.

25. I swear this affidavit in good faith in respect of certain issues arising in connection with this proceeding, and for no improper purpose.

SWORN BEFORE ME at the City of
Temiskaming Shores, in the Province of
Ontario, this 8th day of September, 2009.

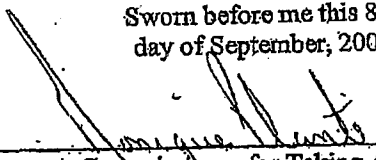

A COMMISSIONER FOR OATHS
in and for the Province of Ontario

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


PETER J. GRANT SR.

TAB A

This is Exhibit "A" 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.

**BOARD OF DIRECTORS
GRANT FOREST PRODUCTS INC.**

**MEETING -- Fairmont Royal York Hotel -- Salon 3 -- 19th Floor
March 27, 2008**

PRESENT:

Peter Grant Sr.	-	Director
Peter M. Lynch	-	Director
Per Brunes	-	Director
Mike Harris	-	Director
Peter Grant Jr.	-	Director
Bill Stinson	-	Director
Jamie Wallace	-	Director

Eric Davis	-	by invitation of the Board
Monique Plante	-	by invitation of the Board
Sarah Grant	-	by invitation of the Board
Andrew Grant	-	by invitation of the Board

ABSENT:

Bridget Grant

FORMALITIES

Peter Grant Sr. as Chairman and C.E.O. of the Corporation called the meeting to order at 12:50 pm and acted as Chairman of the meeting and Monique Plante acted as Secretary of the meeting.

The minutes of the last meeting were distributed to all Directors. Per Brunes moved that the minutes of the last meeting dated December 7, 2007 be approved as submitted, seconded by Jamie Wallace and unanimously carried.

GFP INC. FINANCIAL REPORT

Eric Davis presented a financial report covering the following topics:

- ∞ 2007 Financial Results
- ∞ Approval of 2007 Audited Statements
- ∞ Project Gator Update
- ∞ YTD February Financial Results
- ∞ Projected 2008 Results
- ∞ Debt and Liquidity
- ∞ Projected Cash Flow
- ∞ Covenants
- ∞ Sensitivities & Risk

2007 Full Year Financial Results

Excluding Allendale, YTD December sales volume came in at 1,199.1 million sqft 3/8 just slightly off budget but well off from prior year by 363.5 million sqft 3/8 due to the continued shutdown of the Timmins operation and a two week December closure in Footner. YTD operating income came in at a loss of \$4.6 million or \$3.4 million less than the November forecast. This difference was caused by the lower volume and a lower selling price than originally forecasted plus some higher maintenance at Englehart and shutdown costs at Footner. SG&A was higher than the forecast by \$3.3 million mainly due to year-end and tax related adjustments. This resulted in a negative EBITDA of \$53.3 million. Interest expense for the full year came in at \$45.4 million or \$0.9 million higher than forecasted due to lower cash balances and the lower interest rate on the cash. Due to the strength in the Canadian dollar we have a favorable foreign exchange gain on our net US\$ debt YTD of Cdn\$63.4 million. (This is a non cash item and will change both positive and negatively with the movement in the Canadian dollar to the US dollar. For example our YTD October gain was \$85.4 million.) This resulted in net income coming in at a loss YTD of \$35.5 million as compared to the forecasted loss of \$46.2 million.

Eric also stated that as of December 31/07 the company had debt of US\$562 million and cash of US\$75 million for a net debt position of US\$487 million. Eric also stated that as of December 31, 2007 GFPI was well within their covenant requirements, with senior debt to cap at 32% (requirement at or below 55%), total debt to cap at 47% (requirement at 60% or less), interest coverage is waived until March 2009 due to the PIK on the second loan, equity came in at Cdn\$522 million (requirement at or higher than Cdn\$375) and liquidity at Cdn\$74 million (requirement at or above Cdn\$70 million). Eric also stated that the cash was all invested in short term deposits averaging a return of approximately 3.5%.

The company had increased its cash position from US\$24.8 million as of December 31, 2006 to US\$75 million as of December 31, 2007 for a net increase of US\$50.2 million. During the 2007 year the company had increased its loans by US\$272.9 million for a net usage of US\$222.7 million (\$272.9 minus \$50.2). The areas of usage are as follows:

- o 06 tax payment of \$2 million
- o Operation losses \$39.9 million
- o SG&A \$43.7
- o Capital expenditures \$150.4 (US operations \$145 and Canada of \$5)
- o Interest payments \$25.8
- o Financing fee \$6.7
- o Swing line payment \$1.3

The company had further inflows of \$16.6 million from tax refunds and \$30.5 million from working capital.

An update on the South Carolina expansion was provided. Eric stated that for the period from November 1, 2007 to December 31, 2007, Allendale had spent US\$5 million with US\$6.5 million remaining and in Clarendon we had spent US\$5 million with US\$20.8

Board of Directors' Meeting Minutes - March 27, 2008

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million remaining. Both projects were on target to hit their revised budgets of US\$280 million each. Allendale had accumulated startup losses of \$38.3 million and starting in January 2008 would be amortized over a 3 year period. Clarendon had startup losses of \$9.0 million and had yet to begin amortization. Due to changes in accounting standards all startup losses that remained as of January 2009 would have to be expensed and any future startup losses would have to be expensed in the period incurred.

On motion duly made by Bill Stinson, and seconded by Peter Lynch and unanimously carried, it was resolved that the annual report of the Corporation including the financial statements for the period ending December 31, 2007 and the report of the auditors thereon and related reports submitted to the meeting by Eric Davis, CFO be and the same are hereby approved and that any director be and he is hereby authorized to evidence the approval of the Board by signing the said report at the foot of the balance sheet and the annual report be submitted to the shareholder of the Corporation for approval.

YTD 2008 Financial Results

Including Allendale, YTD February sales volume came in at 273 million sqft 3/8 or 14.9 M3/8 better than budget and higher than prior year by 38 million sqft 3/8 due to the higher volume from the Allendale operation. YTD operating income came in at a loss of \$4.3 million or \$2.7 million less than budget. This difference was caused by a much lower selling price than budget (\$113.55 vs. \$126.30), offset by the higher volume. SG&A was slightly lower than budget (\$4.6 vs. \$4.7). Interest expense came in right on budget at \$8.8 million. Due to the strength in the Canadian dollar we have a favorable foreign exchange gain on our net US\$ debt YTD of Cdn\$3.6 million. This is a non cash item and will change both positive and negatively with the movement in the Canadian dollar to the US dollar. This resulted in net income coming in at a loss YTD of \$17.5 million as compared to the budgeted loss of \$17.9 million.

For the full year forecast as compared to the December 2008 budget volume will remain the same at 1,672 M3/8. However revenue has been lowered due to the lower selling price. Our revised FY mill nets have been lowered by \$14 M3/8 to \$128 or \$10 lower than prior year. The drop in revenue of \$23 million was offset by favorable variable costs due to better wood utilization and lower resin costs and usage. Fixed costs are expected to be in line with the previous budget at \$77.1 million. The lower revenue slightly offset by the expected lower variable cost has caused us to lower the operating profit from \$16.7 million to \$9.9 million for a reduction of \$6.8 million, however this is \$44.1 million better than prior year.

SG&A has been further reduced by \$1.3 million to \$27.1 million due to further staff reductions. EBITDA is forecasted to come in at a loss of \$24 million for an increase loss of \$12.4 million due to the above items.

Interest expense has been revised to reflect the current borrowing rates and is now forecasted to be \$59.8 million or \$4.8 million higher than the previous budget due to a lower expected cash position. We are forecasting the Canadian dollar to average par with the US\$ resulting in an unfavorable exchange loss on our net debt position. This is a non cash item and will change both positive and negatively with the movement in the Canadian dollar to the US dollar.

An update on the South Carolina expansion was provided. Eric Davis stated that for the period from January 1, 2008 to February 29, 2008, Allendale had spent US\$1 million with US\$5.2 million remaining and in Clarendon we had spent US\$6 million with US\$15.2 million remaining. Both projects were on target to hit their revised budgets of US\$280 million each.

Eric Davis stated that as of February 29/08 the company had Debt of US\$567 million and cash of US\$33 million for a net Debt position of US\$534 million. Eric also stated that as of February 29th, 2008 with the exception of Liquidity we were well within our covenant requirements, with senior debt to cap at 34% (requirement at or below 55%), Total debt to cap at 49% (requirement at 60% or less), interest coverage is waived until March 09, equity came in at Cdn\$490 million (requirement at or higher than Cdn\$375) and Liquidity at Cdn\$33 million (requirement at or above Cdn\$60 million). Eric also showed that the cash was all invested in short term deposits averaging a return of 3.5%.

YTD February the company had decreased its cash position by \$41.8 million. Cash was used as follows:

- ∞ Operating losses of \$5.4 million
- ∞ SG&A of \$4.6
- ∞ Capital of \$7.4
- ∞ Interest payments \$5.3
- ∞ Corp. \$3.2
- ∞ Working Capital build (F.G. mainly) of \$15.9 million

As of the end of Q1 the company expects to have an increase of cash by \$7 million growing from \$33 million to \$40 million. This is mainly due to receiving a tax refund in March of \$8.6 million. However we would still be short of the liquidity covenant by \$20 million, (\$40 vs. \$60).

Eric Davis showed that based on the assumptions that were presented to the board the liquidity covenant would be missed in Q1 and Q2 and would be within \$5.5 million in Q3 and on side in Q4 as the expected tax refunds are received. It was proposed that the company sell \$20 million of its expected tax refund (\$10 million for 08 and \$10 million for 09). The \$20 million would be received in Q1 which would put the cash position at the end of Q1 at \$60 million right at the liquidity requirements.

It was further shown that based on the 2008 and 2009 assumptions and the sensitivity impact on EBITDA that the company would require at least another \$50 million to ensure covenant compliance through to the end of 2009. It was agreed that the company would as a first step, sell the \$20 million of expected tax refund in Q1 with management continuing to source alternative financing and sources of funds and report back to the board with an update in 45 days.

SALE 2008 AND 2009 TAX REFUNDS

On motion duly made by Peter Lynch, seconded by Bill Stinson and unanimously carried it was resolved as follows:

"WHEREAS the Corporation wishes to increase its liquidity on March 31, 2008;

AND WHEREAS Peter Grant Sr., a person related to the Corporation, has agreed to assist the Corporation by purchasing from the Corporation certain of the Corporation's income tax refunds which the Corporation expects to receive in 2008, 2009 and 2010 and the Corporation wishes to sell such tax refunds to Mr. Grant;

NOW THEREFORE BE IT RESOLVED THAT:

The Corporation is hereby authorized to sell to Mr. Grant, or to such other purchaser as he may direct, the Sold 2008 Refund and the Sold 2009 Refund (both as defined by the transaction summary dated March 27, 2008 (the "Summary") reviewed by the directors, a copy of which is hereby directed to be attached as Schedule "A" to a copy of this resolution in the Corporation's minute book);

The Corporation is hereby authorized to complete the transactions referred to in the Summary substantially in accordance with the provisions of the Summary, subject to any changes thereto to which any officer of the Corporation may agree;

The Corporation is hereby authorized to execute and deliver an agreement of purchase and sale between the Corporation and Mr. Grant with respect to such transactions, such agreement of purchase and sale to be in a form satisfactory to an officer of the Corporation;

The Corporation is hereby authorized to execute and deliver to the purchaser the following documents with respect to the transaction:

- ∞ *A transfer by the Corporation to the purchaser of the Sold 2008 Refund on March 31, 2008 at the closing of such sale; and*
- ∞ *A transfer by the Corporation to the purchaser of the Sold 2009 Refund in 2009 at the closing of the sale;*

Each of the agreements or other documents referred to in this resolution shall be in a form approved by any officer of the Corporation and the execution by an officer of the Corporation of such agreement or other document shall be conclusive evidence of such officer's approval of the form of such agreement or other document;

Each of the officers of the Corporation is hereby authorized for and on behalf of the Corporation to execute alone and to deliver to the purchaser each of the documents referred to in this resolution and all such other agreements, instruments and documents as may be necessary or desirable to give effect to this resolution or to complete the transactions referred to in the Summary; and

Each of the officers of the Corporation is hereby authorized to do all such other acts and things as may be necessary or desirable to give effect to this resolution or in connection with the performance by the Corporation of its obligations pursuant to any of the documents referred to in this resolution."

PEER GROUP CASH FLOW

A peer group summary (Ainsworth, Norbord, LP) was presented by Eric Davis

OSB GROUP - presented by Peter Grant Jr.

- ∞ Strategic Focus for 2008 (recap from December meeting)
 - Continued cost reduction and cash conservation efforts to reflect ongoing downmarket and production downsizing
 - Continued focus on Allendale productivity and cost
 - Clarendon mill construction and start-up (timing under review)
 - Take advantage of specialty and value-added product opportunities to enhance margin
 - Continue operational initiatives to support above
- ∞ Performance Review
- ∞ Market Overview
- ∞ 2008 Actions to Date & Game-Plan
- ∞ Strategy Review
- ∞ Major Cost & Margin Improvement Activities

COMPLIANCE COMMITTEE REPORT

The results of the meeting of the Compliance Committee held earlier that day were reported to the directors. That included a report on the MOE charges relating to the Timmins facility emissions from September 2005 to September 2006. It was confirmed that there were no other compliance issues since the last meeting of the Board of directors.

AINSWORTH - Peter Lynch

A general discussion was held regarding the Ainsworth situation and in particular the potential position of Ainsworth with respect to the working capital requirements for the Footner Mill.

OSB CLASS ACTION

Peter Lynch gave an update on the OSB Class Action.

NEW BUSINESS

There was no new business

NEXT MEETINGS:

June 12 & 13, 2008 - Toronto - Royal York Hotel with Senior Managers
 October 9, 2008 - Toronto - Royal York Hotel
 December 4 & 5, 2008 - Royal York Hotel with Senior Managers

CONCLUSION:

It was moved by Per Brunes, seconded by Jamie Wallace that the meeting be concluded.
Carried.

The meeting adjourned at 4:30 pm.

Peter J. Grant
Chairman

SCHEDULE "A"

SUMMARY OF THE SALE BY GRANT FOREST PRODUCTS INC. TO PETER
GRANT SR. OF INCOME TAX REFUNDS EXPECTED TO BE RECEIVED BY
GRANT FOREST PRODUCTS INC. IN 2008, 2009 AND 2010 FOR A TOTAL SALE
PRICE OF THE CANADIAN DOLLAR EQUIVALENT OF US \$20 MILLION

March 27, 2008

SUMMARY OF PROPOSED SALE

Objective: To improve GFPI's liquidity and to continue to comply with its liquidity covenants under the first lien credit agreement (Section 9.02(5)) and the second lien credit agreement (Section 9.02(4)).

Tax Refunds: Refunds under the *Income Tax Act* or the *Corporations Tax Act* in an estimated amount:

In excess of Cdn \$45 million, expected to be received by GFPI from September 1, 2008 to March 31, 2009 due to the overpayment of 2005-2006 tax (the "2008 Tax Refund"); and

In excess of Cdn \$15 million, expected to be received by GFPI from September 1, 2009 to March 31, 2010 due to overpayment of 2006 tax (the "2009 Tax Refund").

Method: Convert GFPI's tax refund claims to cash of GFPI before the tax refunds are received by GFPI by the following steps:

GFPI sells to a purchaser (the "Purchaser") related to GFPI, GFPI's interests in that amount of the 2008 Tax Refund and that amount of the 2009 Tax Refund which together have, when sold, a fair market value equivalent to the Canadian dollar equivalent of US \$20 million for a total sale price of the Canadian dollar equivalent of US \$20 million as follows:

On March 31, 2008, sale of that portion of the 2008 Tax Refund (the "Sold 2008 Refund"), the present value of which on March 31, 2008 is the Canadian dollar equivalent of US \$10 million (based on a discount rate equivalent to 90-day LIBOR on March 31, 2008) for the sale price of the Canadian dollar equivalent of US \$10 million paid in cash to GFPI on March 31, 2008; and

On January 2, 2009, sale of that portion of the 2009 Tax Refund (the "Sold 2009 Refund"), the present value of which on January 2, 2009 is the Canadian dollar equivalent on January 2, 2009 of US \$10 million (based on a discount rate equivalent to 90-day LIBOR on

January 2, 2009) for the sale price of the Canadian dollar equivalent of US \$10 million, with the estimated sale price (based on the exchange rate in effect on March 31, 2008) paid in cash to GFPI on March 31, 2008 (i.e. estimated purchase price prepaid but with an agreement to adjust price or the amount of the Sold 2009 Refund on January 2, 2009 to reflect exchange rate change between March 31, 2008 and January 2, 2009). The actual sale proceeds received by GFPI are the Canadian dollar equivalent as at January 2, 2009 of US \$10 million. The prepaid purchase price is not held by GFPI in trust and may be used by GFPI.

Purchaser would agree that it does not acquire any right, title or interest in the Sold 2009 Refund until it receives the transfer thereof from GFPI on January 2, 2009.

If it is subsequently determined by CRA that the purchase price paid for the Sold 2008 Refund or the purchase price paid for the Sold 2009 Refund was not fair market value, the Purchaser and GFPI shall, to the extent not prohibited by the provisions of the first lien credit agreement or the second lien credit agreement, adjust such purchase price or such refunds so that each refund is sold for a fair market price.

If any of the Sold 2008 Refund is not received by the Purchaser by March 31, 2009, to the extent not prohibited by the provisions of the first lien credit agreement or the second lien credit agreement, the purchase price thereof or the Sold 2008 Refund would be adjusted; GFPI would, at its option, either refund a pro rata amount of the purchase price to Purchaser without interest or deduction at a date after March 31, 2009 specified by the Purchaser or include in the Sold 2008 Refund an applicable amount of GFPI's tax refunds to be received after March 31, 2010 and the Purchaser would remit to GFPI any of such unreceived refund if it is received by the Purchaser after such adjustment.

If any of the Sold 2009 Refund is not received by the Purchaser by March 31, 2010, to the extent not prohibited by the provisions of the first lien credit agreement or the second lien credit agreement, the purchase price thereof or the Sold 2009 Refund would be adjusted; GFPI would, at its option, either refund a pro rata amount of the purchase price to Purchaser without interest or deduction at a date after March 31, 2010 specified by the Purchaser or include in the Sold 2009 Refund an applicable amount of GFPI's unsold tax refunds to be received after March 31, 2010 and the Purchaser would remit to GFPI any of such unreceived refund if it is received by the Purchaser after such adjustment.

[NTD: US \$10 million sale proceeds received by GFPI from sale of refunds in each of 2008 and 2009 at fair market value to comply with the limitations on Dispositions pursuant to Section 9.04(1)(e) of the first lien credit agreement and Section 9.04(1)(c) of the second lien credit agreement.]

GFPI would not sell to Purchaser any interest payable by CRA to GFPI with respect to the 2008 Tax Refund or the 2009 Tax Refund.

The Purchaser would pay income tax on its gain from the purchased refunds (based on the difference between the amount of the refunds it receives and the amount it paid to buy them).

Each of applicable First Lien Agent and Second Lien Agent provides Purchaser with a partial discharge of its security to discharge each of the Sold 2008 Refund and the Sold 2009 Refund (collectively, the "Sold Refunds") from such security (and to release any interest therein) when the applicable transfers are delivered.

[NTD: See Section 10.04 of first lien credit agreement and Section 10.04 of second lien credit agreement.]

GFPI may, after delivery to the Purchaser of the transfer of the Sold 2008 Refund, direct CRA and the Minister of Finance to pay the Sold 2008 Refund to the Purchaser and may, after the delivery to the Purchaser of the transfer of the Sold 2009 Refund, direct CRA and the Minister of Finance to pay the Sold 2009 Refund to the Purchaser.

GFPI would agree to hold in trust for Purchaser, keep segregated and pay to Purchaser any amount of the Sold Refunds received by GFPI.

GFPI would not grant Purchaser any security for GFPI's obligations to Purchaser with respect to the Sold Refunds and would not pay any interest on the prepaid sale price for the Sold 2009 Refund or any fee related to the refund sales.

Documents
Required:

A. On or before March 31, 2008:

Agreement between GFPI and Purchaser re sales of Sold Refunds.

Transfer by GFPI to Purchaser of Sold 2008 Refund.

Partial discharge by First Lien Agent of the Sold 2008 Refund from security.

Partial discharge by Second Lien Agent of the Sold 2008 Refund from security.

Approval of independent committee of GFPI's board of directors.

[NID: See Sections 9.04 (15) of first and second lien credit agreements.]

B. January 2, 2009:

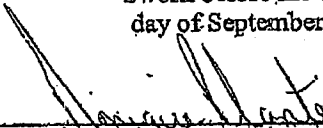
Transfer by GFPI to Purchaser of the Sold 2009 Refund.

Partial discharge by First Lien Agent of Sold 2009 Refund.

Partial discharge by Second Lien Agent of Sold 2009 Refund.

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.

Draft: March 31, 2008

TAX REFUND PURCHASE AND SALE AGREEMENTTHIS AGREEMENT is dated as of the 31st day of March, 2008,

BETWEEN:

PETER GRANT SR.

(hereinafter referred to as the "Purchaser")

- and -

GRANT FOREST PRODUCTS INC., a corporation
Incorporated under the laws of the Province of Ontario

(hereinafter referred to as the "Vendor")

WHEREAS the Vendor expects to receive refunds under the *Income Tax Act* and under the *Corporations Tax Act* and wishes to sell parts of such refunds to the Purchaser (in the case of the *Income Tax Act*, as permitted by section 220(6) of the *Income Tax Act*) in order to improve the Vendor's liquidity;

AND WHEREAS the Purchaser is related to the Vendor and wishes to assist it to improve its liquidity;

NOW THEREFORE this Agreement witnesses that in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each party to the other, the parties hereto agree as follows:

ARTICLE 1
INTERPRETATION

Section 1.01 Definitions

In this Agreement:

"Agreement" means this tax refund purchase and sale agreement;

"Books and Records" means all the Vendor's books, records, data and information relating to any or all of the Purchased Assets;

"Business Day" means a day other than a Saturday, Sunday or any other day on which the principal Canadian chartered banks located in the City of Toronto are not open for the transaction of domestic business during normal banking hours;

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"Corporations Tax Act" means the *Corporations Tax Act* (Ontario), R.S.O. 1990, c.40, as amended;

"CRA" means Canada Revenue Agency;

"Discount Rate" on any day means the rate which is equivalent to the 90-Day LIBO Rate on such day;

"Finance Minister" means the Ontario Minister of Finance or his or her successor;

"First Lien Agents" means The Toronto-Dominion Bank and Toronto Dominion (Texas) LLC, as agents pursuant to the First Lien Credit Agreement;

"First Lien Credit Agreement" means the credit agreement dated as of October 26, 2005 among the Vendor, Grant U.S. Holdings GP (formerly Grant U.S. Holdings LLP), Grant Forest Products Sales Inc., Grant Alberta Inc., Southeast Properties LLC (formerly Southeast Properties Inc.), Grant Allendale LP (formerly Grant Allendale Inc.), Grant Clarendon LP (formerly Grant Clarendon Inc.), The Toronto-Dominion Bank as Canadian Administrative Agent, Toronto Dominion (Texas) LLC, as U.S. Administrative Agent, and the lenders referred to therein (as amended, *inter alia*, to include Grant US Sales Inc. as a guarantor) (as the same may be further amended, restated, supplemented or replaced from time to time);

"Income Tax Act" means, collectively, the *Income Tax Act*, R.S.C. 1985, 5th Supplement, the *Income Tax Application Rules*, R.S.C. 1985, 5th Supplement, and the *Income Tax Regulations*, in each case as amended;

"90-Day LIBO Rate" on any day means the interest rate expressed as a percentage rate per year calculated on the basis of a 360-day year equivalent to the rate for deposits in U.S. dollars in the London, England interbank market for a period of 90 days which appears on the "LIBOROI Page" of the Reuters Money Rate Service (or any successor source from time to time for such rate) as of 11:00 a.m. (London, England time) on the second Euro business day preceding such day;

"Post-2009 Income Tax Refunds" means the Vendor's income tax refunds to be received by the Vendor after March 31, 2010;

"Purchased Assets" means the Sold 2008 Refund and the Sold 2009 Refund;

"Second Lien Agents" means The Toronto-Dominion Bank and Toronto Dominion (Texas) LLC, as agents pursuant to the Second Lien Credit Agreement.

"Second Lien Credit Agreement" means the credit agreement dated as of March 21, 2007 among Grant U.S. Holdings GP (formerly Grant U.S. Holdings LLP), as borrower, the Vendor, Grant Forest Products Sales Inc., Grant Alberta Inc., Southeast Properties LLC (formerly Southeast Properties Inc.), Grant Allendale LP (formerly Grant Allendale Inc.), Grant Clarendon LP (formerly Grant Clarendon Inc.) and Grant US Sales Inc., as guarantors, The Toronto-Dominion Bank, as Canadian Collateral Agent, Toronto Dominion (Texas) LLC, as

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Administrative Agent and U.S. Collateral Agent, and the lenders referred to therein (as the same may be amended, restated, supplemented or replaced from time to time);

"**Sold 2008 Refund**" means that part of the 2008 Tax Refund, the present value of which, based on the Discount Rate in effect on March 31, 2008, is the Canadian dollar equivalent on March 31, 2008 of US \$10 million;

"**Sold 2009 Refund**" means that part of the 2009 Tax Refund, the present value of which, based on the Discount Rate in effect on January 2, 2009, is the Canadian dollar equivalent on January 2, 2009 of US \$10 million;

"**2008 Closing**" means the closing of the purchase and sale of the Sold 2008 Refund on March 31, 2008;

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

"**2008 Purchase Price**" means the Canadian dollar equivalent on March 31, 2008 of US \$10 million payable by the Purchaser to the Vendor on March 31, 2009 for the Sold 2008 Refund;

"**2009 Purchase Price**" means the Canadian dollar equivalent on January 2, 2009 of US \$10 million payable by the Purchaser to the Vendor for the Sold 2009 Refund; *1.2 W. m*

"**2009 Purchase Price Deposit**" means the Canadian dollar equivalent on March 31, 2008 of US \$10 million;

"**2008 Tax Refund**" means the Vendor's income tax refund in excess of \$45 million which the Vendor expects to receive during the period from September 1, 2008 to March 31, 2009 with respect to its income taxes paid for 2005 and 2006; and

"**2009 Tax Refund**" means the Vendor's income tax refund in excess of \$15 million which the Vendor expects to receive during the period from September 1, 2009 to March 31, 2010 with respect to its income taxes paid for 2006.

Section 1.02 Currency

All references in this Agreement to monetary amounts, unless indicated to the contrary, are to Canadian currency.

Section 1.03 Entire Agreement; Amendment; Waiver

This Agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes any and all prior summaries, negotiations, understandings and agreements between the parties. This Agreement may not be amended or modified in any respect except by written agreement signed by the parties. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not

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 in 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.

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

constitutes or results in a default by the Vendor under either the First Lien Credit Agreement or the Second Lien Credit Agreement.

ARTICLE 6 CONDITIONS

Section 6.01 Conditions for benefit of the Purchaser

The obligation of the Purchaser to complete the transactions contemplated hereunder is subject to the following conditions being fulfilled or performed at or prior to the 2008 Closing or the 2009 Closing, as applicable:

- (a) all representations and warranties of the Vendor contained in this Agreement shall be true and correct in all material respects as at the time of such closing with the same force and effect as if made at and as of such time;
- (b) the Vendor shall have complied with and performed all of its covenants and obligations contained in this Agreement;
- (c) the Vendor shall have delivered to the Purchaser the documents, or made any payments referred to:
 - (i) in the case of the 2008 Closing, in Section 7.02; and
 - (ii) in the case of the 2009 Closing, in Section 7.04; and
- (d) no injunction or other court order shall have been issued to enjoin, restrict or prohibit any of the transactions contemplated by this Agreement.

The foregoing conditions are for the exclusive benefit of the Purchaser and any such conditions may be waived by the Purchaser in whole or in part. Any such waiver shall be binding on the Purchaser only if it is in writing.

Section 6.02 Conditions for benefit of the Vendor

The obligation of the Vendor to complete the transactions contemplated hereunder is subject to the following conditions being fulfilled or performed at or prior to the 2008 Closing or the 2009 Closing, as applicable:

- (a) the Purchaser shall have complied with and performed all of its covenants and obligations contained in this Agreement;
- (b) the Purchaser shall have delivered to the Vendor the documents, or made any payments referred to:
 - (i) in the case of the 2008 Closing, in Section 7.03; and
 - (ii) in the case of the 2009 Closing, in Section 7.05; and

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- (c) no injunction or other court order shall have been issued to enjoin, restrict or prohibit any of the transactions contemplated by this Agreement,

The foregoing conditions are for the exclusive benefit of the Vendor and any such conditions may be waived by the Vendor in whole or in part. Any such waiver shall be binding on the Vendor only if it is made in writing.

Section 6.03 Non-Satisfaction of Conditions

If any condition set out in Section 6.01 or Section 6.02 is not satisfied or performed prior to the time specified therefor, the party for whose benefit the condition is inserted may:

- (a) in writing, waive compliance with the condition in whole or in part in its or his sole discretion by notice to the other party and without prejudice to any of its or his rights of termination in the event of non-fulfilment of any other condition in whole or in part or
- (b) elect to terminate this Agreement, in which case no party shall be under any further obligation to the others to complete the transactions contemplated by this Agreement.

ARTICLE 7

CLOSING

Section 7.01 Closing Dates and Place of Closing

The transactions contemplated by this Agreement shall close and be completed at the 2008 Closing and the 2009 Closing, as applicable. The completion of the transactions contemplated hereunder shall take place at the office of the Vendor's solicitors, located at 100 King Street West, Suite 4200, Toronto, Ontario M5X 1B2 or such other location as the parties may agree in writing.

Section 7.02 Deliveries on 2008 Closing by the Vendor

The Vendor shall deliver to the Purchaser at the 2008 Closing, in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) a transfer by the Vendor to the Purchaser of the Sold 2008 Refund;
- (b) a partial discharge by the First Lien Agents of security held by them to discharge the Sold 2008 Refund therefrom and to release any interest they have in the Sold 2008 Refund;
- (c) a partial discharge by the Second Lien Agents of security held by them to discharge the Sold 2008 Refund therefrom and to release any interest they have in the Sold 2008 Refund;

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- (d) a certified copy of a resolution of the directors of the Vendor authorizing the transactions referred to in this Agreement;
- (e) an approval by the ad hoc independent committee of the Vendor's board of directors of the transactions contemplated by this Agreement; and
- (f) such other documents as are required by this Agreement.

Section 7.03 Deliveries or Payments on 2008 Closing by the Purchaser

The Purchaser shall deliver or pay to the Vendor at the 2008 Closing:

- (a) the 2008 Purchase Price in accordance with Section 3.02(a);
- (b) the 2009 Purchase Price Deposit in accordance with Section 3.02(b); and
- (c) such other documents as are required by this Agreement.

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;
- (b) a partial discharge by the First Lien Agents or their respective successors of security held by them to discharge the Sold 2009 Refund therefrom and to release any interest they have in the Sold 2009 Refund;
- (c) a partial discharge by the Second Lien Agents or their respective successors of security held by them to discharge the Sold 2009 Refund therefrom and to release any interest they have in the Sold 2009 Refund;
- (d) the adjustment amount referred to in section 3.03(b) if such amount is then payable by the Vendor; and
- (e) such other documents as are required by this Agreement.

Section 7.05 Deliveries or Payments on 2009 Closing by the Purchaser

The Purchaser shall deliver or pay to the Vendor at the 2009 Closing:

- (a) the adjustment amount referred to in Section 3.03(a) if such amount is then payable by the Purchaser; and
- (b) such other documents as are required by this Agreement.

ARTICLE 8
ADJUSTMENTS

Section 8.01 ~~Sold 2008 Refund Adjustments if any Sold 2008 Refund not received by March 31, 2009~~

~~If any amount of the Sold 2008 Refund is not received by the Purchaser by March 31, 2009, the Vendor shall either:~~

- (a) ~~refund to the Purchaser on a date after March 31, 2009 specified by the Purchaser in writing a pro-rata amount of the 2008 Purchase Price with respect to such amount of the Sold 2008 Refund not received by the Purchaser by March 31, 2009; or~~
- (b) ~~adjust the Sold 2008 Refund so that it includes that amount of Post-2009 Income Tax Refunds which results in the Vendor's selling and the Purchaser's buying the Sold 2008 Refund (including Post-2009 Income Tax Refunds), the aggregate fair market value of which as at March 31, 2008 (using the Discount Rate in effect on March 31, 2008) is equivalent to the 2008 Purchase Price,~~

~~as determined by the Vendor. The Vendor shall give the Purchaser, on or before April 30, 2009, written notice of which of the foregoing alternatives the Vendor selects. The Purchaser shall promptly remit to the Vendor any of such unreceived Sold 2008 Refund (excluding such Post-2009 Income Tax Refunds) if it is received by the Purchaser after such adjustment.~~

Section 8.02 ~~Sold 2008 Refund Adjustments if 2008 Purchase Price is determined by CRA not to be fair market value~~

~~If CRA determines that the 2008 Purchase Price was not equivalent to the fair market value on March 31, 2008 of the Sold 2008 Refund purchased by the Purchaser for such price, the Vendor and the Purchaser shall either:~~

- (a) ~~adjust the 2008 Purchase Price; or~~
- (b) ~~adjust the Sold 2008 Refund so that:~~
 - (i) ~~it is reduced to the amount, the fair market value of which; or~~
 - (ii) ~~it is increased to include that amount of Post-2009 Income Tax Refunds which results in the Vendor's selling and the Purchaser's buying the Sold 2008 Refund (including such Post-2009 Income Tax Refunds), the aggregate fair market value of which,~~

~~as at March 31, 2008 (using the Discount Rate in effect on March 31, 2008) is equivalent to the 2008 Purchase Price,~~

~~as determined by the Vendor. The Vendor shall give the Purchaser written notice of which of the foregoing alternatives the Vendor selects.~~

Section 8.03 Adjustments at 2009 Closing with respect to Sold 2009 Refund due to Exchange Rate Fluctuations

If the exchange rate between Canadian dollars and US dollars on January 2, 2009 is different from such exchange rate on March 31, 2008, the Purchaser and the Vendor shall adjust the amount received by the Vendor for its sale of the Sold 2009 Refund on January 2, 2009 as follows so that the actual sale proceeds received by the Vendor from the sale of the Sold 2009 Refund on January 2, 2009 shall be the Canadian dollar equivalent on January 2, 2009 of US \$10 million in order *inter alia* to comply with section 9.04 (1)(c) of the First Lien Credit Agreement and section 9.04(1)(c) of the Second Lien Credit Agreement:

- (a) if the 2009 Purchase Price exceeds the 2009 Purchase Price Deposit, the Purchaser shall pay the difference to the Vendor on January 2, 2009; or
- (b) if the 2009 Purchase Price Deposit exceeds the 2009 Purchase Price, the Vendor shall refund the difference to the Purchaser on January 2, 2009.

as calculated by the Vendor. The Vendor shall give the Purchaser, on or before January 2, 2009, written notice of which of the foregoing alternatives applies. Despite the foregoing, if the 2009 Purchase Price Deposit exceeds the 2009 Purchase Price, the Vendor may, at its option on written notice to the Purchaser, instead of refunding such difference to the Purchaser as provided by the foregoing subsection (b), increase on January 2, 2010 the amount of the Sold 2009 Refund to include in the Sold 2009 Refund an amount of the then unsold Post-2009 Income Tax Refunds, the fair market value of which, as at January 2, 2009 (using the Discount Rate in effect on January 2, 2009) is equivalent to such excess so that the purchase price received by the Vendor for the Sold 2009 Refund (excluding such Post-2009 Income Tax Refunds) is the Canadian dollar equivalent on January 2, 2009 of US \$10 million.

Section 8.04 Sold 2009 Refund Adjustments if any Sold 2009 Refund not received by March 31, 2010

If any amount of the Sold 2009 Refund is not received by the Purchaser by March 31, 2010, the Vendor shall either:

- (a) refund to the Purchaser on a date after March 31, 2010 specified by the Purchaser in writing a pro rata amount of the 2009 Purchase Price with respect to such amount of the Sold 2009 Refund not received by the Purchaser by March 31, 2010; or
- (b) adjust the Sold 2009 Refund so that it includes that amount of then unsold Post-2009 Income Tax Refunds which results in the Vendor's selling and the Purchaser's buying the Sold 2009 Refund (including such Post-2009 Income Tax Refunds), the aggregate fair market value of which as at January 2, 2009 (using the Discount Rate in effect on January 2, 2009) is equivalent to the 2009 Purchase Price.

as determined by the Vendor. The Vendor shall give the Purchaser, on or before April 30, 2010, written notice of which of the foregoing alternatives the Vendor selects. The Purchaser shall

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promptly remit to the Vendor any of such unreceived Sold 2009 Refund (excluding such Post-2009 Income Tax Refunds) if it is received by the Purchaser after such adjustment.

Section 8.05 Sold 2009 Refund Adjustments if 2009 Purchase Price is determined by CRA not to be fair market value

If CRA determines that the 2009 Purchase Price was not equivalent to the fair market value on January 2, 2009 of the Sold 2009 Refund purchased by the Purchaser for such price, the Vendor and the Purchaser shall either:

- (a) adjust the 2009 Purchase Price; or
- (b) adjust the Sold 2009 Refund so that:
 - (i) it is reduced to the amount, the fair market value of which; or
 - (ii) it is increased to include that amount of then unsold Post-2009 Income Tax Refunds which results in the Vendor's selling and the Purchaser's buying the Sold 2009 Refund (including any such Post-2009 Income Tax Refunds), the aggregate fair market value of which,

as at January 2, 2009 (using the Discount Rate in effect on January 2, 2009) is equivalent to the 2009 Purchase Price,

as determined by the Vendor. The Vendor shall give the Purchaser written notice of which of the foregoing alternatives the Vendor selects.

ARTICLE 9

Section 9.01 Obligations to Survive

Notwithstanding the completion of the transactions contemplated hereunder or the delivery of documents pursuant to this Agreement, the obligations, covenants, representations and warranties of the parties hereto shall survive such completion and shall remain in full force and effect and shall not merge as a result thereof.

Section 9.02 Further Assurances

Each of the parties hereto from and after each applicable closing shall, from time to time, and at the request and expense of the party requesting the same, do all such further acts and things and execute and deliver such further transfers (including any additional transfers by the Vendor to the Purchaser of Post-2009 Income Tax Refunds required to be included in Purchased Assets pursuant to any provision of this Agreement), instruments, documents, matters, papers and assurances as may be reasonably requested for more effectually carrying out the true intent and meaning of this Agreement.

Section 9.03 No Assignment

Neither party hereto shall be entitled to assign any of its rights or interests hereunder without the prior written consent of the other party hereto and any such purported assignment, without such consent, shall not be valid.

Section 9.04 Time of the Essence

Time shall be of the essence of this Agreement.

Section 9.05 Costs and Expenses

Each party hereto shall be responsible for all costs and expenses (including the fees and disbursements of legal counsel) incurred by it or him in connection with this Agreement and the transactions contemplated herein.

Section 9.06 Notices

Any notice, demand or other communication required or permitted to be given to any party hereunder shall be given in writing and addressed as follows:

(a) If to the Vendor:

181 Bay Street
Suite 1520
Toronto, Ontario
M5H 2T3

Attention: Vice-President
Facsimile No.: 416-214-1360

(b) If to the Purchaser:

181 Bay Street
Suite 1520
Toronto, Ontario
M5H 2T3

Facsimile No.: 416-214-1360

Any such notice shall be deemed to be sufficiently given if personally delivered or sent by facsimile transmission, and in each case shall be deemed to have been received by the other party on the same day on which it was delivered or sent by facsimile transmission, if such day is a Business Day, and, if not, on the next following Business Day.

04/08/2008 07:55 FAX YOU SAT 0858

GRANT FOREST N L

- SEE PAGE

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15

Section 9.07 Successors and Assigns

This Agreement shall be binding on, and amend to the benefit of, the parties hereto, the Purchaser's heirs, executors and administrators, and the parties' respective successors and permitted assigns.

Section 9.08. Counterparts

This Agreement may be executed in two counterparts with the same effect as if both parties had signed the same document and all counterparts shall be construed together and will constitute one and the same agreement.

Section 9.09 Third Party Beneficiaries

Each party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person other than the parties hereto and their respective successors and permitted assigns, and no person, other than the parties hereto and their successors and their permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the date first written above.

PETER GRANT SR.

GRANT FOREST PRODUCTS INC.

Per:

Name: Peter Lynch

Title: Executive Vice President

Per:

Name:

Title:

END001 5424748.2

13.

Section 9.07 Successors and Assigns

This Agreement shall be binding on, and secure to the benefit of, the parties hereto, the Purchaser's heir, executors and administrators, and the parties' respective successors and permitted assigns.

Section 9.08 Counterparts

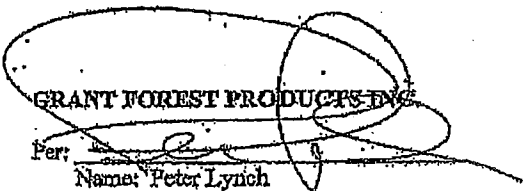
This Agreement may be executed in two counterparts with the same effect as if both parties had signed the same document and all counterparts shall be construed together and will constitute one and the same agreement.

Section 9.09 Third Party Beneficiaries

Each party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person other than the parties hereto and their respective successors and permitted assigns, and no person, other than the parties hereto and their successors and their permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the date first written above.


PETER GRANT SR.


GRANT FOREST PRODUCTS INC.

Per:

Name: Peter Lynch

Title: Executive Vice President

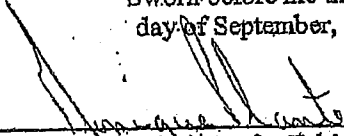
Per:

Name:

Title:

TAB C

This is Exhibit "C" 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.

TO: PETER GRANT SR.

RE: Sale by Grant Forest Products Inc. (the "Vendor") to Peter Grant Sr. (the "Purchaser") of certain tax refunds of the Vendor expected to be received by March 31, 2009 as provided by the Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 (the "Agreement") between the Vendor and the Purchaser

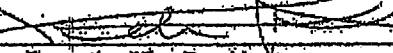
TRANSFER OF SOLD 2008 REFUND

IN CONSIDERATION of the purchase price of Cdn. \$10,270,947.38 (which, on the date hereof, is equivalent to US \$10 million) paid by the Purchaser to the Vendor, the receipt of which is hereby acknowledged by the Vendor, the Vendor hereby sells, transfers and assigns to the Purchaser, his heirs, executors, administrators and assigns, the Sold 2008 Refund (as defined by the Agreement) in the amount of Cdn. \$10,478,857.

This transfer is the transfer referred to in section 7.02(a) of the Agreement with respect to *inter alia* the purchase and sale of such refund, and the provisions of the Agreement shall, despite the delivery of this transfer, continue in full force and effect.

DATED as of the 31st day of March, 2008.

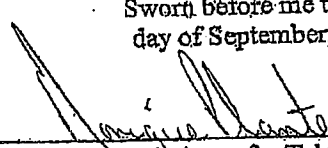
GRANT FOREST PRODUCTS INC.

By: 
Title: Executive Vice President

By: _____
Title: _____

TAB D

This is Exhibit "D" 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.

First Lien Agents

TO: GRANT FOREST PRODUCTS INC.

AND TO: PETER GRANT SR.

RE: Sale by Grant Forest Products Inc. to Peter Grant Sr. of the Sold 2008 Refund (as defined by the Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 (the "Agreement") between Peter Grant Sr., as purchaser, and Grant Forest Products Inc., as vendor, as such Sold 2008 Refund may be adjusted pursuant to the Agreement

AND RE: Credit agreement dated as of October 26, 2005 among Grant Forest Products Inc., Grant U.S. Holdings GP (formerly Grant U.S. Holdings LLP), Grant Forest Products Sales Inc., Grant Alberta Inc., Southeast Properties LLC (formerly Southeast Properties Inc.), Grant Allendale LP (formerly Grant Allendale Inc.), Grant Clarendon LP (formerly Grant Clarendon Inc.), The Toronto-Dominion Bank as Canadian Administrative Agent, Toronto Dominion (Texas) LLC, as U.S. Administrative Agent, and the lenders referred to therein (as amended on March 21, 2007, *inter alia*, to include Grant US Sales Inc. as a guarantor) (as the same may be further supplemented, amended or otherwise modified or restated from time to time, the "Credit Agreement")

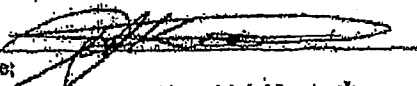
PARTIAL DISCHARGE AND RELEASE OF INTEREST

WHEREAS Grant Forest Products Inc. is selling the Sold 2008 Refund (as defined by the Agreement) to Peter Grant Sr. and has requested from the undersigned as agents (collectively, the "Agents") pursuant to the Credit Agreement, this agreement pursuant to Section 10.04 of the Credit Agreement;

NOW THEREFORE the undersigned Agents hereby discharge from any and all present and future security now or hereafter held by them the Sold 2008 Refund (as defined by the Agreement) (as adjusted from time to time in accordance with the Agreement) and all proceeds thereof and hereby release any and all their respective present and future interests therein and in all proceeds thereof.

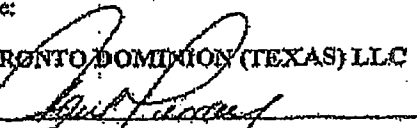
DATED as of the 31st day of March, 2008.

THE TORONTO-DOMINION BANK *as Agent*

By: 
Title:

Ronald J. Kowpak
By: Vice President, Loan Syndications - Agency
Title:

TORONTO DOMINION (TEXAS) LLC

By: 
Title:

IAN MURRAY
By: AUTHORIZED SIGNATORY
Title:

Second Lien Agents

TO: GRANT FOREST PRODUCTS INC.

AND TO: PETER GRANT SR.

RE: Sale by Grant Forest Products Inc. to Peter Grant Sr. of the Sold 2008 Refund (as defined by the Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 (the "Agreement")) between Peter Grant Sr., as purchaser, and Grant Forest Products Inc., as vendor, as such Sold 2008 Refund may be adjusted pursuant to the Agreement

AND RE: Second Lien Credit Agreement dated as of March 21, 2007 among Grant U.S. Holdings GP (formerly Grant U.S. Holdings LLP), as borrower, Grant Forest Products Inc., Grant Forest Products Sales Inc., Grant Alberta Inc., Southeast Properties LLC (formerly Southeast Properties Inc.), Grant Allendale LP (formerly Grant Allendale Inc.), Grant Clarendon LP (formerly Grant Clarendon Inc.) and Grant US Sales Inc., as guarantors, The Toronto-Dominion Bank, as Canadian Collateral Agent; Toronto Dominion (Texas) LLC, as Administrative Agent and U.S. Collateral Agent, and the lenders referred to therein (as the same may be amended, restated, supplemented or replaced from time to time, the "Credit Agreement")

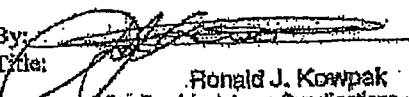
PARTIAL DISCHARGE AND RELEASE OF INTEREST

WHEREAS Grant Forest Products Inc. is selling the Sold 2008 Refund (as defined by the Agreement) to Peter Grant Sr. and has requested from the undersigned as agents (collectively, the "Agents") pursuant to the Credit Agreement, this agreement pursuant to Section 10.04 of the Credit Agreement;

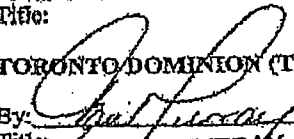
NOW THEREFORE the undersigned Agents hereby discharge from any and all present and future security now or hereafter held by them the Sold 2008 Refund (as defined by the Agreement) (as adjusted from time to time in accordance with the Agreement) and all proceeds thereof and hereby release any and all their respective present and future interests therein and in all proceeds thereof.

DATED as of the 31st day of March, 2008,

THE TORONTO-DOMINION BANK *as Agent*

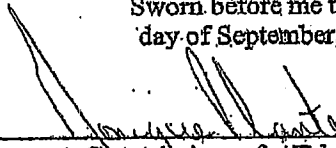
By: 
 Title: Ronald J. Kowpak
 Vice President, Loan Syndications - Agency

TORONTO DOMINION (TEXAS) LLC

By: 
 Title: IAN MURRAY
 AUTHORIZED SIGNATORY

TAB E

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.

From: Jane Howe [mailto:jhowe@GFP-inc.com] On Behalf Of Peter Lynch
Sent: 19 June 2009 11:29 AM
To: Richard Swan
Cc: Peter Grant Jr; Peter Grant Sr; Peter Lynch
Subject: Tax Refund and Sales Agreement, March 31, 2008

Richard, attached is a copy of the transfer document as well as partial discharges relating to the purchase of the 2008 Tax Rebate.

Following the end of the financial quarter in which the 2008 tax rebate transaction was closed the Company and the Agent received strong objections to the transaction from two of our Lenders who felt that it should not have been proceeded with nor the releases given by the Agent without the express consent of the Lenders themselves. After a number of discussions no further formal action was or has since been taken by those Lenders.

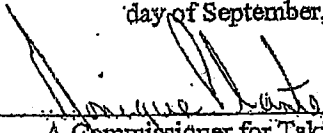
The issue of executing the transfer of a portion of the 2009 tax rebate to Peter Grant Sr., and the discharge of security was discussed in Q1, 2009, by both myself and our CFO at the time (Eric Davis) with the First and Second Lien Agent. We were advised that the Agent would not provide discharges without the direct authority of the requisite number of First and Second Lien Lenders. TD Bank also indicated that in its position as one of the First Lien Lenders it would not be supportive of the request. The Company was headed for a default of the financial covenants under its Credit Agreements at the end of Q1, 2009 at the latest and the Company did not provide a written request to the First and Second Lien Agents (which at that time were one and the same - TD Bank) for discharges of security with respect to the portion of the 2009 tax rebate to be purchased by Peter Grant Sr.

This was discussed at various times directly with Peter Grant Sr., and our Board of Directors, by both myself and our CFO, Eric Davis.

Regards
Peter

TAB F

This is Exhibit "F" 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.

January 15, 2009

Mr. Peter Grant Sr.
181 Bay Street
Suite 1520
Toronto, ON M5J 2T3

Dear Mr. Grant:

Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 between Peter Grant Sr. and Grant Forest Products Inc. (the "Agreement")

Grant Forest Products Inc. (the "Vendor") refers to the Agreement. All words capitalized in this letter have the meanings specified by the Agreement.

The Vendor confirms our agreement that the parties shall not make the adjustment referred to in section 8.03 of the Agreement with respect to exchange rate fluctuations and therefore the amount of the Sold 2009 Refund shall be reduced so that the fair market value of the Sold 2009 Refund is equivalent to the 2009 Purchase Price Deposit previously paid by the Purchaser, based on the Discount Rate in effect on January 2, 2009 and without increasing the amount of the Sold 2009 Refund due to the payment of the 2009 Purchase Price Deposit prior to the transfer of the Sold 2009 Refund. Accordingly, the 2009 Purchase Price shall be Cdn. \$10,270,947 (which, based on the January 2, 2009 exchange rate, was equivalent to US \$8,843,802) and the amount of the Sold 2009 Refund shall be the amount in Cdn. dollars, the present value of which, based on such Discount Rate, is Cdn. \$10,270,947.

Please sign and return the enclosed copy of this agreement to reflect your agreement to the foregoing.

Yours very truly,

GRANT FOREST PRODUCTS INC.
By:

Title:

Peter M. Lynch
Executive Vice President

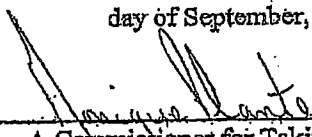
Peter Grant Sr. hereby agrees to the foregoing.

DATED the day of January, 2009.

Peter Grant Sr.

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 etc.
Expires May 7, 2011.

Bennett Jones LLP

3400 One First Canadian Place, PO Box 180
Toronto, Ontario, Canada M5X 1A4
Tel: 416.863.1200 Fax: 416.863.1716
www.bennettjones.ca

Richard B. Ewen
Direct Line: 416.777.7479
e-mail: ewenr@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.

W31572064189700001037206571

CALGARY • TORONTO • EDMONTON

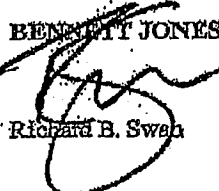
June 19, 2009
Page Two

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,

BENEFIT JONES LLP


Richard B. Swan

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

AFFIDAVIT OF PETER J. GRANT SR.
(Sworn September 8, 2009)

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, ON M5X 1A4

Richard B. Swan (LSUC No. 32076A)
Telephone: (416) 777-7479
Facsimile: (416) 863-1716

Lawyers for Peter J. Grant Sr.

TAB 2

Court File No. CV -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

AFFIDAVIT OF BENJAMIN MONTGOMERY

(Sworn September 14, 2009)

I, Benjamin Montgomery, of the City of Vancouver, in the Province of British Columbia, business executive, MAKE OATH AND SAY:

1. I am a Vice President & Director of TD Securities, the wholesale banking division of The Toronto-Dominion Bank ("TD Bank"), working in our corporate credit group. Our group has been actively involved in the administration of the secured loans of TD Bank to Grant Forest Products Inc. ("GFPI") and in respect of the involvement of TD Bank as the Agent under the First Lien Credit Agreement (the "First Lien Agent") and later, as Agent under the Second Lien Credit Agreement (the "Second Lien Agent" or together, the "Agents"), including structuring, negotiating terms and documentation, through syndication and administration of the secured loans of the First Lien Lenders and the Second Lien Lenders and, as such, have personal knowledge of the matters to which I depose in this affidavit. Where facts stated in this affidavit are not based on my personal knowledge, I have stated the source of my information and in all such cases, I verily believe such facts to be true.

2. I have read the affidavit of Peter J. Grant Sr. sworn on September 8, 2009 (the "Grant Affidavit") and this affidavit is sworn in response to the Grant Affidavit.

- 2 -

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.

- 3 -

8. Accordingly, the Agreement was drafted so as to comply with, among others, the provisions of the Credit Agreements which are excerpted and attached to this affidavit as Exhibits A and B which include the following substantive elements:

- (a) The Credit Agreements prohibit financing by way of issuance of securities by GFPI without consent of the lenders (see section 9.04(4) of each of the Credit Agreements);
- (b) The Credit Agreements permit sales of assets up to the aggregate annual amount of \$10 million (see section 9.04(1)(c) of each of the Credit Agreements);
- (c) The Credit Agreements did not require the proceeds of any such permitted sales to be paid on account of the loans because only proceeds of assets sales exceeding \$25 million were required to be repaid on the loans (see section 6.03(1)(a) of each of the Credit Agreements); and
- (d) The Credit Agreements prohibited GFPI from granting security except Permitted Encumbrances (see section 9.04(9) of each of the Credit Agreements).

9. Because of these provisions and the business purpose of the Agreement, as it was "devised and structured", the Agreement contains the following express provisions:

- (a) The transactions contemplated by the Agreement are not an injection of equity but, instead are structured as sales of assets belonging to GFPI, namely portions of 2008 and 2009 tax refunds (the "2008 Refund" and the "2009 Refund" respectively) so that the proceeds paid could be retained and used by GFPI in its business;
- (b) The value of interests sold in the 2008 Refund and the 2009 Refund is each limited to \$10 million;
- (c) The sale of the 2008 Refund was completed immediately on closing in 2008 but the sale of the 2009 Refund was expressly deferred until the 2009 Closing scheduled to occur on January 2, 2009;

- 4 -

(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;

502 (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;

501 (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

502 (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.

- 5 -

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

- 6 -

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

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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

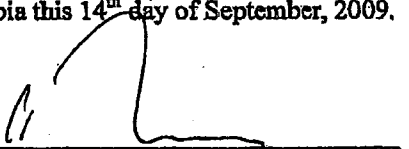
23. The Agreement was executed in March 2008 contemplating a transfer of the 2009 Refund to Mr. Grant only on the delivery of transfer to him in 2009. Mr. Grant expressly obtained no legal or beneficial interest in the 2009 Refund until the transfer was delivered.

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.

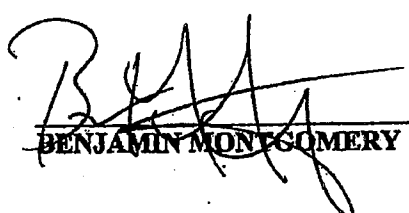
26. This affidavit is sworn in response to the Grant Affidavit and for no improper purpose.

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

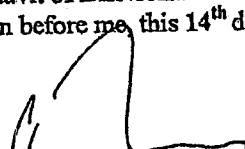
CONRAD REGO
Barrister & Solicitor
McCarthy Tétrault LLP
1300 - 777 DUNSMUIR STREET
VANCOUVER, B.C. V7Y 1K2
DIRECT 604-643-5682



BENJAMIN MONTGOMERY

TAB A

This is Exhibit "A" referred to in the
Affidavit of BENJAMIN MONTGOMERY
sworn before me, this 14th day of September, 2009


A COMMISSIONER FOR TAKING AFFIDAVITS

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- (vi) the aggregate amount at which any shares of such Person that are redeemable or retractable at the option of the holder of such shares (except where the holder is such Person) may be redeemed or retracted prior to the U.S. Non-Revolving Term Facility Maturity Date for cash or obligations constituting Debt or any combination thereof; and
- (vii) the Aggregate Exposure of such Person;

provided, however, that there will not be included for the purpose of this definition any obligation that is on account of (A) reserves for deferred income taxes or general contingencies, (B) minority interests in Subsidiaries, or (C) trade accounts payable and accrued liabilities (including contract loans and income taxes payable) incurred in the ordinary course of business.

"Default" has the meaning set forth in Schedule A;

"Deposit Amount" has the meaning set forth in Section 5.02(12).

"Depreciation Expense" means, for any period with respect to any Person, depreciation, amortization, depletion and other like reductions to income of such Person for such period not involving any outlay of cash.

"Disposition" means, with respect to a Person, any sale, assignment, transfer, conveyance, lease, licence or other disposition of any nature or kind whatsoever of any Property or of any right, title or interest in or to any Property that is out of the ordinary course of business of such Person, and the verb "Dispose" has a corresponding meaning.

"Disposition Trigger Event" means any Disposition by a Restricted Party (other than a Disposition to another Restricted Party), provided, however, that (i) any such Disposition in respect of Net Proceeds up to an aggregate amount not to exceed US \$25,000,000 for each financial year of the Canadian Borrower will not constitute a Disposition Trigger Event, and (ii) any such Disposition will not constitute a Disposition Trigger Event if the relevant Restricted Party notifies the Administrative Agent within 30 days after such Disposition that it plans to reinvest the Net Proceeds of such Disposition in Capital Expenditures as promptly as practicable, but in any event within 180 days after such Disposition; provided further that, if a Restricted Party delivers a notice with respect to a Disposition as contemplated by clause (ii) above, and if, on the expiration of the 180-day period less than all the Net Proceeds of such Disposition have been reinvested or applied as provided above, then a Disposition Trigger Event will be deemed to have occurred at the expiration of such 180-day period with Net Proceeds equal to the Net Proceeds of such Disposition that have not been reinvested or applied.

"Distribution" means (i) any payment, declaration of dividend or other distribution, whether in cash or Property, (but expressly excluding any distribution by way of the payment of dividends by the issuance of equity securities of an issuer) to any holder of shares of any class of any Borrower or any other Restricted Party, (ii) any repurchase, redemption, retraction or other retirement or purchase for cancellation of shares of any Borrower or any other Restricted Party, or of any options, warrants or other rights to acquire any of such shares, or (iii) any payment or repayment of any advance, loan, extension of credit, capital contribution to, or guarantee of any obligation of, any Person that holds Equity of any Borrower or any other Restricted Party; but, in each case, excludes any such payments made by a Restricted Party to any other Restricted Party and amounts prepaid to employees of a Restricted Party for ordinary course employee expenses.

"Documentation" means all systems, user, technical or other documentation or information (including any input or output formats, program listings, narrative descriptions, operating instructions or manuals, specifications, user guides and systems, user or technical manuals) that have been, are or may be provided in

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"Exposure" has the meaning set forth in the Aggregate Repricing Agreement and, where applicable, is calculated in the manner specified by the Aggregate Repricing Agreement.

"Federal Funds Effective Rate" means, for any day, a fluctuating rate of interest expressed as a percentage rate *per annum* equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers as published for such day (or, if such day is not a Business Day, for the preceding Business Day) by the Federal Reserve Bank of New York or, for any day on which that rate is not published for that day by the Federal Reserve Bank of New York, the simple average of the quotations for that day for such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it.

"Final Maturity Date" means (i) with respect to the Revolving Facility, the Revolving Facility Maturity Date, and (ii) with respect to the U.S. Non-Revolving Term Facility, the U.S. Non-Revolving Term Facility Maturity Date.

"Financial Assistance" means, without duplication and with respect to any Person, all loans granted by that Person and guarantees or Contingent Obligations incurred by that Person for the purpose of or having the effect of providing financial assistance to another Person or Persons, including letters of guarantee, letters of credit, legally binding comfort letters or indemnities issued in connection therewith, endorsements of bills of exchange (other than for collection or deposit in the ordinary course of business), obligations to purchase assets regardless of the delivery or non-delivery thereof and obligations to make advances or otherwise provide financial assistance to any other Person; provided that "Financial Assistance" shall not include amounts prepaid to employees of a Person for ordinary course employee expenses, or amount loaned to employees to finance their purchases of houses up to the principal amount of U.S. \$150,000 per loan and up to an aggregate principal amount of U.S. \$500,000 for all such housing loans.

"Financing" means, with respect to any Person, the raising of funds by issuing debt obligations, including convertible or exchangeable debt obligations (but excluding Subordinated Debt) or by borrowing from a lender or other financial institution, or by issuing securities (however designated, whether voting or non-voting or whether certificated or non-certificated) of capital of such Person and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, such Person.

"Footner Buyout" means the acquisition by the Canadian Borrower (or any of the other Restricted Parties) of all or any portion of the 50% equity interest in the Footner Joint Venture currently owned by Ainsworth Lumber Co. Ltd. or one or more of its Subsidiaries or Affiliates, and the shares, currently owned by Ainsworth Lumber Co. Ltd. or one or more of its Subsidiaries or Affiliates, of Footner Forest Products Ltd., the owner of the assets comprising the Footner Mills located in High Level, Alberta.

"Footner Buyout Financing" has the meaning set forth in clause (xiii) of the definition of Permitted Encumbrances.

"Footner Joint Venture" means the unincorporated joint venture in the oriented strand board mill, in High Level, Alberta, also known as the "Footner Mill", owned equally by the Canadian Borrower and Ainsworth Lumber Co. Ltd. or one or more of its Subsidiaries established pursuant to the Footner Joint Venture Agreement.

"Footner Joint Venture Agreement" means the memorandum of agreement dated December 9, 1999 between Ainsworth Lumber Co. Ltd. and Grant Forest Products Corp. together with the assignment agreement relating thereto made as of December 9, 1999 between Grant Forest Products Corp. and the Canadian

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6.02 Mandatory Repayment - U.S. Non-Revolving Term Facility

The U.S. Borrower will repay in full the outstanding principal amount of all Loans and other Obligations under the U.S. Non-Revolving Term Facility on or before the U.S. Non-Revolving Term Facility Maturity Date.

6.03 Additional Repayment and Commitment Reduction on Dispositions and Financings - Revolving Facilities and U.S. Non-Revolving Term Facility

(1) (a) Except as otherwise provided in this Section 6.03, if a Restricted Party receives Net Proceeds in the form of Cash or Cash Equivalents from a Disposition that gives rise to a Disposition Trigger Event, or from insurance proceeds pursuant to Section 9.01(8) hereof, which, in accordance with this Agreement, are payable to the Lenders to repay the Credit Facilities, the applicable Borrower will have an obligation under this Section 6.03 to make a repayment under the Revolving Facilities and the U.S. Non-Revolving Term Facility, on a *pro rata* basis, in an amount equal to such Net Proceeds in the form of Cash or Cash Equivalent. The applicable Borrower will notify the Administrative Agent in writing of any such mandatory prepayment required to be made pursuant to this Section 6.03(1) at least five Business Days prior to the date of such prepayment. Each such notice will specify the date of such prepayment and the amount of such prepayment. The Administrative Agent will promptly notify each Lender of the contents of the Borrower's prepayment notice and of such Lender's *pro rata* share of the prepayment. Notwithstanding the foregoing and subject to paragraph (b), the U.S. Borrower will not be required to make any prepayment of the U.S. Non-Revolving Term Facility pursuant to this Section 6.03 on or prior to the fifth anniversary of the date of the last Drawdown of the U.S. Non-Revolving Term Facility (the "Fifth Anniversary") to the extent that the amount thereof, when aggregated with all prior mandatory prepayments of the U.S. Non-Revolving Term Facility, would exceed 25% of the total principal amount of the U.S. Non-Revolving Term Facility advanced; provided that such excess amount which relates exclusively to the insurance proceeds referred to in paragraph (b) of the definition of Net Proceeds which would have been applied to prepayment of the U.S. Non-Revolving Term Facility but for this sentence of Section 6.03(1) will be deposited by the applicable Borrower into a designated cash collateral account maintained with the Administrative Agent (or maintained with such other Person as otherwise directed by the Administrative Agent) until so applied on the Business Day immediately following the Fifth Anniversary.

(b) A Disposition Trigger Event will constitute an event requiring the U.S. Borrower to, within five Business Days following any Disposition Trigger Event, make an offer to the Lenders, by notice to the Administrative Agent, to prepay an aggregate principal amount of the U.S. Non-Revolving Term Facility equal to the applicable *pro rata* amount of Net Proceeds resulting from such Disposition Trigger Event, and such amount will be applied in the manner specified in Section 6.03(2). Any failure of the U.S. Borrower to make such offer or to effect such prepayment following acceptance of such offer will constitute an Event of Default under this Agreement. If any Lender declines such offer, the U.S. Borrower shall be entitled to retain the applicable amount.

(2) Subject to Section 6.03(1), each repayment under this Section 6.03 will be applied against the repayments of principal required under Section 6.03(1) without regard to the respective maturity dates of any Credit Facility, and each such repayment will be applied to, and will permanently reduce the Commitment of each Lender in respect of the Revolving Term Facilities and the U.S. Non-Revolving Term Facility, on a *pro rata* basis, by the amount of the Lender's Applicable Percentage of such repayment. If the applicable Borrower by reason of any such repayment, reduction or cancellation (a) pays any LIBO Rate Loans prior to the end of the applicable Interest Period, the Borrower will compensate the Lenders for any loss or expense that the Lenders incur as a result thereof, including any breakage costs, or (b) pays any Bankers' Acceptances or BA Equivalent Notes prior to their respective maturity dates or discharges its obligation to the Issuing Bank in respect of outstanding Letters of Credit, such amount will be paid as collateral to the Administrative

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(4) Compliance Certificate. A Compliance Certificate in the form of Schedule 1.01(a) concurrently with the delivery of the financial statements referred to in Sections 9.03(1) and (2), commencing with the first fiscal quarter end after the date hereof.

(5) Business Plan. As soon as available and in any event within 60 days after the end of its fiscal year, provide the Administrative Agent with a consolidated detailed business plan for the Canadian Borrower for the following five years (the "Business Plan"), detailed financial projections and capital budgets from the date of delivery of such financial projections and capital budgets to the Credit Facilities, with a description of all assumptions used in respect of the preparation of the Business Plan, including the financial projections, capital budgets and all other future oriented financial information; provided, however, at no time will such financial projections and capital budgets be less than five years, in each case consisting of a balance sheet, statement of income and retained earnings and statement of changes of cash flow for such year.

(6) Notification Respecting Debt. Promptly notice of any amendment to, or waiver of, any material provisions of any agreement respecting Debt of the Borrowers or of any of their Subsidiaries, including any provision relating to the rate of interest payable on such Debt, the amount of Debt that may be incurred under such agreement, the term of such Debt, the security therefor or events of default or the maintenance of financial ratios thereunder.

(7) Notification of Actions. Promptly notice of any legal action taken by any creditor (other than the Lenders) to recover amounts outstanding respecting Debt of any Borrower or any Guarantor.

(8) Other Information. Promptly such other information as it may reasonably request respecting any Borrower or any Guarantor, or, to the extent that the Borrowers are not prevented from providing such information by contract or undertaking entered into with or provided to any other Person, respectively, any other corporation, partnership, limited partnership or other entity in which any Borrower or any Guarantor has any financial interest provided that the Administrative Agent will maintain the confidentiality of all information it receives in accordance with usual requirements of banker/customer confidentiality and does not disclose or use it except for the purposes of this Agreement.

(9) Notice of Change. Without limiting the generality of Section 9.03(8), promptly (i) notice of any additional Relevant Jurisdiction in respect of any Borrower or any Guarantor, and (ii) notice of any change (financial or otherwise) in the business, operations or condition (financial or otherwise) of any Borrower or any Guarantor that has caused or may cause a Material Adverse Change.

(10) Hedge Reporting. The Borrowers on their own behalf and on behalf of other Restricted Parties shall deliver to the Administrative Agent (or such other person designated by the Administrative Agent) a certificate setting out the details of each Hedge Arrangement forthwith upon entering into a Hedge Arrangement, with each such certificate also setting out the details of all then outstanding Hedge Arrangements and also certifying in relation to all Hedge Arrangements that they comply with the limitations set forth in Section 9.04(13).

9.04 Negative Covenants

So long as this Agreement is in force and except as otherwise permitted by the prior written consent of the Required Lenders, each Borrower will not, and will ensure that each Restricted Party will not:

(1) Disposition of Property. Dispose of, in one transaction or in a series of transactions, all or any part of its Property, whether now or hereinafter acquired, except for:

(a) the Bush Lots;

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- (b) Property sold by one Restricted Party to another Restricted Party;
- (c) Property sold for fair market value, provided that the total amount of the gross proceeds derived from all such Dispositions made in any single fiscal year of the Canadian Borrower does not in the aggregate exceed U.S. \$10,000,000; and
- (d) Dispositions made in accordance with customary trade terms of tangible personal property that would reasonably be considered to be the subject matter of Dispositions by it in the normal course of its business for the purposes of carrying on the same or Dispositions of tangible personal property that is worn out, obsolete or no longer useful for the purpose of carrying on its business.

(2) No Consolidation, Amalgamation, etc. Except with a Borrower or Borrowers or with or as between Guarantors, consolidate, amalgamate or merge with any other Person, enter into any corporate reorganization or other transaction or series of transactions intended to effect or otherwise permit a change in its existing corporate or capital structure, in each case whereby all or substantially all of its undertaking or assets would become the property of another Person, liquidate, wind-up or dissolve itself, or permit any liquidation, winding-up or dissolution of any other Guarantor; provided that with respect to any such transaction with a Borrower or Borrowers or with or as between Guarantors no such transaction is permitted if (i) such event may result in the assets of the Borrower or a Guarantor becoming subject to an Encumbrance (other than a Permitted Encumbrance), (ii) such event may result in the occurrence of a Default or Event of Default, (iii) a Default or an Event of Default has or will have occurred and be continuing, (iv) the Person resulting from such transaction is not incorporated or organized under the laws of Canada or a province or territory thereof or the laws of any State of the United States, (v) the Person resulting therefrom is not bound by the Obligations of the Borrowers or Guarantors, and (vi) the Borrowers are unable to deliver to the Administrative Agent an opinion of Borrowers' counsel, acceptable to the Administrative Agent, acting reasonably, that such transaction complies with applicable Requirements of Law.

(3) No Change of Name. Change its name without providing the Administrative Agent with 30 days' prior written notice thereof.

(4) No Financings. Create, incur, assume or permit any Debt (including Debt of the Footner Joint Venture) to remain outstanding, other than Permitted Debt or complete any Financings (other than the Footner Buyout Financing).

(5) No Investments. Other than a Permitted Investment, make, directly or indirectly, any Investment except the Borrower or any Guarantor may make an Investment if:

- (a) no Event of Default or Default has occurred and is continuing at the time such Investment is made or would result from the making of such Investment; and
- (b) such Investment is consistent in all material respects with the Business Plan for the fiscal year of the Canadian Borrower in which such Investment is made and is made using cash resulting from the operations of the Borrowers or a Guarantor;

provided that if the Investment is in a Person that is not a wholly-owned Subsidiary of any Borrower or a Guarantor, the aggregate of all such Investments will not exceed Cdn. \$10,000,000;

(6) No Change in Business. Other than the construction and operation of the Mills, engage, directly or indirectly, in a line of business that would be material and substantially different from those lines

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of business carried on by it as of the Closing Date, except that it may engage in any reasonable extension, development or expansion thereof or in any business ancillary thereto.

(7) No Financial Assistance. Give any Financial Assistance (other than to other Restricted Parties).

(8) No Distributions. Make any Distribution if (i) the Total Debt to Capitalization Ratio, based on the most recently completed fiscal quarter is, or would be after giving effect to the proposed Distribution, equal to or greater than 50%, or (ii) the Borrowers would not be entitled to make a Drawdown of U.S. \$1.00 under Credit Facilities after giving effect to the proposed Distribution, or (iii) if an Event of Default or Default has occurred and is continuing at the time such proposed Distribution is to be made or would result from the making of such Distribution; provided, however, that where the requirements of subparagraph (i), (ii) or (iii) do not prevent a Distribution from being made, the amount of the proposed Distribution will not exceed an amount determined in accordance with the following:

<u>Free Cash Flow</u>	<u>Debt: Capitalization 40 to 50%</u>	<u>Debt: Capitalization <40%</u>
<Cdn. \$30 million	nil	nil
Cdn. \$30 to Cdn. \$75 million	50% of Free Cash Flow	60% of Free Cash Flow
>Cdn. \$75 million	60% of Free Cash Flow	75% of Free Cash Flow

The foregoing restrictions on Distributions will not apply to any payments by the Canadian Borrower by way of dividends on its existing outstanding Preferred Shares in an aggregate dividend amount not exceeding Cdn. \$6,000,000 for each fiscal year so long as no Event of Default or Default has occurred and is continuing at the time any such Preferred Shares dividend Distribution is made or would result from the making of such Preferred Shares dividend Distribution.

(9) No Encumbrances. Create, incur, assume or permit to exist or permit any Restricted Party to create, incur, assume or permit to exist any Encumbrance upon any of its Property (including upon any of the Property of the Footner Joint Venture) except Permitted Encumbrances.

(10) Capital Expenditures. In any fiscal year of the Canadian Borrower beginning on or after January 1, 2006 make, or enter into any agreement which would require it to make, any Capital Expenditures in excess of the Permitted Capital Expenditures.

(11) No Change to Year End. Make any change to its fiscal year end from December 31 in each year.

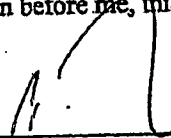
(12) No Continuance. Continue into any other jurisdiction.

(13) Hedge Arrangements. Enter into or permit to be outstanding at any time any Hedge Arrangement unless it meets the requirements of paragraphs (a) and (b) below:

- (a) such Hedge Arrangement is either (i) a rate swap, interest rate option, forward rate transaction, forward foreign exchange transaction or cross currency rate swap transaction entered into with a Lender or (ii) a Commodity Hedge Arrangement; and
- (b) such Hedge Arrangement is designed to protect the Restricted Party against fluctuations in currency exchange rates, interest rates or commodity prices and such Hedge Arrangement has been entered into by the Restricted Party *bona fide* and in good faith in the ordinary

TAB B

This is Exhibit "B" referred to in the
Affidavit of BENJAMIN MONTGOMERY
sworn before me, this 14th day of September, 2009


A COMMISSIONER FOR TAKING AFFIDAVITS

CONRAD REGO
Barrister & Solicitor
McCarthy Tétrault LLP
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VANCOUVER, B.C. V7Y 1K2
DIRECT 604-643-5682

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Administrative Agent by a certificate from the Independent Engineer, in form and substance satisfactory to the Administrative Agent.

"Credit Facility" means the Loans advanced and PIK Interest Amounts accrued under this Agreement.

"Debt" means, without duplication, with respect to any Person, all obligations that, in accordance with GAAP, would then be classified as a liability of such Person, and, without duplication, includes, with respect to such Person,

- (i) an obligation in respect of borrowed money or for the deferred purchase price of Property or services or an obligation that is evidenced by a note, bond, debenture or any other similar instrument;
- (ii) a transfer with recourse or with an obligation to repurchase, to the extent of the liability of such Person with respect thereto;
- (iii) an obligation under a Capital Lease;
- (iv) a reimbursement obligation or other obligation in connection with a bankers' acceptance or any similar instrument, or letter of credit or letter of guarantee issued by or for the account of such Person;
- (v) a Contingent Obligation to the extent that the primary obligation so guaranteed would be classified as "Debt" (within the meaning of this definition) of such Person;
- (vi) the aggregate amount at which any shares of such Person that are redeemable or retractable at the option of the holder of such shares (except where the holder is such Person) may be redeemed or retracted prior to the Maturity Date for cash or obligations constituting Debt or any combination thereof; and
- (vii) the Aggregate Exposure of such Person;

provided, however, that there will not be included for the purpose of this definition any obligation that is on account of (A) reserves for deferred income taxes or general contingencies, (B) minority interests in Subsidiaries, or (C) trade accounts payable and accrued liabilities (including contract loans and income taxes payable) incurred in the ordinary course of business.

"Default" means any event or condition that constitutes an Event of Default or that would constitute an Event of Default except for satisfaction of any condition subsequent required to make the event or condition an Event of Default, including giving of any notice, passage of time, or both.

"Depreciation Expense" means, for any period with respect to any Person, depreciation, amortization, depletion and other like reductions to income of such Person for such period not involving any outlay of cash.

"Disposition" means, with respect to a Person, any sale, assignment, transfer, conveyance, lease, license or other disposition of any nature or kind whatsoever of any Property or of any right, title or interest in or to any Property that is out of the ordinary course of business of such Person, and the verb "Dispose" has a corresponding meaning.

"Disposition Trigger Event" means any Disposition by a Restricted Party (other than a Disposition to another Restricted Party); provided, however, that (i) any such Disposition in respect of Net Proceeds up to an aggregate amount not to exceed \$25,000,000 for each financial year of GFT will not constitute a Disposition

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Trigger Event, and (ii) any such Disposition will not constitute a Disposition Trigger Event if the relevant Restricted Party notifies the Administrative Agent within 30 days after such Disposition that it plans to reinvest the Net Proceeds of such Disposition in Capital Expenditures as promptly as practicable, but in any event within 180 days after such Disposition; provided further that, if a Restricted Party delivers a notice with respect to a Disposition as contemplated by clause (ii) above, and if, on the expiration of the 180-day period less than all the Net Proceeds of such Disposition have been reinvested or applied as provided above, then a Disposition Trigger Event will be deemed to have occurred at the expiration of such 180-day period with Net Proceeds equal to the Net Proceeds of such Disposition that have not been reinvested or applied.

"Distribution" means (i) any payment, declaration of dividend or other distribution, whether in cash or Property, (but expressly excluding any distribution by way of the payment of dividends by the issuance of equity securities of an issuer) to any holder of shares of any class of the Borrower or any other Restricted Party, (ii) any repurchase, redemption, retraction or other retirement or purchase for cancellation of shares of the Borrower or any other Restricted Party, or of any options, warrants or other rights to acquire any of such shares, or (iii) any payment or repayment of any advance, loan, extension of credit, capital contribution to, or guarantee of any obligation of, any Person that holds Equity of the Borrower or any other Restricted Party; but, in each case, excludes any such payments made by a Restricted Party to any other Restricted Party and amounts prepaid to employees of a Restricted Party for ordinary course employee expenses.

"Documentation" means all systems, user, technical or other documentation or information (including any input or output formats, program listings, narrative descriptions, operating instructions or manuals, specifications, user guides and systems, user or technical manuals) that have been, are or may be provided in connection with Software and includes any corrections, replacements, modifications or releases thereof or thereto, whether distributed in print, magnetic, electronic, video or other format.

"EBITDA" means, with respect to any Person for any period, the Net Income of such Person for such period plus, without duplication and to the extent reflected as a charge in the statement of net income included in the financial statements of such Person:

- (i) all amounts deducted in the calculation thereof in respect of Depreciation Expense, and current and deferred taxes, net losses of Subsidiaries and any other losses incurred in respect of investments that are accounted for on an equity basis;
- (ii) Total Interest Expense;
- (iii) any extraordinary, non-recurring or unusual expenses or losses (including, whether or not otherwise includable as a separate item in such statement of net income, losses on sales outside of the ordinary course of business or on sales of Property of a Restricted Party which is leased back to any Restricted Party); and
- (iv) unrealized losses from Hedge Arrangements to the extent that they have been used in determining Net Income as a matter of GAAP;

less, without duplication and to the extent reflected as a credit in such statement of net income,

- (v) any reduction of deferred taxes;
- (vi) amounts included in the calculation thereof in respect of net profits of Subsidiaries and any other profits in respect of investments that are accounted for on an equity basis;

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under Section 5.03(2)), (x) any United States withholding tax unless such withholding taxes would not have been imposed but for a change in law, rule, regulation or treaty or in the published and official administration, interpretation or application thereof by any Governmental Authority occurring after such Lender becomes a party hereto (or designates a new lending office) (such taxes, "Statutory Change Withholding Tax" and such changes, "Statutory Change in Law"), except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such Statutory Change Withholding Tax pursuant to Section 5.02, and (y) any withholding tax that is attributable to such Lender's failure (other than as a result of a Statutory Change in Law) to comply with Section 5.02(6).

"Exposure" has the meaning set forth in the Aggregate Repricing Agreement and, where applicable, is calculated in the manner specified by the Aggregate Repricing Agreement.

"Federal Funds Effective Rate" means, for any day, a fluctuating rate of interest expressed as a percentage rate *per annum* equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers as published for such day (or, if such day is not a Business Day, for the preceding Business Day) by the Federal Reserve Bank of New York or, for any day on which that rate is not published for that day by the Federal Reserve Bank of New York, the simple average of the quotations for that day for such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it.

"Financial Assistance" means, without duplication and with respect to any Person, all loans granted by that Person and guarantees or Contingent Obligations incurred by that Person for the purpose of or having the effect of providing financial assistance to another Person or Persons, including letters of guarantee, letters of credit, legally binding comfort letters or indemnities issued in connection therewith, endorsements of bills of exchange (other than for collection or deposit in the ordinary course of business), obligations to purchase assets regardless of the delivery or non-delivery thereof and obligations to make advances or otherwise provide financial assistance to any other Person; provided that "Financial Assistance" shall not include amounts prepaid to employees of a Person for ordinary course employee expenses, or amount loaned to employees to finance their purchases of houses up to the principal amount of \$150,000 per loan and up to an aggregate principal amount of \$500,000 for all such housing loans.

"Financing" means, with respect to any Person, the raising of funds by issuing debt obligations, including convertible or exchangeable debt obligations (but excluding Subordinated Debt) or by borrowing from a lender or other financial institution, or by issuing securities (however designated, whether voting or non-voting or whether certificated or non-certificated) of capital of such Person and any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, such Person.

"First Lien Credit Agreement" means the Credit Agreement (as amended as of the date hereof and as further amended, restated, refinanced, supplemented or otherwise modified from time to time in accordance with the Intercreditor Agreement) dated as of October 26, 2005 among GFP, the Borrower, the other Guarantors party thereto, Toronto-Dominion Bank, as administrative agent for certain lenders, Toronto Dominion (Texas) LLC, as administrative agent for certain lenders, and the other parties thereto.

"Footner Buyout" means the acquisition by GFP (or any of the other Restricted Parties) of all or any portion of the 50% equity interest in the Footner Joint Venture currently owned by Alnsworth Lumber Co. Ltd. or one or more of its Subsidiaries or Affiliates, and the shares, currently owned by Alnsworth Lumber Co. Ltd. or one or more of its Subsidiaries or Affiliates, of Footner Forest Products Ltd., the owner of the assets comprising the Footner Mills located in High Level, Alberta.

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applicable lenders thereunder consent to such prepayment) or all obligations under the First Lien Credit Agreement have been paid in full (excluding contingent indemnification obligations not yet due and payable).

6.03 Mandatory Prepayments

(1) (a) Except as otherwise provided in this Section 6.03, if a Restricted Party receives Net Proceeds in the form of Cash or Cash Equivalents from (i) a Disposition that gives rise to a Disposition Trigger Event, or from Insurance proceeds pursuant to Section 9.01(f) hereof, or (ii) the issuance of Equity (other than Equity contributions to provide required liquidity or fund construction of the Mills and Equity issuances to a Restricted Party or as part of the Permitted Restructuring) or Debt (other than Subordinated Debt, Debt issued under the First Lien Credit Agreement and Debt issued to a Restricted Party or as part of the Permitted Restructuring), the Borrower will have an obligation under this Section 6.03 to make a prepayment of the Loans and PIK Interest Amounts in an amount equal to such Net Proceeds in the form of Cash or Cash Equivalent. In addition, except as provided in Section 6.03(6), within 145 days after each fiscal year end, the Borrower will prepay the Loans and PIK Interest Amounts in an amount equal to the Excess Cash Flow Prepayment for such fiscal year. All such prepayments will be applied *pro rata* to the outstanding Loans and PIK Interest Amounts. The Borrower will notify the Administrative Agent in writing of any such mandatory prepayment required to be made pursuant to this Section 6.03(1) at least five Business Days prior to the date of such prepayment. Each such notice will specify the date of such prepayment and the amount of such prepayment. The Administrative Agent will promptly notify each Lender of the contents of the Borrower's prepayment notice and of such Lender's *pro rata* share of the prepayment. Notwithstanding the foregoing and subject to paragraph (b), the Borrower will not be required to make any prepayment pursuant to this Section 6.03 on or prior to the fifth anniversary of the date of the advance of the Loans (the "Fifth Anniversary") to the extent that the amount thereof, when aggregated with all prior mandatory prepayments pursuant to this Section 6.03 and all other prior mandatory repayments and prepayments of PIK Interest Amounts and principal of the Loans, would exceed 25% of the principal amount of the Credit Facility advanced; provided that the excess amount which relates exclusively to the Insurance proceeds referred to in paragraph (b) of the definition of Net Proceeds which would have been applied to prepayment of the Loans and PIK Interest Amounts but for this sentence of Section 6.03(1) will be deposited by the Borrower into a designated cash collateral account maintained with the U.S. Collateral Agent until so applied on the Business Day immediately following the Fifth Anniversary and all other amounts which would have been applied to prepayment of the Loans and PIK Interest Amounts but for this sentence of Section 6.03(1) will, subject to Section 6.03(1)(b), be paid on the Business Day immediately following the Fifth Anniversary without being required to be deposited in a cash collateral account.

(b) A Disposition Trigger Event will constitute an event requiring the Borrower to, within five Business Days following such event, make an offer to the Lenders, by notice to the Administrative Agent, to prepay the Loans and PIK Interest Amounts in the amount of such prepayment, and such amount will be applied in the manner specified in Section 6.03(2). Any failure of the Borrower to make such offer or to effect such prepayment following acceptance of such offer will constitute an Event of Default under this Agreement. If any Lender declines such offer, the Borrower shall be entitled to retain the applicable amount.

(2) The Borrower will pay to the Administrative Agent all accrued fees and other amounts, and accrued and unpaid interest in respect of the Loans (except for the PIK Interest Amounts other than as required by Section 6.03(1)(a)) to, but excluding, the effective date of any repayment or prepayment on the date of such repayment or prepayment.

(3) Section 6.03(1) will not apply upon the occurrence of and during the continuance of an Event of Default in which case all such Net Proceeds will forthwith be applied to pay down the Loans and PIK Interest Amounts, subject to Sections 6.03(5) and (6).

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certificates setting out the details of each Hedge Arrangement forthwith upon entering into a Hedge Arrangement, with each such certificate also setting out the details of all then outstanding Hedge Arrangements and also certifying in relation to all Hedge Arrangements that they comply with the limitations set forth in Section 9.04(13).

9.04 Negative Covenants

So long as this Agreement is in force and except as otherwise permitted by the prior written consent of the Required Lenders, neither GFP nor the Borrower will, and will ensure that each Restricted Party will not:

(1) Disposition of Property. Dispose of, in one transaction or in a series of transactions, all or any part of its Property, whether now or hereinafter acquired, except for:

- (a) the Bush Lots;
- (b) Property sold by one Restricted Party to another Restricted Party;
- (c) Property sold for fair market value, provided that the total amount of the gross proceeds derived from all such Dispositions made in any single fiscal year of GFP does not in the aggregate exceed \$10,000,000; and
- (d) Dispositions made in accordance with customary trade terms of tangible personal property that would reasonably be considered to be the subject matter of Dispositions by it in the normal course of its business for the purposes of carrying on the same or Dispositions of tangible personal property that is worn out, obsolete or no longer useful for the purpose of carrying on its business.

(2) No Consolidation, Amalgamation, etc. Except with the Borrower or with or as between Guarantors, consolidate, amalgamate or merge with any other Person, enter into any corporate reorganization or other transaction or series of transactions intended to effect or otherwise permit a change in its existing corporate or capital structure, in each case whereby all or substantially all of its undertaking or assets would become the property of another Person, liquidate, wind-up or dissolve itself, or permit any liquidation, winding-up or dissolution of any other Guarantor; provided that with respect to any such transaction with the Borrower or with or as between Guarantors no such transaction is permitted if (i) such event may result in the assets of the Borrower or a Guarantor becoming subject to an Encumbrance (other than a Permitted Encumbrance), (ii) such event may result in the occurrence of a Default or Event of Default, (iii) a Default or an Event of Default has or will have occurred and be continuing, (iv) the Person resulting from such transaction is not incorporated or organized under the laws of Canada or a province or territory thereof or the laws of any State of the United States; provided, in the case of the Borrower, that the Borrower must at all times continue to be organized under the laws of the United States, (v) the Person resulting therefrom is not bound by the Obligations of the Borrower or Guarantors, as applicable, (vi) the Borrower is unable to deliver to the Administrative Agent an opinion of Borrower's counsel, acceptable to the Administrative Agent, acting reasonably, that such transaction complies with applicable Requirements of Law or (vii) in the case of the Borrower, to the extent applicable, the Borrower is not the surviving entity. Notwithstanding the foregoing, GFP and its Subsidiaries may effect the Permitted Restructuring.

(3) No Change of Name. Change its name without providing the Administrative Agent with 30 days' prior written notice thereof (except that such notice shall be not fewer than five (5) Business Days if the change of name occurs as part of the Permitted Restructuring).

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(4) **No Financings.** Create, incur, assume or permit any Debt (including Debt of the Footner Joint Venture) to remain outstanding, other than Permitted Debt, or complete any Financings (other than the Footner Buyout Financing).

(5) **No Investments.** Other than a Permitted Investment, make, directly or indirectly, any Investment except the Borrower or any Guarantor may make an Investment if:

- (a) no Event of Default or Default has occurred and is continuing at the time such Investment is made or would result from the making of such Investment; and
- (b) such Investment is consistent in all material respects with the Business Plan for the fiscal year of the Borrower in which such Investment is made and is made using cash resulting from the operations of the Borrower or a Guarantor;

provided that if the Investment is in a Person that is not a wholly-owned Subsidiary (other than the Excluded Subsidiary) of the Borrower or a Guarantor, the aggregate of all such Investments will not exceed Cdn. \$10,000,000; provided further that the Restricted Parties may make nominal Investments in the Excluded Subsidiary in amounts satisfactory to the Administrative Agent.

(6) **No Change in Business.** Other than the construction and operation of the Mills, engage, directly or indirectly, in a line of business that would be material and substantially different from those lines of business carried on by it as of the Closing Date, except that it may engage in any reasonable extension, development or expansion thereof or in any business ancillary thereto.

(7) **No Financial Assistance.** Give any Financial Assistance (other than to other Restricted Parties).

(8) **No Distributions.** Make any Distribution; provided that if no Event of Default or Default has occurred and is continuing at the time such proposed Distribution is to be made or would result from the making of such Distribution, then Distributions may be made provided the aggregate Distributions in any fiscal year of GFP may not exceed an amount determined in accordance with the following:

<u>Ratio of Total Debt as at the last day of the then most recently ended fiscal quarter to EBITDA for the most recently ended four fiscal quarters</u>	<u>Maximum Distribution</u>
Greater than or equal to 4.00:1.00	Nil
Greater than or equal to 3.00:1.00 but less than 4.00:1.00	Cdn. \$6,000,000
Greater than or equal to 2.00:1.00 but less than 3.00:1.00	25% of Excess Cash Flow for the most recently completed annual fiscal period of GFP
Less than 2.00:1.00	50% of Excess Cash Flow for the most recently completed annual fiscal period of GFP

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(9) No Encumbrances. Create, incur, assume or permit to exist or permit any Restricted Party to create, incur, assume or permit to exist any Encumbrance upon any of its Property (including upon any of the Property of the Footner Joint Venture) except Permitted Encumbrances.

(10) Capital Expenditures. Make, or enter into any agreement which would require it to make, any Capital Expenditures in excess of the Permitted Capital Expenditures.

(11) No Change to Year End. Make any change to its fiscal year and from December 31 in each year.

(12) No Continuance. File articles of continuance in any Canadian jurisdiction after the date hereof.

(13) Hedge Arrangements. Enter into or permit to be outstanding at any time any Hedge Arrangement unless it meets the requirements of paragraphs (a) and (b) below:

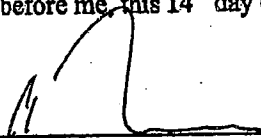
- (a) such Hedge Arrangement is either (i) a rate swap, interest rate option, forward rate transaction, forward foreign exchange transaction or cross currency rate swap transaction entered into with a lender which is party to the First Lien Credit Agreement or (ii) a Commodity Hedge Arrangement; and
- (b) such Hedge Arrangement is designed to protect the Restricted Party against fluctuations in currency exchange rates, interest rates or commodity prices and such Hedge Arrangement has been entered into by the Restricted Party *bona fide* and in good faith in the ordinary course of its business for the purpose of carrying on the same and not for speculative purposes.

(14) Location of Assets in Other Jurisdictions. Except for any Property being delivered to a customer in the ordinary course of business of such Restricted Party as part of the performance of its obligations or the provision of its services to such customer under a contract entered into with such customer in the ordinary course of business of such Restricted Party, and except for Property delivered to or stored in locations for reloading or storing to facilitate the sale and delivery thereof to a customer in the ordinary course of business, move any Property from a jurisdiction in which the Encumbrance of the Security over such Property is perfected to a jurisdiction where such Encumbrance is not perfected or where, after a temporary period allowing for registration in such other jurisdiction, such Encumbrance could become unperfected, or suffer or permit in any other manner any of its Property to not be subject to the Encumbrance of the Security or to be or become located in a jurisdiction in which the Encumbrance of the Security over such Property is not perfected, unless the applicable Restricted Party has first (a) given prior written notice thereof to the Administrative Agent, and (b) executed and delivered to the Administrative Agent all Security and all financing or registration statements in form and substance satisfactory to the Administrative Agent that the Administrative Agent or its counsel, acting reasonably, from time to time deem necessary or advisable to ensure that the Security at all times constitutes a perfected Encumbrance (subject only to Permitted Encumbrances), prior to all other Encumbrances of such Property other than Permitted Encumbrances that are *pari passu* or prior thereto, in such jurisdiction together with such supporting certificates, resolutions, opinions and other documents as the Administrative Agent, acting reasonably, may deem necessary or desirable in connection with such security and registrations.

(15) Non-Arm's Length Transactions. Except with a Restricted Party, enter into any Material Contract or material transaction between non-arm's length parties which is not entered into for fair market value and has not been approved by an independent committee of the board of directors of the Borrower or the Guarantor, as the case may be.

TAB C

This is Exhibit "C" referred to in the
Affidavit of **BENJAMIN MONTGOMERY**
sworn before me, this 14th day of September, 2009


A COMMISSIONER FOR TAKING AFFIDAVITS

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

Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 between Grant For... Page 1 of 2

McElcheran, Kevin

Subject: FW: Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 between Grant Forest Products Inc. as vendor and Peter Grant Sr. as purchaser

From: MacLaren, Sandi [mailto:Sandi.MacLaren@FMC-Law.com] On Behalf Of Walker, Ross
Sent: Monday, March 31, 2008 4:21 PM
To: Pieterse, Linda; O'Meara, Matthew
Subject: Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 between Grant Forest Products Inc. as vendor and Peter Grant Sr. as purchaser
Importance: High

Linda and Matt:

In accordance with your request, I confirm my view that the transactions contemplated by the above-noted agreement do not contravene the First Lien Credit Agreement dated as of October 28, 2005, as amended, or the Second Lien Credit Agreement dated as of March 21, 2007, assuming that:

1. the tax refunds being sold are being sold for fair market value; and
2. the total amount of the gross proceeds derived from all Dispositions (as defined by each of the Credit Agreements) made by Grant Forest Products Inc. and the other Restricted Parties (as defined by such Credit Agreements) in any single fiscal year of Grant Forest Products Inc. does not in the aggregate exceed US \$10 million.

Please confirm that the foregoing also reflects your views.

Thank you.

Ross Walker

Fraser Milner Casgrain LLP

1 First Canadian Place

100 King Street West

Toronto, ON M5X 1B2

Direct Line: 416-863-4743

Fax: 416-863-4592

sandi.maclaren@fmc-law.com

THIS MESSAGE IS INTENDED ONLY FOR THE ADDRESSEE. IT MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION. ANY UNAUTHORIZED DISCLOSURE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY US IMMEDIATELY SO THAT WE MAY CORRECT OUR INTERNAL RECORDS. PLEASE THEN DELETE THE ORIGINAL MESSAGE. THANK YOU

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

Proceeding commenced at Toronto

AFFIDAVIT OF BENJAMIN
MONTGOMERY
(SWORN SEPTEMBER 14, 2009)

McCarthy Tétrault LLP
Suite 5300, P.O. Box 48
Toronto Dominion Bank Tower
Toronto ON M5K 1E6

Kevin P. McElcheran
LSUC#: 22119H
Tel: (416) 601-7730
Fax: (416) 868-0673

Solicitors for the Toronto-Dominion
Bank
#654851

TAB 3

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")

REPLY AFFIDAVIT OF PETER J. GRANT SR.
(Sworn September 18, 2009)

I, Peter J. Grant Sr., of the City of Temiskaming Shores, in the Province of Ontario,
businessman, MAKE OATH AND SAY:

1. I am the Chairman and Chief Executive Officer of the applicant Grant Forest Products Inc. ("GFPI"). As such, I have personal knowledge of the matters to which I hereinafter depose. Where matters are not based on my personal knowledge, I have stated the source of my information and in all such cases verily believe it to be true.

Introduction

2. This affidavit is sworn in reply to the Affidavit of Benjamin Montgomery, a Vice-President and Director of TD Securities, sworn September 14, 2009 (the "Montgomery Affidavit"). I swore an earlier affidavit in this matter on September 8, 2009. I have used the defined terms that were employed in my September 8 affidavit in this affidavit.

3. In this reply affidavit, I have not commented on, or responded to, every statement in the Montgomery Affidavit, but should not be taken as necessarily agreeing with statements upon which I have not commented.

4. I am also obliged to say at the outset that I am not a lawyer and have not commented on the legal interpretation of agreements, or the purported legal effect of steps taken. I do not believe that Mr. Montgomery is a lawyer either, but must observe that he has in several paragraphs of his affidavit purported to interpret agreements. Even as a layman, I can observe that some of Mr. Montgomery's "legal conclusions" are inaccurate or are not "expressly stated" in the agreements to which he refers, despite his contentions. I note, for example, that, among others, the legal conclusions that he purports to draw in paragraphs 9(d), (h) and (i) are not "expressly stated" in the agreement to which he refers, nor are they at all apparent from the agreement.

Reply

5. In response to paragraph 6 of the Montgomery Affidavit, it is not clear to me why the non-core assets are relevant to the issue on this motion, but I am obliged to say that GFPI's decision to embark on the development of those assets was approved by the Board of Directors of GFPI on an unanimous basis, well before the First and Second Lien Credit Agreements, and were therefore fully known to the banking syndicates before they agreed to advance their funds.

6. In relation to paragraph 7 of the Montgomery Affidavit, I used the word "devised" in my first affidavit as a synonym for "developed", and I did not intend to say that there was anything clever or surreptitious vis-à-vis the banks. Indeed, the banks were fully aware of this agreement and, as described below, had input into its development.

7. Mr. Montgomery in paragraphs 8, 9, 13, 14, 23 and 24 of his Affidavit appears to be offering legal conclusions, in the absence of legal training. It is my understanding that that is the role of the Court on this motion.

8. As to paragraph 10 of the Montgomery Affidavit, which states that neither the Lien Agents nor banks were asked to approve or did approve the Agreement, I am informed by Ross Walker, the partner at Fraser Milner Casgrain LLP who drafted the Agreement, and believe, that the Lien Agents or their solicitors reviewed and commented upon drafts of the Agreement and provided specific input on the language of the Agreement. Moreover, the First and Second Lien Agents provided partial discharges in March 2008 and were clearly aware of and content with the Agreement at that time. I have no doubt that the First and Second Lien Agents, and the members of the banking syndicate, were also very content that GFPI would have the full use (commencing in March 2008) of the \$20 million purchase price that I paid for the purchase of the Sold 2008 and 2009 Refunds.

9. As to paragraphs 12 and 18 of the Montgomery Affidavit, the statements therein do not appear consistent with, or in the very least give a misleading impression when compared with, what is stated in Mr. Lynch's email of June 19, 2009 which is attached as Exhibit "E" to my September 8 Affidavit.

10. As to paragraphs 19-22 of the Montgomery Affidavit, the term sheet he references was not approved by me, and I never agreed to have GFPI retain the 2009 Sold Refund.

11. In this regard, and in respect of the supposition made by Mr. Montgomery in paragraph 25 of his affidavit that I "must have participated" in the decision not to complete the transfer of the 2009 Sold Refund, I can state unequivocally that I was never asked and never

gave, and would never have given, my consent to the non delivery of the Transfer or of the 2009 Sold Refund.

My Discussions with Independent Directors of the Board of GFPI

12. I have also personally spoken with the independent Directors of GFPI who served at the time the tax refund arrangement was approved by the Board on March 27, 2008.

13. I am informed by Mike Harris, a director of GFPI and the former Premier of Ontario, and believe, that the tax refund arrangement was approved by the directors based on a clear understanding and direction that it was "iron clad" that the tax refunds when received by the Company would be paid over to me. Mr. Harris informs me, and I believe, that it was also his clear understanding that my right to receive the tax refunds stood in front of the banks.

14. I am informed by Jamie Wallace, a director of GFPI, and believe, that in the context of the Board approval of the proposed transaction, his understanding and indeed insistence was that my right to receive the tax refund I was purchasing would rank ahead of any claims of the banking syndicate.

15. I am also informed by William Stinson, a director of GFPI, and believe that Mr. Stinson recalls that Mr. Wallace was very obdurate in insisting that my right to receive the tax refunds should stand ahead of the bank's claims, and that was the basis of Mr. Stinson's approval of the transaction.

16. I am informed by Per Brunes, a director of GFPI, and believe that the directors' approval of the arrangement was accompanied by the direction of the Board that the transaction would only proceed if it was a certainty that I would receive the relevant portions of the tax refunds

when they were received by the Company, in priority to any other claims. The transaction was a means of getting money into the Company to assist it with cash-flow, before the tax refunds were actually received.

17. My own comprehension of what was communicated to and by the Board of Directors in respect of the tax refund arrangement is the same as that of the directors described above, and it was on that basis only that I entered into the transaction.

18. This affidavit is sworn in respect of my motion concerning the Agreement, and for no improper purpose.

SWORN BEFORE ME at the City of
Temiskaming Shores, in the Province of
Ontario, this 18th day of September,
2009.


A COMMISSIONER FOR OATHS
in and for the Province of Ontario


PETER J. GRANT SR.

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

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

AFFIDAVIT OF PETER J. GRANT SR.
(Sworn September 18, 2009)

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, ON M5X 1A4

Richard B. Swan (LSUC No. 32076A)
Telephone: (416) 777-7479
Facsimile: (416) 863-1716

Lawyers for Peter J. Grant Sr.

TAB 4

Court File No. CV-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

--- This is the Cross-Examination of BENJAMIN
MONTGOMERY, the Deponent herein, on an Affidavit sworn
September 14, 2009, taken at the offices of Network
Reporting & Mediation, One First Canadian Place, 100 King
Street West, Suite 800, Toronto, Ontario, M5X 1E3, on
Friday the 25th day of September, 2009.

APPEARANCES:

RICHARD B. SWAN] For Peter J. Grant Sr.
MICHAEL BEEFORTH, s-a-1]

KEVIN P. McELCHERAN For the Toronto-Dominion
Bank

ALSO IN ATTENDANCE:

JANE DIETRICH Observer
KATHY MAH Observer

SEPTEMBER 25, 2009

BENJAMIN MONTGOMERY

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SEPTEMBER 25, 2009

BENJAMIN MONTGOMERY

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SEPTEMBER 25, 2009

BENJAMIN MONTGOMERY

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1 --- UPON COMMENCING AT 9:42 AM.

2 BENJAMIN MONTGOMERY: Affirmed.

3 MR. SWAN: This is a cross-examination on an
4 Affidavit filed in a motion in a proceeding in the
5 Ontario Superior Court, court file CV-09-8247-00CL in re
6 Grant Forest Products Inc. and related companies.

7 The cross-examination is a cross-examination on
8 the Affidavit of Benjamin Montgomery which was sworn on
9 the 14th of September 2009 and filed on behalf of the
10 First Lien Credit Agent, I believe, in opposition of the
11 motion of Peter Grant, Sr. in respect of a certain
12 agreement which is described as a Tax Refund Purchase and
13 Sale Agreement from March of 2008.

14 CROSS-EXAMINATION BY MR. SWAN:

15 1 Q. Can you state your full name for the
16 record?

17 A. Benjamin Peter Montgomery.

18 2 Q. How old are you, Mr. Montgomery?

19 A. 36.

20 3 Q. What's your current position?

21 A. Vice president director TD Securities in the
22 corporate credit group in Vancouver.

23 4 Q. Can you tell me what your post-secondary
24 education is?

25 A. Bachelor of Commerce.

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1 5 Q. When did you obtain that?

2 A. 1999.

3 6 Q. You're not a lawyer?

4 A. I am not a lawyer.

5 7 Q. And you have no legal training?

6 A. I do not.

7 8 Q. Can you tell me very briefly what your
8 employment history is post-1999 when you graduated with
9 your B. Com?

10 A. I've worked in banking since I graduated.
11 All of that time has been spent in credit. First, a few
12 years in commercial banking --

13 9 Q. With which organization?

14 A. TD Bank.

15 10 Q. Have you been with the TD family
16 throughout?

17 A. I've been with TD just over ten years. I
18 have a few years in commercial, the balance in corporate
19 banking, commercial banking as part of our retail bank.
20 TD Securities is part of our wholesale bank but all of
21 that time spent in credit.

22 MR. McELCHERAN: It may be easier for the
23 reporter if you speak a little louder and don't put your
24 hand near your face.

25 THE DEPONENT: Sure.

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1 BY MR. SWAN:

2 11 Q. Let me just go back a little bit. We have --
3 among the documents that are potentially relevant to this
4 proceeding is what's been described as the First Lien
5 Credit Agreement which dates from 2005, specifically
6 October 26th, 2005.

7 And were you involved, in any way involved, with
8 the First Lien Credit Agreement?

9 A. Yes.

10 12 Q. What TD entity were you with in October of
11 2005?

12 A. TD Securities.

13 13 Q. So you have since -- at least since 2005
14 you've been with TD Securities continuously?

15 A. Yes.

16 14 Q. And TD Securities Inc.?

17 A. No.

18 15 Q. TD Securities?

19 A. TD Securities is the wholesale banking
20 division of the Toronto Dominion Bank. TD Securities
21 Inc. is a separate --

22 16 Q. Separate entity?

23 A. Separate entity, yes.

24 17 Q. So the TD Securities that you are with is not
25 TDSI; it is a wholesale bank and is a bank under the Bank

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1 Act?

2 A. I believe it's a trade name of the TD Bank.

3 18 Q. Oh, it's just a trade name?

4 A. I believe so. It's referred to as the
5 wholesale banking division in, you know, public, like,
6 reporting and that sort of thing.

7 19 Q. But it's a division?

8 A. That's what it's referred to. I can't answer
9 that for sure.

10 20 Q. It's not a separate legal entity?

11 A. It's not TD Securities Inc., which is a
12 separate entity.

13 21 Q. But it's also not a separate entity from the
14 TD Bank; it's part of the TD Bank?

15 A. Correct.

16 22 Q. And you are, in fact, an employee of the TD
17 Bank?

18 A. Yes.

19 23 Q. Do you have a copy of the First Lien Credit
20 Agreement?

21 A. Not in front of me.

22 MR. McELCHERAN: We didn't bring the whole thing.
23 As you know, the Affidavit excerpts some parts of it.
24 But we didn't bring the whole -- if you have the whole --

25 MR. SWAN: I do. And you have no objection if

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8

1 the whole thing goes in the record?

2 MR. McELCHERAN: Absolutely not.

3 THE DEPONENT: Thanks.

4 BY MR. SWAN:

5 24 Q. Sir, can you tell me what role you played in
6 respect of what we call the First Lien Credit Agreement
7 from October of 2005?

8 A. With -- I was directly involved in the
9 negotiation of the Credit Agreement in TD's capacity as a
10 lender under the agreement as well as an agent under the
11 Credit Agreement.

12 25 Q. And you were involved on behalf of the TD
13 Bank in both capacities both as a lender as part of the
14 syndicate and as an agent?

15 A. My primary function is as a lender. We have
16 a separate agency group. So my primary involvement was
17 as a lender.

18 26 Q. Would you turn to page 84 of the document,
19 and I think you'll find that page 84 is replicated three
20 takes because they are counterpart signature pages?

21 A. Yes.

22 27 Q. I just want to obtain a little bit clearer
23 understanding of the different roles that both TD and TD
24 entities and you were playing?

25 A. Sure.

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1 28 Q. You are, and your counsel may wish to answer
2 this question, but as I understand it, you are being
3 proffered as a witness on behalf of the First Lien Agent;
4 is that correct?

5 MR. McELCHERAN: He is a representative of the TD
6 Bank. He, as he stated in his testimony, was involved in
7 it from the context of the lending part of it but also as
8 part of the agent representative, as a representative of
9 the agent. So he's here in both capacities.

10 MR. SWAN: But, Mr. McElcheran, you act for the
11 First Lien Agent or do you act for the TD Bank as well as
12 a lender?

13 MR. McELCHERAN: I act for TD Bank as lender as
14 well.

15 MR. SWAN: In both capacities?

16 MR. McELCHERAN: Yes.

17 BY MR. SWAN:

18 29 Q. And you're opposing the motion in both
19 capacities?

20 MR. McELCHERAN: And on behalf of all of the
21 lenders. That is, all of the First Lien Lenders.

22 BY MR. SWAN:

23 30 Q. All of the First Lien Lenders. So you
24 represent all of the First Lien Lenders and all of them
25 are opposing?

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1 MR. McELCHERAN: Right.

2 BY MR. SWAN:

3 31 Q. Both through the agent and in their
4 individual capacity?

5 MR. McELCHERAN: Right.

6 BY MR. SWAN:

7 32 Q. And looking on page 84, the TD is listed as
8 the Canadian administrative agent, and a Mr. Shiplow has
9 signed the document on behalf of the bank. Do you know
10 who he is?

11 A. Yes. He works in our agency group.

12 33 Q. In your Toronto agency group?

13 A. Correct.

14 34 Q. You've been in Vancouver continuously since
15 1999?

16 A. No.

17 MR. McELCHERAN: You'll need to say verbal
18 answers.

19 MR. SWAN: The head shakes don't do it.

20 THE DEPONENT: Right. Got it.

21 I've been in Vancouver since 2005.

22 BY MR. SWAN:

23 35 Q. So predating this agreement?

24 A. When this agreement was done, I was in
25 Vancouver.

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1 36 Q. And it looks like you were involved because I
2 see your name listed as a secondary contact for the
3 Canadian revolver?

4 A. Yes.

5 37 Q. So you were involved primarily for the TD
6 Bank in its capacity as lender pursuant to the
7 revolver?

8 A. Correct.

9 38 Q. And Mr. Shiplow was involved on behalf of TD
10 as administrative agent?

11 A. Correct, yes.

12 39 Q. And then another TD entity was involved as
13 U.S. administrative agent?

14 A. Yes.

15 40 Q. TD Bank Texas LLC. And the other name that
16 is listed along with yours in terms of the revolver
17 facility is a Frazer Scott. Turn ahead to the third
18 counterpart of page 84.

19 MR. McELCHERAN: He means the third -- this is
20 copied three times.

21 THE DEPONENT: Oh, right.

22 MR. McELCHERAN: And the third one has got
23 this.

24 THE DEPONENT: Right.

25 BY MR. SWAN:

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1 41 Q. So who was Frazer Scott?

2 A. Frazer Scott works with me in Vancouver. He
3 works on the corporate credit side as a -- directly with
4 me..

5 42 Q. Okay. Is he your boss?

6 A. We have separate reporting lines. He's more
7 involved on the origination side of the business.

8 43 Q. On the origination side?

9 A. On the origination side. But we both work
10 for the same entity.

11 44 Q. And at this point, back in 2005, was he your
12 boss?

13 A. No.

14 45 Q. He was not?

15 A. No.

16 46 Q. What was your title in 2005?

17 A. Vice president.

18 47 Q. Vice president of what?

19 A. Corporate credit.

20 48 Q. And Mr. Scott's?

21 A. Vice president and director of corporate
22 credit.

23 49 Q. Vice president and director of corporate
24 credit. So he was, if not your boss, he was at least
25 senior to you?

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1 A. Yes, he was senior to me.

2 50 Q. And remains so?

3 A. Yes.

4 51 Q. And he's still with the bank in Vancouver?

5 A. Yes.

6 52 Q. And then the agreement is also signed by Glen
7 Gibson as managing director?

8 A. Yes.

9 53 Q. Who was he?

10 A. He would have, or he is Frazer's boss.

11 54 Q. So he is the managing director of what?

12 A. Managing director of TD Securities.

13 55 Q. TD Securities across the country?

14 A. Just managing director of TD Securities.

15 MR. McELCHERAN: What's the significance of the
16 word "managing --"

17 THE DEPONENT: There's many managing directors
18 within TD Securities.

19 BY MR. SWAN:

20 56 Q. And he is --

21 A. He is the head of credit origination for TD
22 Securities.

23 57 Q. Head of credit origination for TD
24 Securities?

25 A. Mm-hmm.

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1 58 Q. All right. And is he still with the bank?

2 A. Yes, he is.

3 59 Q. And do you know why it is that you have been
4 put forward as a witness as opposed to Mr. Scott?

5 A. Mr. Scott is no longer involved with this
6 file.

7 60 Q. You have continued involvement and he has
8 not?

9 A. Correct.

10 61 Q. When did he cease to be involved with the
11 Grant company?

12 A. I'd say January of this year.

13 62 Q. And just for the sake of the record so that
14 this is clear, TD, as the what we have described as the
15 First Lien Agent, is authorized, and you might just turn
16 to -- I interrupt that question to turn you back to the
17 beginning of this agreement that lists the parties?

18 A. Yes.

19 63 Q. The TD Bank and entities have a number of
20 different roles in respect of this agreement. They were
21 both co- -- TD Securities was a co-lead arranger?

22 A. Yes.

23 64 Q. TD was also the book -- TD Securities was
24 also the book manager?

25 A. Correct.

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1 65 Q. TD Bank was the First Lien Agent, or is the
2 First Lien Agent?

3 A. Correct.

4 66 Q. TD Texas is the U.S. Lien Agent?

5 A. Was.

6 67 Q. Was? Who is now?

7 A. Bank of New York.

8 68 Q. Bank of New York. And the TD Bank is one of
9 the lead lenders as part of the banking syndicate?

10 A. Correct.

11 69 Q. And remains so today?

12 A. Correct.

13 70 Q. And you told me that when this agreement was
14 drawn up, you participated on behalf of TD, TD Bank, in
15 its capacity as a significant lender?

16 A. Yes.

17 71 Q. Have you now taken a role in respect of the
18 TD's capacity as First Lien Agent?

19 A. No.

20 72 Q. Someone else has that role?

21 A. There is a separate agency group.

22 73 Q. In Toronto here?

23 A. Yes.

24 74 Q. That was Mr. Shiplow's group?

25 A. Mr. Shiplow is a part of that group. There's

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1 other people within that group that are also -- I believe
2 Ron Kowpak is the primary agent on this file right now.

3 75 Q. Ron Kowpak?

4 MR. McELCHERAN: K-o-w-p-a-k.

5 THE DEPONENT: Yes. There's a "w" in there.

6 BY MR. SWAN:

7 76 Q. All right. So you are not a representative
8 of the First Lien Agent per se?

9 MR. McELCHERAN: Well, okay, remember that what's
10 going on here is the Toronto-Dominion Bank --

11 MR. SWAN: Yes. Yes, the Toronto-Dominion Bank.

12 MR. McELCHERAN: Is the agent.

13 BY MR. SWAN:

14 77 Q. Let me put that question differently. You
15 personally haven't had any involvement as a
16 representative of the First Lien Agent. You have been
17 speaking for the TD Bank principally as a lending party
18 as part of the syndicate; that's been your involvement at
19 the very least?

20 A. I have involvement when -- if TD is for -- I
21 do have involvement when TD makes decisions as an
22 agent.

23 78 Q. You do have involvement?

24 A. Yes.

25 79 Q. And you're consulted?

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1 A. I'm consulted. I do not sign as TD as agent.
2 I would only sign as TD as a lender. So if I was
3 executing this agreement, I would be signing for TD as a
4 lender, not as agent.

5 80 Q. Okay.

6 A. But the agency group does -- we do
7 communicate regularly and I would be involved in
8 decisions --

9 81 Q. Right. And just --

10 A. -- that TD would make in its agency
11 capacity.

12 82 Q. Just so we're clear about that, there are no
13 walls between TD as agent and TD as lender; there's a
14 free flow of communication between those parties?

15 A. Generally. There may be times when walls are
16 necessary, but generally speaking, no.

17 83 Q. And as far as you know in this case there was
18 no wall established?

19 A. That's correct.

20 84 Q. And just so that we have this for the sake of
21 the record, the agent is authorized to speak on behalf of
22 the syndicate, isn't it?

23 MR. McELCHERAN: Well, that is a legal question.
24 The agency role in this -- the lenders in the CCAA
25 process, because this goes outside the document, in the

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1 CCAA process, it's our position that each of the lenders
2 has a right to appear as a creditor in the process.

3 So there's agency issues which are directed to
4 the role of the agent within the document, and that's set
5 out within the document, and there's -- otherwise, the
6 lenders are entitled to participate in the CCAA process,
7 to vote and appear in court and do all those things.

8 MR. SWAN: That wasn't really where I was going,
9 but thank you for that.

10 BY MR. SWAN:

11 85 Q. My question for you, Mr. Montgomery, is this,
12 that the purpose for having an agent is to deal with
13 administrative matters and to speak on behalf of the
14 syndicate?

15 A. I agree the agent is to deal with
16 administrative matters. To speak on behalf of the
17 syndicate, I'm not sure I agree with that.

18 86 Q. I see. Well, we'll come to this a little bit
19 later, but a discharge was given --

20 A. Yes.

21 87 Q. -- in March of 2008, and that was given by
22 the agent on behalf of the syndicate, wasn't it?

23 A. Correct.

24 88 Q. And it wasn't necessary for each of the
25 participating members of the syndicate to provide that

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1 discharge?

2 A. Correct.

3 89 Q. The agent was authorized to speak on behalf
4 of the syndicate?

5 MR. McELCHERAN: Well --- okay --

6 BY MR. SWAN:

7 90 Q. In that case?

8 MR. McELCHERAN: The fact is that a discharge was
9 given by the agent. What the agent needed to do in order
10 to be authorized to deliver a specific document is an
11 issue that is a different point.

12 BY MR. SWAN:

13 91 Q. Right. But the agent did purport to speak on
14 behalf of the syndicate at that point?

15 A. Yes.

16 MR. McELCHERAN: I mean you're -- I don't want to
17 mince words. I just want to make sure that you're clear.
18 Speaking for, articulating, a position, that's different
19 from delivering a document, which is not speaking for;
20 it's delivering a document.

21 THE DEPONENT: I'm delivering a document on
22 behalf of the lenders.

23 BY MR. SWAN:

24 92 Q. Just so that there's no confusion about my
25 question, --

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20

1 A. Sure.

2 93 Q. -- in that case, what was required of the
3 First Lien Lenders or what was sought from them was this
4 discharge document; correct?

5 A. No.

6 94 Q. No?

7 A. The first -- all -- there was nothing
8 required of the lenders. The only --

9 95 Q. Right. That's why I changed my question. It
10 wasn't required but it was provided?

11 A. By the agent.

12 96 Q. By the agent. And the agent was providing
13 that on behalf of the syndicate?

14 A. Yes.

15 97 Q. Thank you. And the TD -- I don't know that
16 this is particularly pertinent, but just so that we have
17 it clear, the TD Bank was also the Second Lien Agent for
18 a time until May of '09?

19 A. Yes.

20 98 Q. And that role has now been taken over by...?

21 A. Bank of New York.

22 99 Q. Let's mark the First Lien Credit Agreement as
23 Exhibit 1 to this cross-examination. So Exhibit 1 is
24 what we have described as the First Lien Credit Agreement
25 that bears the date October 26th, 2005?

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1 EXHIBIT NO. 1: First Lien Credit Agreement dated
2 October 26th, 2005.

3 BY MR. SWAN:

4 100 Q. When did you, Mr. Montgomery, first hear of
5 or have any involvement with a proposed tax refund
6 purchase arrangement between Grant Forest and Mr. Grant
7 Sr.?

8 A. March 2008.

9 101 Q. And can you tell me how that arose? Your
10 involvement, that is.

11 A. We received a proposal -- not a proposal. I
12 guess we were advised that Grant Forest Products was
13 going to breach it's liquidity covenant, and in order to
14 avoid doing that, the shareholders intended to inject
15 capital in a manner that wouldn't breach the Credit
16 Agreement, and we received a structure from the client
17 and their counsel as to how they intended to do that.

18 102 Q. Who did you get that from?

19 A. I don't recall.

20 103 Q. Do you know who received it at the bank; was
21 it sent to you?

22 A. I suspect Frazer Scott at the time, and I
23 would suspect it came from Peter Lynch, but I mean I'm
24 not -- I don't know for sure.

25 104 Q. And did it come from Peter Lynch or did it

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1 come from the company's counsel?

2 A. I don't know.

3 105 Q. And your belief is that it was sent to you as
4 a draft agreement or as a structure form of termsheet --
5 not a termsheet but an outline of structure?

6 A. I don't recall if it started as a proposed
7 structure or if it started off as here's the draft
8 agreement. I don't recall.

9 106 Q. And that was sometime in March of 2008?

10 A. Yes.

11 107 Q. And you believe that was sent to Frazer
12 Scott?

13 A. I believe it would have -- I believe, yes,
14 yes, I do.

15 108 Q. And then how did you get involved in it?

16 A. Frazer would have brought -- we both managed
17 the file together, so we would have --

18 109 Q. Let me just stop you there. You're saying he
19 "would have." That suggests to me that would have been
20 the practice but you may not actually remember that?

21 A. I think the reason I'm saying "would have" is
22 that I don't know for sure that it came from Frazer.

23 110 Q. I see.

24 A. For all I know, I got it directly from Peter
25 Lynch, but I don't recall. I think it probably came from

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1 Frazer.

2 111 Q. So you think that's what happened but you're
3 not certain?

4 A. Correct. I do know for sure I saw it.

5 112 Q. So you got it?

6 A. Yes.

7 113 Q. And can you produce to me the document that
8 was sent to the bank that you're referring to?

9 MR. McELCHERAN: We don't have it here.

10 MR. SWAN: Yes. No, I understand that but --

11 MR. McELCHERAN: We can produce it.

12 --- UNDERTAKING

13 THE DEPONENT: I would suspect it's an email.

14 MR. SWAN: You'll have to keep your voice up just
15 a bit.

16 THE DEPONENT: Sure.

17 MR. McELCHERAN: Counsel, could you help us by
18 showing him one if you have a copy of it?

19 MR. SWAN: I don't have a copy of it.

20 MR. McELCHERAN: I'm not surprised at that.

21 BY MR. SWAN:

22 114 Q. Well, let me show you a document. There was
23 a structure that was attached to certain minutes of the
24 board of directors meeting of March the 27th, 2008 that's
25 at tab A of Mr. Grant's Affidavit, pages 23 through 26 of

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24

1 the record.

2 MR. McELCHERAN: I have that.

3 BY MR. SWAN:

4 115 Q. I, of course, have no idea what you got or
5 saw, but I'm showing you this document simply because it
6 is an outline of the structure --

7 A. Correct.

8 116 Q. -- to see if that reminds you what you might
9 have received, whether it was an outline or whether it
10 was an agreement. Go ahead.

11 A. I suspect you may be correct. What I
12 recollect seeing was probably the summary of proposed
13 sale.

14 117 Q. But you're not certain one way or the
15 other?

16 A. No.

17 118 Q. You may have seen the agreement?

18 MR. McELCHERAN: We'll produce what he did get.

19 BY MR. SWAN:

20 119 Q. And what did you do?

21 A. We talked to lenders' counsel to ensure that
22 it -- what was proposed did not breach the Credit
23 Agreement.

24 120 Q. When you say "we" talked to lenders counsel,
25 who is "we"?

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1 A. Frazer and I.

2 121 Q. You and Frazer. You're certain Frazer was
3 involved in that conversation?

4 A. Yes.

5 122 Q. And who did you speak to? Did you speak to
6 Linda Pieterston at McCarthys or did you speak to Matt
7 O'Meara?

8 A. Both Linda and Matt were involved.

9 123 Q. Because I see their names on an email that
10 you approved?

11 A. They were both involved in those
12 discussions.

13 124 Q. And Linda Pieterston is a corporate lawyer,
14 corporate partner, at the McCarthy Tetrault firm in
15 Toronto?

16 A. Yes.

17 125 Q. And Matt O'Meara is a lawyer in United
18 States?

19 A. With Winston Straun.

20 126 Q. In New York?

21 A. Yes. No, In Chicago.

22 127 Q. In Chicago?

23 A. Yes.

24 128 Q. So you and Mr. Scott spoke with both of
25 them?

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1 A. Either spoke to or received correspondence
2 from them by email.

3 What I'm trying to get at is either we spoke to
4 them or we confirmed by email that it didn't breach the
5 Credit Agreement.

6 129 Q. So you're not sure if you spoke to them. You
7 communicated with them?

8 A. Communicated with them.

9 130 Q. Either orally or by email?

10 A. Correct.

11 131 Q. And the conclusion of that was that this
12 proposed structure, this proposed transaction, did not
13 breach the First Lien Credit Agreement?

14 A. And the Second Lien Credit Agreement.

15 132 Q. Or the Second Lien Credit Agreement?

16 A. Correct.

17 133 Q. And do you have an email or other piece of
18 correspondence in which that view is expressed?

19 A. TD -- in expressing it internally? Or
20 counsel expressing it?

21 134 Q. Well, either one.

22 MR. McELCHERAN: Okay. I don't know whether we
23 do or not here. What I will -- of course there's an
24 issue of privilege relating to that and I want to review
25 it to see.

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1 I recognize in this context that in this
2 examination you've asked -- he's given an answer, that he
3 received advice of a specific nature, and so I think it's
4 fair that you get production of that advice, but -- and I
5 think the privilege with respect to that's waived, but
6 there may be other elements of that communication which
7 are not waived.

8 So what we'll do is I'll undertake to produce
9 that portion of that communication that's in the
10 documentary record that confirms the statement he made
11 and excise any other advice on the basis of privilege.

12 --- UNDER ADVISEMENT

13 MR. SWAN: Well, I'll have to see what you give
14 me before I tell you whether I agree with what you've
15 done or not.

16 MR. McELCHERAN: Fair enough.

17 BY MR. SWAN:

18 135 Q. Now, when you were having those discussions
19 with Mr. Scott and with your counsel, you were doing so
20 in your capacity as a lender? When I say "you," let me
21 put that question more precisely since there are so many
22 different related entities here.

23 When you were having that conversation, you were
24 doing so on behalf of TD Securities, i.e. TD Bank, in
25 your capacity as a lender as part of the lending

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1 syndicate?

2 A. No.

3 136 Q. In what capacity were you having that
4 discussion?

5 A. It would be in the capacity as agent.
6 Because the lenders were not required to consent, so we
7 were working with the agent to ensure that the agent
8 was authorized -- had the ability to execute the
9 document.

10 137 Q. So in this case, you were, in effect,
11 assisting TD as agent or acting in that capacity?

12 A. That's fair.

13 138 Q. And did you have discussions with Mr. Shiplow
14 or anyone else at 77 King Street?

15 A. I don't specifically recollect but
16 Mr. Shiplow -- and I also don't know if it was
17 Mr. Shiplow or Mr. Kowpak, but whomever signed --
18 actually, I think it's part of the exhibit here.

19 MR. McELCHERAN: The witness is ref-- which
20 exhibit are you referring to?

21 THE DEPONENT: This one here.

22 BY MR. SWAN:

23 139 Q. Tab D. Tab D of Mr. Grant's first --

24 A. So this was signed by Mr. Kowpak and Mr.
25 Murray. Mr. Kowpak was representing TD Bank as agent and

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1 Mr. Murray, TD Texas as agent.

2 We would have -- either myself or Frazer would
3 have had discussion with them to confirm that it is our
4 view that this transaction as proposed did not breach the
5 Credit Agreement.

6 Lenders -- the agent, I presume, would have --
7 when we provide the confirmation from lender's counsel,
8 that would have been what the agent relied on in order to
9 execute it.

10 140 Q. And, presumably, there would have been some
11 communication between your office in Vancouver and Mr.
12 Kowpak's office in Toronto?

13 A. Yes.

14 141 Q. Can you produce that communication or those
15 communications to me?

16 A. If it was in writing. It may have been by
17 phone.

18 --- UNDERTAKING

19 142 Q. And if it -- okay. Thank you. If it's in
20 writing, I'll wait to see them. If it was by phone, the
21 thrust of what -- was it you that would have had the
22 communication or you don't remember?

23 A. I don't recall. It would have been --
24 definitely would have been Frazer or I. I suspect
25 Frazer.

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1 143 Q. And the thrust of what would have been
2 communicated was this Tax Refund Agreement is compliant
3 with the two Lien Credit Agreements?

4 A. Yes.

5 MR. McELCHERAN: And, Counsel, if it can be of
6 any help, you asked us to produce documents or
7 correspondence for the time periods, and one of the
8 documents that I brought is an email which has got --
9 which -- one of the people in the chain is Mr. Kowpak,
10 and it's in response to a request for a check into what
11 happened around the \$20 million injection, and it
12 includes -- I've given it to you. The email is dated
13 February 10th of 2009 from Mr. Kowpak. So if that's of
14 any help, it has a description of the transaction as an
15 insert.

16 MR. SWAN: I will come to that in a moment.
17 Thank you.

18 MR. McELCHERAN: Sure.

19 BY MR. SWAN:

20 144 Q. And what communication was there between your
21 office and TD Texas LLC as U.S. agent?

22 A. I don't recall.

23 145 Q. Presumably there would have been some?

24 A. Yes, presumably.

25 146 Q. If that is in writing, either correspondence

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1 or email, can you produce that to me?

2 A. Sure.

3 --- UNDERTAKING

4 BY MR. SWAN:

5 147 Q. Mr. Murray is based in New York?

6 A. Toronto now.

7 148 Q. At the time though?

8 A. I believe he was in Toronto at the time as
9 well. There was a time that he was in Texas. I believe
10 he's -- I believe -- I'd have to get back to you to
11 confirm that.

12 149 Q. All right. In any event -- I don't really
13 need to know that, but he was acting as representative of
14 TD Texas?

15 A. Yes.

16 150 Q. And what other members of the syndicate were
17 involved in this discussion? Not that discussion but any
18 of these communications taking place in March of '08?

19 A. None.

20 151 Q. And why was that?

21 A. There was no need to consult lenders provided
22 that it complied with the Credit Agreement.

23 152 Q. And that was the view you held?

24 A. Yes.

25 153 Q. And so, therefore, you didn't consult them?

1 A. Correct.

2 154 Q. Now, you've said a couple of times that this
3 discharge wasn't required, this partial discharge, in
4 2008. Why do you say that? I just want to understand
5 your evidence on that point.

6 A. Can you --

7 MR. McELCHERAN: I'm not sure that you're
8 correctly stating what he said.

9 THE DEPONENT: Can you point me to where I said
10 what you're referring to?

11 BY MR. SWAN:

12 155 Q. Well, I'm not referring to anything in the
13 document.

14 A. Okay.

15 156 Q. What I'm referring to is in your oral
16 evidence here this morning --

17 A. Yes.

18 157 Q. -- you have, I thought, said a couple of
19 times that a partial discharge was not required.

20 A. Not required for what?

21 158 Q. I thought that was your evidence?

22 A. I don't recall saying that.

23 159 Q. Was a partial discharge required?

24 A. For what?

25 160 Q. Well, it was given.

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1 A. Yes.

2 161 Q. And why was it given?

3 A. Because we were requested to provide it.

4 162 Q. But in your view -- I thought you had said in
5 your view, given that this was on-side the credit
6 agreements, it wasn't required, from your perspective?

7 A. I think it's consent that was not -- lender
8 consent was not required.

9 163 Q. I see.

10 A. So we didn't need to canvass -- the lenders
11 did not need to vote on is what is not required.

12 If it was in breach of the Credit Agreement, then
13 that would be something where you require lender consent.

14 164 Q. So because -- just so we're clear about that
15 then, because the Tax Refund Purchase and Sale Agreement
16 was compliant and not in breach of either the First or
17 Second Lien Credit Agreement, there was no need to
18 canvass the lending syndicate?

19 A. Correct.

20 165 Q. And you say that the partial discharge was
21 given simply because it was requested by the company?

22 A. Yes. We would not have provided the
23 discharge if not asked to do so.

24 166 Q. All right. And what communications did you
25 have, you or the bank have, with the company in March of

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1 2008? You told me that you were provided with either an
2 outline of the agreement or the agreement itself.

3 A. Mm-hmm.

4 167 Q. What other communications did the bank or
5 entities affiliated with the bank have with GFPI in March
6 of 2008?

7 A. I don't recall specifically.

8 168 Q. Were there any?

9 A. There would have been some discussion. As to
10 what, you know, the form of those discussions and what
11 was communicated, I don't recall specifically.

12 169 Q. Were any of them in writing?

13 A. Likely.

14 170 Q. Would you look for those and produce them to
15 me?

16 A. Yes.

17 MR. McELCHERAN: So let's be clear. I want to
18 make sure I write down the undertaking correctly. So the
19 undertaking is to review correspondence with -- who?

20 MR. SWAN: Between the bank -- and when I say
21 the "bank," let's define --

22 MR. McELCHERAN: You mean all parts of the bank?

23 MR. SWAN: All parts of the bank. And
24 representative of Grant Forest Products, and also between
25 solicitors for the bank and solicitors for Grant Forest

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1 Products

2 MR. McELCHERAN: Okay. Including counsel for
3 each. And during what period?

4 MR. SWAN: At this point, March of 2008.

5 MR. McELCHERAN: During March 2008.

6 MR. SWAN: And I suppose if there is --

7 MR. McELCHERAN: Obviously relevant to --

8 BY MR. SWAN:

9 171 Q. Relevant to the tax refund Purchase and Sale
10 Agreement.

11 And I say March because the discharge was given
12 in March. If there was a little bit of hang-over
13 correspondence in the first couple of weeks in April, I
14 ask for that as well.

15 A. I suspect there wasn't.

16 MR. McELCHERAN: Okay.

17 --- UNDERTAKING

18 MR. McELCHERAN: Okay. All right.

19 BY MR. SWAN:

20 172 Q. And do you know if your solicitors were
21 involved, the bank's solicitors were involved, in March
22 of 2008 other than the one conversation you had?

23 A. Involved in what?

24 173 Q. Involved in respect of this Tax Refund
25 Purchase and Sale Agreement.

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1 A. They were involved to the extent that they
2 confirmed to the agent that there was -- that it was in
3 compliance with the Credit Agreement.

4 174 Q. And they would have reviewed the agreement?

5 A. They would -- yes, they would have reviewed
6 the agreement.

7 They also were relying on -- and I believe
8 counsel for the borrower also confirmed that that was
9 their view.

10 175 Q. So they reviewed the agreement. And do you
11 know whether they provided input into any language in the
12 agreement?

13 A. I don't know. I don't believe that they did
14 though.

15 176 Q. Can you look at Exhibit C to your
16 Affidavit?

17 A. Yes. Is that the email?

18 177 Q. Yes. This is the email from Mr. Walker to
19 Ms. Pieterston and Mr. O'Meara?

20 A. Yes.

21 178 Q. And I think Mr. McElcheran name is on the top
22 merely because he was the individual who printed the
23 email?

24 MR. McELCHERAN: Yes, it was sent to me for the
25 purpose of including it in the record.

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1 BY MR. SWAN:

2 179 Q. So, it appears, looking at your Exhibit C,
3 that Mr. Walker, who was solicitor for the company, GFPI,
4 sent an email to Ms. Pieterston and Mr. O'Meara, who were
5 the solicitors for the bank, TD Bank?

6 A. For the lending syndicate.

7 180 Q. For the lending syndicate. And the email
8 says:

9 "In accordance with your request, Mr. Walker
10 confirms his view that the Tax Refund Agreement
11 does not contravene either of the Lien Credit
12 Agreements." [as read]

13 Do you know how that request was made?

14 A. No, I don't.

15 181 Q. If it was made in writing, could you produce
16 it to me? I suspect it's captured --

17 MR. McELCHERAN: Yes, it's already captured by
18 the previous undertaking.

19 BY MR. SWAN:

20 182 Q. And it includes -- "it" being this email at
21 tab C, Exhibit C to your affidavit -- concludes by
22 saying, Mr. Walker saying, "Please confirm that the
23 foregoing also reflects your views" -- "your" being
24 solicitors to the syndicate. Do you know whether they
25 responded to Mr. Walker?

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1 A. No, I don't.

2 MR. McELCHERAN: Again, it will be covered by the
3 undertaking so -- if they communicated in writing. But
4 just so we're clear, Counsel, because I'm confused about
5 this line of questioning, there's no doubt that our
6 position is that the agreement -- there's no disagreement
7 about -- with the statement that's made in the Affidavit
8 as far as -- in this email.

9 MR. SWAN: Thank you.

10 MR. McELCHERAN: We're not in any way debating
11 whether this complies or doesn't comply. We agree that
12 it does.

13 BY MR. SWAN:

14 183 Q. Okay. And that correspondence looks like if
15 there was a response to this, it probably was right at
16 the beginning of April since this was sent the last day
17 in March?

18 A. That's true.

19 184 Q. Now, you have brought with you some emails
20 this morning, and one of them is an email from February
21 the 10th, 2009?

22 A. Yes.

23 185 Q. That you wrote to Bill O'Connor?

24 A. Yes.

25 186 Q. And it's found at the bottom of an email from

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1 Mr. Kowpak to Mr. O'Connor, copied to you?

2 MR. McELCHERAN: Yes. This is the one.

3 THE DEPONENT: Yes.

4 MR. McELCHERAN: It starts off with Kowpak,
5 O'Connor, Montgomery.

6 THE DEPONENT: Right.

7 BY MR. SWAN:

8 187 Q. So you received this email chain?

9 A. I initiated it.

10 188 Q. And you ultimately received the email on the
11 top?

12 MR. McELCHERAN: This one.

13 THE DEPONENT: The one from Ron, yes. Mr.
14 Kowpak, yes.

15 BY MR. SWAN:

16 189 Q. So let's mark then as the next exhibit, I
17 believe it's Exhibit 2, an email chain which has as its
18 last email an email from Mr. Kowpak to Mr. O'Connor
19 copied to Mr. Montgomery and others on February 10, 2009,
20 at 6:45 p.m.

21 EXHIBIT NO. 2: Email Chain, the Last Email being
22 from Mr. Kowpak to Mr. O'Connor dated February 10, 2009,
23 at 6:45 p.m.

24 BY MR. SWAN:

25 190 Q. And let's begin with the email that began

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1 this chain. And we're a little bit out of context or out
2 of time line here because there are some events that
3 happened between March of 2008 and February of 2009, but
4 I refer to this email at this point because it appears to
5 contain a summary prepared by the TD Bank of the Tax
6 Refund Purchase and Sale agreement that appears at page 2
7 and on to page 3 of the email that we just marked as
8 Exhibit 2; correct?

9 A. Correct.

10 191 Q. And focussing on that summary, it looks like
11 that summary has been drawn from or cut and pasted from
12 another document that was prepared in 2008?

13 A. Yes.

14 192 Q. Is that correct?

15 A. That is correct.

16 193 Q. And what was that other document?

17 A. It was an internal credit.

18 MR. McELCHERAN: Okay, internal credit, maybe you
19 have to expand what "internal credit" means.

20 BY MR. SWAN:

21 194 Q. What do you mean by that?

22 A. It's an internal document -- it's a document
23 prepared for internal use that the bank will use to opine
24 on credit -- well, it could just be a general update. So
25 there could be no internal approvals -- it's just the way

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1 we used to document credit issues or to make credit
2 decisions or to provide updated material.

3 195 Q. So it's an internal memorandum that records
4 facts that are relevant to a particular borrowing?

5 A. Facts and opinions.

6 196 Q. Facts and opinions that are relevant to a
7 particular loan or a particular credit facility?

8 A. Yes.

9 197 Q. And who prepared the -- this internal credit
10 memorandum that we see excerpted here in Exhibit 2?

11 A. Myself and an associate that works with me.

12 198 Q. Who was that?

13 A. Chris Sfikas.

14 199 Q. That's spelled S-f-i-k-a-s?

15 A. Yes.

16 200 Q. He works under you?

17 A. Yes.

18 201 Q. And when was that credit memorandum
19 prepared?

20 A. I don't know the exact date but prior to
21 March 31st. So I would suspect sometime in March.

22 202 Q. March 31, 2008?

23 A. Yes.

24 203 Q. And the context is that you have been
25 provided with the Tax Refund Agreement or an outline of

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1 the agreement?

2 A. Yes.

3 204 Q. And then you have provided a summary and
4 opinion in relation to it?

5 A. Summary and opinion from?

6 205 Q. From you.

7 A. I -- well, you were saying I was provided.

8 206 Q. No. You provided?

9 A. Yes, I provided a summary and opinion.

10 207 Q. And is this memorandum addressed to anyone in
11 particular or does it just go in the file?

12 A. It's not addressed to anybody in particular.

13 It would have gone to our risk management group.

14 208 Q. In Toronto or Vancouver?

15 A. Toronto.

16 209 Q. Would it have been sent to Frazer Scott?

17 A. No.

18 210 Q. He didn't see it?

19 A. He may have seen it but he wouldn't -- it
20 would not have been sent to him.

21 211 Q. Might he have seen it before it was sent to
22 your risk management group?

23 A. He may have.

24 212 Q. Might he have commented on it and edited
25 it?

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1 A. He may have.

2 213 Q. You don't recall one way or the other in this
3 case?

4 A. I don't recall.

5 214 Q. Can you produce to me that original internal
6 credit memorandum?

7 MR. McELCHERAN: Yes.

8 --- UNDERTAKING

9 BY MR. SWAN:

10 215 Q. And did this credit memorandum play any role
11 in the TD Bank's conclusion that the Tax Refund Agreement
12 was compliant with the First and Second Lien Credit
13 Agreements?

14 A. No. We relied on counsel for that opinion.

15 216 Q. So was there a specific purpose for this
16 credit memorandum or was it simply to document the
17 bank's perspective on the matter?

18 A. It would have been provided just as an update
19 to the file as to what's going on.

20 217 Q. And when it was sent to your risk management
21 group, why is it sent to them?

22 A. That's where all of these -- the whole
23 purpose of this is to be keep our risk management group
24 up to date. So any credit memorandum that's produced
25 would ultimately go to our risk management group.

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1 218 Q. Would you have received a response from the
2 risk management group?

3 A. Yes, I would have.

4 219 Q. What did they say to you?

5 A. I don't recall. I'd have to produce it. But
6 it could be anywhere from "noted" to "authorized,"
7 depending on what the nature of the -- I don't recall
8 exactly if there was other elements to this credit.

9 MR. McELCHERAN: We'll produce it and we'll see
10 what it says when we get it.

11 MR. SWAN: Thank you.

12 THE DEPONENT: But there would have been some
13 sort of a response.

14 BY MR. SWAN:

15 220 Q. And was an affirmative response from them
16 necessary before you in effect signed off on this?

17 A. No. We just needed a confirmation from
18 lender's counsel that it was in accordance with the
19 agreement -- lender's counsel.

20 MR. McELCHERAN: In looking at the document,
21 there's no request.

22 MR. SWAN: We only have an excerpted version.

23 MR. McELCHERAN: Right. You're absolutely
24 correct. So when we see the whole document, we'll see
25 whether or not there's a request and a response to the

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1 request.

2 BY MR. SWAN:

3 221 Q. So looking at your summary, the second bullet
4 point indicates that the capital will be injected in a
5 manner that does not require any consents from the
6 lenders. And were you in effect recording what you had
7 been told by your counsel or was that your own
8 conclusion?

9 A. A little bit of both. I mean that was -- I
10 agreed with the opinion from our counsel.

11 222 Q. And in the third bullet point you note that
12 the capital will not be injected as equity?

13 A. Yes.

14 223 Q. And that was your perspective at that time?

15 A. Yes.

16 224 Q. And remains your perspective today?

17 A. Can you rephrase that?

18 225 Q. You haven't changed your mind on that
19 point?

20 MR. McELCHERAN: Okay, there's a question -- I
21 think the confusion is because there's a subsequent
22 events which is causing confusion in the witness's mind.
23 You're asking about this transaction, whether this
24 transaction was equity?

25 MR. SWAN: Yes.

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1 BY MR. SWAN:

2 226 Q. This transaction, the tax refund purchase
3 transaction, was not equity?

4 A. I never viewed it as equity.

5 227 Q. And you continue not to view it as an equity
6 injection?

7 A. Yeah, that's correct.

8 228 Q. And your understanding now, looking at the
9 fourth bullet point, and specifically item Roman II under
10 the fourth bullet point, your understanding at the time
11 that you prepared this credit memorandum was that the
12 borrower -- that's GFPI; correct?

13 A. There's other borrowers but that's the
14 primary.

15 229 Q. The primary borrower being Grant Forest
16 broadly defined?

17 MR. McELCHERAN: And it is -- that borrower has
18 the returns.

19 THE DEPONENT: Right.

20 MR. McELCHERAN: That GFPI's borrower has the tax
21 returns.

22 THE DEPONENT: Yes. When we refer to the
23 "borrower," it's --

24 BY MR. SWAN:

25 230 Q. And the purchaser is Mr. Grant Sr.?

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1 A. Yes.

2 231 Q. And looking then at the bullet point 4 Roman
3 sub five, at the time you prepared this memorandum, it
4 was your expectation that the purchaser, Mr. Grant, would
5 receive the proceeds of the 2008 tax refunds in late
6 2008?

7 A. Yes.

8 232 Q. And that Mr. Grant would receive the proceeds
9 of the monetized '09 tax refunds in 2009?

10 A. In 2009 I don't recall if I had a sense of
11 timing.

12 233 Q. Well, you say late 2009.

13 A. Okay, then there it is.

14 234 Q. And you note in the sixth bullet point at the
15 bottom, towards the bottom of the page, that the
16 structured -- you call it the "highly structured nature
17 of this transaction is not so that the shareholders can
18 avoid injecting straight equity." [as read]

19 That was not the purpose of this structure?

20 A. Actually, I believe that's a typo.

21 235 Q. You believe the word "not" should not be
22 there?

23 A. Yes.

24 MR. McELCHERAN: The reason for that conclusion
25 is the next sentence is inconsistent with it.

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1 THE DEPONENT: Right.

2 BY MR. SWAN:

3 236 Q. And one of the -- while we're on this point,
4 one of the reasons that this was done in two phases was
5 that the \$10 million figure, the maximum U.S. \$10 million
6 figure, each year was necessary to stay on-side the First
7 Lien Credit Agreement?

8 A. And the Second Lien.

9 237 Q. And the Second Lien Agreement. So you
10 couldn't do both transactions, both \$10 million tranches,
11 in one calendar year?

12 A. Correct.

13 238 Q. And the reason that the second tranche was on
14 January 2nd, the first business day of '09, was simply to
15 have that mechanic of putting it in the second calendar
16 year?

17 A. Yes.

18 239 Q. Correct?

19 A. Yes.

20 240 Q. And then can you read the last bullet
21 point?

22 A. "TD as Agent (for both 1st and 2nd lien) will
23 provide the partial discharge of security (refer (ii)
24 above) referred to above..."

25 241 Q. Carry on.

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1 A. "... the basis of an opinion from lenders'
2 counsel that the structure does not conflict with the
3 credit agreement."

4 242 Q. And indeed you got that confirmation, didn't
5 you?

6 A. I assume that we did.

7 243 Q. And it was your personal view that this
8 structure didn't conflict either of the Lien Credit
9 Agreements. You've already told me that; right?

10 A. Yes.

11 244 Q. Now, if you look at paragraph 7 of your
12 Affidavit, you make reference to this language that Mr.
13 Grant had used in his Affidavit, that the Tax Refund
14 Agreement was devised and structured in a particular
15 way?

16 A. Yes.

17 245 Q. But just to be clear about this, before March
18 31, 2008 the bank knew how the agreement -- on or before
19 March 1st, 2008 the bank knew how the agreement was
20 structured, didn't it?

21 A. It knew how it would. It hadn't been closed
22 at that point. So we knew how it would be structured.

23 246 Q. In fact, it was closed on March 1, 2008?

24 A. But we knew how it would be structured,
25 yes.

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1 247 Q. And the bank got a copy of the agreement?

2 A. We have to -- we will produce -- whether it
3 was a draft or the final form, I don't recall.

4 248 Q. But you knew what the structure was?

5 A. Yes.

6 249 Q. And you don't think that the agreement
7 itself -- I take it you're not asserting that the
8 agreement itself is inconsistent with the structure that
9 you were told about?

10 A. I'm not, no.

11 250 Q. And so this reference to the fact that the
12 agreement was devised and structured to comply with the
13 credit agreements, that was something -- the manner in
14 which it was structured was something the bank knew about
15 at the time, wasn't it?

16 A. Yes.

17 251 Q. And having reviewed that, came to the view
18 that this was compliant with the credit agreements?

19 A. Yes.

20 252 Q. And the bank certainly didn't say to the
21 company, "Do not do this"?

22 A. We didn't have the ability to say that.

23 253 Q. Well, whether you had the ability or not, you
24 didn't say it?

25 A. No.

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1 254 Q. And the bank, as agent, provided discharges
2 on March 31, 2008?

3 A. Yes.

4 255 Q. And just looking at those discharges, they're
5 in Mr. Grant Sr.'s Affidavit at tab D. We looked at them
6 earlier. Those discharges specifically reference the Tax
7 Refund Purchase and Sale Agreement as of March 31, 2008
8 in the "re" line, don't they?

9 A. Yes.

10 256 Q. Can you provide me, and I think this is
11 probably captured by the earlier undertaking, but can you
12 provide me with either the email or the letter that
13 enclosed these discharges?

14 MR. McELCHERAN: I will.

15 --- UNDERTAKING

16 MR. SWAN: I think it's probably captured, but no
17 sense in not being specific.

18 BY MR. SWAN:

19 257 Q. So looking at paragraph 7 of your Affidavit,
20 the bank, in fact, had no objection to the manner in
21 which this agreement was structured, did it?

22 A. No, I don't think that's -- we didn't have an
23 opinion one way or another. Our focus was solely that it
24 was in compliance with the credit agreement. We didn't
25 have the ability to object to it, so.

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1 258 Q. Well, you at no point communicated any
2 objection to the company about this agreement?

3 A. That's true.

4 259 Q. Now, in paragraph 8 of your Affidavit you
5 refer to an excerpt of certain parts of the Credit
6 Agreement that may be relevant to the issues on this --
7 on this motion. Was it you that identified these four
8 elements that you thought were relevant or was it
9 somebody else?

10 A. For which purpose?

11 260 Q. For the purpose of your Affidavit?

12 A. It was me.

13 261 Q. You went through the agreement and identified
14 those four elements?

15 A. Yes.

16 262 Q. But you weren't purporting to give a legal
17 opinion or anything like that?

18 A. No. I was just identifying areas that I
19 think are relevant here.

20 263 Q. And then in respect of paragraph 9, who
21 identified these elements of the agreement; did you do
22 that or did somebody else?

23 A. Do which?

24 264 Q. For the purpose of your Affidavit, who
25 identified these elements at A through I of sub 9; was it

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1 you or was it somebody else?

2 A. I mean McCarthys was involved in drafting
3 this. I don't recall if --

4 265 Q. Well, did you say, "I want to refer to these
5 eight or nine elements of the agreements" or did someone
6 else sort of prepare that for you and you looked at it?

7 A. It certainly was prepared and I looked at it.
8 I had opinion on it as to what should be included. I
9 don't specifically recall which ones, if I specifically
10 said this is missing and I want to include it.

11 266 Q. Just take a look at paragraph (h), for
12 example, 9(h). It refers to the fact, or it says, that
13 the obligation to deliver the transfer was not secured
14 such that any loss suffered by Mr. Grant was an unsecured
15 claim against GFPI?

16 A. Correct.

17 267 Q. You're not purporting to express a legal
18 opinion there, are you?

19 A. No. This is my interpretation of the
20 agreements.

21 268 Q. Right. But you're not a lawyer?

22 A. I am not a lawyer.

23 269 Q. And it's really for the court to decide what
24 is a secured and unsecured claim, isn't it?

25 A. Agreed.

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1 MR. SWAN: Why don't we take a five-minute break.

2 --- Recess taken at 10:44 AM.

3 --- Upon resuming at 10:53 AM.

4 BY MR. SWAN:

5 270 Q. So as of March 31, 2008, the bank was content
6 with this Tax Refund Purchase and Sale Agreement
7 structure?

8 A. I don't know if that's fair. The bank
9 believed the structure was in compliance with the credit
10 agreement.

11 271 Q. Right. And presumably the bank was not
12 unhappy that \$20 million went into the company as a form
13 of cash flow?

14 A. I think that the fact that \$20 million was
15 necessary to be injected to maintain compliance with
16 covenants was a great concern for the bank.

17 272 Q. But the fact that it went in as opposed to
18 didn't go in was something that the bank would have been
19 pleased with?

20 A. Not necessarily.

21 273 Q. You'd rather that the money hadn't gone in?

22 A. I think at the time, you know, to be honest,
23 we might have been happier if the loan had simply been
24 repaid rather than, you know, if they were going to
25 default on it.

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1 274 Q. Aside from the loan being repaid, if the
2 options were status quo no \$20 million, status quo plus
3 20 million, you're happier with status quo plus \$20
4 million, presumably?

5 A. Not necessarily.

6 275 Q. Not necessarily?

7 A. If they breach a covenant and they have to
8 come back for waivers, I have the ability -- the lenders
9 may have an option to review pricing, to review other
10 terms of the facility.

11 276 Q. Anyway, you told me you didn't object to it;
12 right?

13 MR. McELCHERAN: You didn't object.

14 BY MR. SWAN:

15 277 Q. Didn't object?

16 A. The bank did not object.

17 278 Q. Right. Let's move forward. In the fall of
18 2008, the company receives its 2008 tax refund and it
19 pays out approximately U.S. \$10 million to Mr. Grant.
20 The bank became aware that?

21 A. I don't think we were ever advised.

22 279 Q. But you expected that was going to happen?

23 A. Yes.

24 280 Q. And you knew that was the structure?

25 A. Yes.

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1 281 Q. And then this mechanic of the 2009 closing
2 for January 2, '09 is coming up. And when did the bank,
3 TD Bank, became re-engaged in any issues concerning the
4 Tax Refund Purchase and Sale Agreement?

5 A. What are you -- can you explain "engaged" I
6 guess.

7 282 Q. When did you next hear or to your knowledge
8 anyone in the bank next hear of any matter, issue or
9 otherwise concerning the Tax Refund Sale Agreement after
10 March of 2008?

11 A. When we got the notice from Peter Grant --
12 when Peter Grant filed the -- what do you call it? This.
13 (Indicating) .

14 MR. McELCHERAN: The motion.

15 THE DEPONENT: Yes, when the motion was filed.

16 BY MR. SWAN:

17 283 Q. Maybe you're taking my question too
18 literally. Did you have any involvement or any knowledge
19 of any issues involving the tax refund purchase and sale
20 agreement in the latter part of 2008?

21 A. I think I need you to explain what you mean
22 by "issues."

23 284 Q. Well, did you do anything in the latter part
24 of 2008 that was in any way connected with this Tax
25 Refund Purchase and Sale Agreement?

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1 anything more limited than that.

2 A. Okay.

3 292 Q. When did you next -- after March 31, 2008,
4 when did you next think about --

5 A. So you're wondering --

6 293 Q. Let me finish and then you can speak.

7 A. Sure.

8 294 Q. When did you next think about or have any
9 involvement with this agreement after March 1, 2008?

10 A. Okay. So the clarification is helpful
11 because I think it's -- I didn't have any involvement but
12 I did start thinking about it in early February of 2008.
13 Nine, sorry, early February 2009.

14 295 Q. Nothing before then?

15 A. I think I started discussing it internally
16 with in my colleagues in February. I may have thought
17 about it prior to that.

18 296 Q. Were there any communications between the
19 company and the bank in December or January -- December
20 2008 or January 2009 that were in any way connected with
21 the Tax Refund Purchase and Sale Agreement?

22 A. Not that I'm aware.

23 297 Q. Could you look and advise me, and if there
24 were, produce them?

25 MR. McELCHERAN: Yes.

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1 A. No.

2 285 Q. And do you know to your knowledge did anyone
3 else in the bank do anything that was in any way
4 connected with this Tax Refund Purchase and Sale
5 Agreement?

6 A. I'm not aware and I don't believe so.

7 286 Q. What about any other lenders in the lending
8 syndicate?

9 A. I couldn't answer that. I'm not aware.

10 287 Q. So there are some emails that you have given
11 me in the very least in the early part of February,
12 Exhibit 2?

13 A. Yes.

14 288 Q. Is an email from you to Bill O'Connor?

15 A. Right.

16 289 Q. That -- dated February 10, 2009, that
17 provides Bill O'Connor with a summary of this Tax Refund
18 Purchase and Sale transactions?

19 A. Yes.

20 290 Q. So obviously the issue surfaced again and
21 came into your consciousness, didn't it?

22 A. Yeah, it surfaced internally. So I was
23 taking your question as being was I involved with
24 anything -- yes, we were thinking about it internally.

25 291 Q. Okay. I didn't intend my question to suggest

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1 --- UNDERTAKING

2 BY MR. SWAN:

3 298 Q. And do you know anything about a request for
4 a discharge in late December or early Jan-- late December
5 2008 or early January 2009?

6 A. I know from our agent that no request was
7 ever received.

8 299 Q. Who told you that?

9 A. Ron Kowpak.

10 300 Q. When did you learn that?

11 A. There's an email included in the exhibits
12 here.

13 301 Q. It may be Exhibit 2.

14 A. Dated September the 10th where I asked Ron to
15 confirm that.

16 302 Q. September the 10th?

17 MR. McELCHERAN: It is the one that's Exhibit 2,
18 I believe.

19 THE DEPONENT: So this email Ron did confirm,
20 probably September 13th or 14th, somewhere in that area,
21 that he never did receive a request.

22 BY MR. SWAN:

23 303 Q. I see. So looking at Exhibit 2, on February
24 10th, 2009, you asked Mr. O'Connor -- sorry, Mr. O'Connor
25 asked Mr. Kowpak to see if security was discharged, and

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1 Mr. Kowpak writes back to Mr. O'Connor and copies you and
2 says -- this is again in Exhibit 2 -- by email February
3 10 --

4 A. Yes.

5 304 Q. -- 2009 that the only discharge was the one
6 from March of '08 and he hadn't received a request on the
7 '09 to this point?

8 A. Correct. And he reconfirms that in
9 September. So subsequent to February 10th he had not
10 received such a request.

11 305 Q. Now, when did Mr. O'Connor become involved in
12 the GFPI matter?

13 A. January of 2009.

14 306 Q. And is he in a special department of the
15 bank?

16 A. He's in the same department that I'm in.

17 307 Q. Why did he become involved?

18 A. He has restructuring experience.

19 308 Q. And how did it come about that you prepared
20 this email to Mr. O'Connor on February 10th? What
21 preceded this email?

22 A. We were in the process of developing a
23 termsheet that would be used as a means, I guess, for the
24 First Lien Lenders to consider restructuring their credit
25 facilities to enable the company to continue to operate

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1 as a going concern.

2 309 Q. Keep your voice up.

3 A. Yes.

4 310 Q. Who made that request of you?

5 A. When I think of request, I think of an
6 official request. We never received any official request
7 to do that.

8 311 Q. This is a lower case "R" request?

9 A. Yes. So we were working with Peter Lynch
10 primarily. That would be the primary.

11 312 Q. Was Hap Stephen involved? H-a-p
12 S-t-e-p-h-e-n.

13 MR. McELCHERAN: Yes, it's p-h.

14 THE DEPONENT: Those would be the two primary
15 people that we were developing the term sheet with.

16 BY MR. SWAN:

17 313 Q. When did that process start either informally
18 or formally?

19 A. So informally talking about it.

20 314 Q. Yes.

21 A. January, I would say.

22 315 Q. Middle January?

23 A. Probably middle, yes. Early to middle.

24 As far as putting a termsheet together, I'm going
25 by the date of these emails. I believe the first cuts to

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1 the termsheet would have been in early February.

2 316 Q. Can you look at Exhibit E to Mr. Grant's
3 first Affidavit?

4 MR. McELCHERAN: Hang on. "E" is...?

5 MR. SWAN: It's an email from Mr. Lynch.

6 THE DEPONENT: Yes.

7 BY MR. SWAN:

8 317 Q. -- dated June 19th, 2009 and he deep briefly
9 described some facts?

10 A. Right.

11 MR. McELCHERAN: Just so you know, Counsel, this
12 is clearly hearsay. It was prepared '09, June of '09.
13 So description here, it's fine to ask him some questions
14 about whether he agrees or doesn't agree with statements
15 here, but in my point of view, without confirmation from
16 another source, I would have said this is hearsay. But
17 let's -- with that qualification, ask away.

18 MR. SWAN: You can, of course, take whatever
19 position you would like on the motion, and, indeed, we've
20 looked at a number of documents written by other people,
21 haven't we?

22 MR. McELCHERAN: Yes.

23 BY MR. SWAN:

24 318 Q. So, Mr. Lynch says:

25 "Following the end of the financial quarter in

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1 which the 2008 tax rebate transaction was closed,
2 the company and the agent received strong
3 objections to the transaction from two of our
4 lenders who felt that it should not have been
5 proceeded with nor the releases given by the
6 agent without the express consent of the lenders
7 themselves." [as read] ."

8 Do you know whether that in fact happened?

9 A. I am not aware.

10 319 Q. You don't know one way or the other?

11 A. No.

12 320 Q. You told me earlier that your perspective was
13 that the consent of the lenders and the syndicate wasn't
14 required; right?

15 A. In March of 2008 with respect to the 2008
16 return.

17 321 Q. Keep your voice up. And he then goes on to
18 say in the next paragraph:

19 "The issue of executing the transfer of a portion
20 of the 2009 tax rebate to Peter Grant Sr. and the
21 discharge of security was discussed in Q1 2009 by
22 both myself, Mr. Lynch, and our CFO, Eric Davis,
23 with the first and Second Lien Agent. We were
24 advised that the agent would not provide the
25 discharges without the direct authority of the

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1 requisite number of First and Second Lien
2 Lenders." [as read]

3 What do you say about that?

4 A. I was not involved in those discussions.

5 322 Q. You had nothing to do with that?

6 A. No.

7 323 Q. But I take it you don't have any information
8 to contradict that statement?

9 A. Correct.

10 MR. McELCHERAN: Well, the statement is a
11 statement made in June '09 by a person who is not an
12 affiant, not under oath, describing discussion that
13 happened before in January or whenever, some other time
14 in '09. I object to its -- the document itself as being
15 evidence.

16 Now, whether or not -- and we can take that
17 position on the motion or whatever, but the point is this
18 witness isn't in a position to confirm either one of
19 those statements.

20 324 Q. You don't know one way or the other?

21 A. Whether the statement was made?

22 325 Q. Whether that happened. The statement was
23 made but -- made in this email, but you don't know
24 whether in fact this happened -- you don't know one way
25 or the other whether the agent would not provide the

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1 discharge without the direct authority of the requisite
2 number of First or Second Lien Lenders.

3 Do you know whether or not that happened?

4 A. I suspect he's referring to a discussion with
5 Bill O'Connor, but I was not party to those discussions.

6 326 Q. Do you know about that discussion?

7 A. Well, no, I don't.

8 327 Q. Have you been told about that discussion?

9 A. I do know from Bill that this -- that this
10 would have been our position.

11 328 Q. What did Bill tell you in this regard?

12 A. That as -- you know, in order to -- in order
13 to continue to support the company and, you know, put a
14 structure in place that would allow it to continue to
15 operate, that the lenders would look for the 10 million
16 to remain in the company --

17 329 Q. Okay.

18 A. -- in order to induce the lenders to continue
19 to fund, or to continue to forebear, I guess, or continue
20 to re -- to restructure the credit facilities to allow it
21 to continue to operate.

22 330 Q. But the sentence that we just referred to
23 says, "We were advised that the agent" --

24 A. Right.

25 331 Q. -- "would not provide" -- and the agent at

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1 that time, both agents, was the TD Bank?

2 A. Yes.

3 332 Q. The agent would not provide discharges
4 without the requisite direct -- the direct authority of
5 the requisite number of first and Second Lien Lenders.
6 Did Mr. O'Connor tell you anything about that?

7 A. No.

8 333 Q. So you don't know whether that's accurate one
9 way or the other?

10 A. I think it's fair that Bill may have told him
11 that that's TD's position. Whether the agent
12 specifically said that, I don't -- I have no idea.

13 334 Q. Okay. Well, the agent was TD?

14 A. Yes. Sorry, I -- when I -- I typically think
15 of the agent itself as Mr. Kowpak, or his group.

16 335 Q. And you haven't spoken to Mr. Kowpak about
17 what he said in this specific context?

18 A. Well, other than that he'd never received a
19 request to release.

20 336 Q. Right. But about this specific issue about
21 not providing discharges without the requisite number of
22 First and Second Lien Lenders?

23 A. I haven't spoken to him about that.

24 337 Q. And indeed your view that you told me earlier
25 in the context of the March 2008 events was that the

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1 consent of any number of members of the syndicate wasn't
2 required; they weren't entitled to a vote?

3 A. Yes.

4 338 Q. And this document then goes on to say: "TD
5 Bank also indicated that in its position as one of the
6 First Lien Lenders it would not be supportive of the
7 request"? [as read]

8 A. Right.

9 339 Q. Now that's something that you probably do
10 know about?

11 A. That's something the bank certainly -- TD, as
12 a lender, in the -- in putting together a termsheet, I
13 guess, or a set of terms, that the banks may consider
14 amending their facilities to continue to allow the
15 company to operate, you know, that the 10 million was
16 important, the company needed it from a liquidity
17 perspective, and TD as a lender, you know, in order to
18 extend our term and to relax covenants, that is certainly
19 one of the things we would have looked for to -- would
20 have looked for the 2009 tax refunds to remain in the
21 company in order to execute on the proposed termsheet.

22 340 Q. So, in effect, the bank was saying to the
23 company, "Don't pay him the money"?

24 A. Well, the company was showing us that they
25 needed the money from a liquidity perspective and in

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1 their forecasts and budgets and in the termsheets we
2 provided them, that was one of the terms that was --
3 keeping the 2009 tax refunds in the company was a
4 covenant within the proposed terms and...

5 341 Q. In effect, I think you say in your Affidavit
6 that the bank required the company to keep --

7 A. Yes.

8 342 Q. -- the \$10 million?

9 A. That was an express term in the -- or that
10 was a covenant in the draft termsheet.

11 343 Q. That was something the bank required the
12 company to do?

13 A. In the context of a restructuring.

14 344 Q. And --

15 A. So this is not in context as -- this is in
16 context if we go out and amend the credit facilities,
17 this is something that we look for to happen.

18 345 Q. But this sentence is a little bit different.
19 It says TD Bank also indicated that in its position as
20 one of the First Lien Lenders, it would not be supportive
21 of the request?

22 A. Yes.

23 346 Q. So the TD did not support the request that
24 the discharge be given?

25 A. I don't recall ever getting a request for a

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1 discharge. In fact, I know from the agent we never
2 did.

3 MR. McELCHERAN: I think -- I've given you a lot
4 of liberty in cross-examining him about somebody else's
5 hearsay statement, but you've got as far as I think you
6 can on that.

7 MR. SWAN: Well, I'm just using this as a point
8 of reference. I'm really interested in what his evidence
9 is.

10 THE DEPONENT: Yes.

11 BY MR. SWAN:

12 347 Q. And that is the bank wanted the 10 million
13 bucks to stay in the company?

14 A. In the context of a restructuring, yes.

15 348 Q. What about not in the context of a
16 restructuring?

17 A. I don't think that matters one way or
18 another. You know not in the context of restructuring,
19 there's contracts in place that we, you know -- we
20 weren't talking -- we were talking -- the discussion at
21 the time was with respect to a termsheet. It wasn't with
22 respect to a request to release security on the 2009
23 taxes.

24 349 Q. Well, and in fact the bank wasn't in a
25 position to -- or was it in a position to compel the

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1 company to retain the money?

2 A. We were in a position to compel them to the
3 extent that in order to entice lenders to restructure the
4 credit facilities we thought it would be in their best
5 interests to keep it in company and, in fact, that is
6 what they were showing in their budgets as was needed.

7 350 Q. And that is ultimately what you required in
8 the straw man termsheet?

9 A. Yes, there was a covenant in the termsheet.

10 351 Q. I think this is already covered by a prior
11 request. I asked you for correspondence and emails in
12 December '08, January '09, but I'd like to see whether
13 there are any communications in respect of the bank's
14 position on providing a discharge in respect of the '09
15 refund?

16 MR. McELCHERAN: Well, the -- yes, we'll give you
17 the undertaking. I just want to be clear about it. The
18 communications regarding -- from the bank?

19 MR. SWAN: Well, exchange between the two of
20 them, bank and company or bank's solicitors and
21 company.

22 MR. McELCHERAN: Regarding a request for a
23 discharge?

24 MR. SWAN: Yes. Well, in which the bank's
25 position.

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1 (REPORTER'S NOTE: Telephone rings.)

2 MR. SWAN: Go ahead.

3 --- Discussion off the record.

4 MR. McELCHERAN: So the communications between TD
5 and --

6 MR. SWAN: Company.

7 MR. McELCHERAN: Company, GFPI, or counsel --

8 MR. SWAN: Or counsel.

9 MR. McELCHERAN: Requesting or --

10 MR. SWAN: Not requesting?

11 MR. McELCHERAN: Not requesting --

12 MR. SWAN: But dealing with.

13 MR. McELCHERAN: Dealing with --

14 MR. SWAN: Either partial discharge transfer
15 document or the bank's position on whether it wanted the
16 monies, the \$10 million, retained by the company.

17 MR. McELCHERAN: Okay. Well, we have given you
18 stuff about the termsheet which says that.

19 MR. SWAN: Yes.

20 MR. McELCHERAN: So bank's position... And of
21 course we're talking about refunds that still haven't
22 been received; right?

23 MR. SWAN: Yes.

24 --- UNDERTAKING

25 BY MR. SWAN:

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1 352 Q. So you had told me earlier, Mr. Montgomery,
2 that there were informal discussions in -- starting at
3 some point in January of 2009 that Mr. Lynch might have
4 been involved in, that Mr. Stephen might have been
5 involved in. Do you recall being part of any of those
6 discussions?

7 A. Yes.

8 353 Q. And was the tax refund discussed in any of
9 those January '09 discussions?

10 A. No.

11 354 Q. It was not?

12 A. No.

13 355 Q. How did it arise internally at the bank?

14 A. I was preparing the draft termsheet.

15 356 Q. Yes?

16 A. I thought about the issue and -- I thought
17 about the issue, I put in a negative covenant that it
18 remain in there, and we provided that termsheet. Bill
19 and I were preparing that termsheet. That termsheet was
20 provided to Hap Stephen and Peter Lynch.

21 After the term sheet was provided, I don't recall
22 ever having any discussion on it.

23 357 Q. Now, looking at Exhibit 2 again, Exhibit 2
24 doesn't reference a termsheet. So does this email of
25 February 10 --

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1 A. Yes.

2 358 Q. Does that predate your preparation of a draft
3 termsheet?

4 A. No. This would have been -- at the time I
5 was preparing the termsheets, Bill had not been involved
6 in -- had no knowledge of the issue.

7 359 Q. "The issue" being the tax refunds?

8 A. "The issue" being the tax refunds. So to
9 give him some background, I sent him this email to give
10 him some insight as to why I was putting that negative
11 covenant into the termsheet.

12 360 Q. Now, you say in this email, "I didn't --" I'm
13 looking at the one that was sent at 4:22 p.m. on February
14 10, 2009?

15 A. Yes.

16 361 Q. You say in the email: "I didn't bring it up
17 on the call because not sure if Hap knows about it." [as
18 read]

19 What does that mean?

20 A. I wasn't aware of whether Hap was aware of
21 this structure or -- it had never been discussed
22 before.

23 362 Q. The tax refunds?

24 A. The tax refunds had never been discussed in
25 any discussions, so I didn't -- this is mentioned in the

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1 context that we didn't talk about it on the call but I
2 was going to put it in the termsheet.

3 363 Q. And what was the call?

4 A. There were several calls, I guess, to discuss
5 terms on which the lenders may look to -- or that TD,
6 anyway, may be supportive of amending the credit
7 facilities, and then take that out to the other lenders
8 as a basis for which everybody would --

9 364 Q. So why didn't you want to bring up this tax
10 refund issue about Hap Stephen?

11 A. I didn't know if he knew anything about it.

12 365 Q. So what?

13 A. The context was I was just going to stick it
14 in the termsheet and see how they reacted.

15 366 Q. Why? Why did you decide to do that?

16 A. I wasn't sure if it was an issue or not.
17 We'd find out if it was an issue after we gave them the
18 termsheet and it never was discussed after that.

19 367 Q. And you say: "If we restructure, we would
20 want to make sure that the shareholders do not take this
21 payment -- take payment on this deposit"? [as read]

22 A. Right.

23 368 Q. Was that your -- did you instigate that
24 thought?

25 A. Yes.

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1 369 Q. That was your decision?

2 A. Yes.

3 370 Q. And prior to writing it in this email, had
4 you discussed it with Mr. O'Connor or Mr. Scott?

5 A. Mr. Scott was not involved with the file at
6 this time. Just Mr. O'Connor.

7 I had talked about it with Bill probably just
8 prior to sending him this email, told him of the issue.

9 The point of this email was to give him some
10 background on the structure.

11 371 Q. Well, you gave him some background on the
12 structure but you also made a clear suggestion,
13 proposals?

14 A. Yes.

15 372 Q. Two things: You didn't want to raise it with
16 Hap Stephen because you thought it would be better to
17 deal with this just by putting it in the termsheet;
18 right?

19 A. Right.

20 373 Q. And, two, you wanted to communicate to Bill
21 O'Connor that in your view --

22 A. Yes.

23 374 Q. -- the bank should insist that this stay in
24 the company, this 10 million bucks?

25 A. In the context of a restructuring, yes.

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1 375 Q. And if you would look at another document
2 that you provided for me --

3 A. Yes.

4 376 Q. -- the substantive part of which is a
5 February 12, 2009 email from Bill O'Connor --

6 A. Yes.

7 377 Q. -- to Glen Gibson and Adam Newman?

8 A. Yes.

9 378 Q. And you received a copy as well?

10 A. Yes. Okay.

11 MR. McELCHERAN: This is the February 12, '09?

12 MR. SWAN: February 12, '09.

13 BY MR. SWAN:

14 379 Q. February 12, '09, 2:25 p.m. from Mr. O'Connor
15 to others.

16 And Mr. Newman and Mr. Gibson are?

17 A. So Mr. Gibson, we've already talked about his
18 role. He's a managing director at TD Securities and he's
19 head of credit origination.

20 Mr. Newman is also a managing director of TD
21 Securities and he heads credit management. Both credit
22 origination and credit management are subsets of
23 corporate credit.

24 380 Q. And who is Grant Wice, W-i-c-e?

25 A. Grant Wice is managing director at TD

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1 Securities. At the time he was -- he was who I would be
2 reporting to at the time.

3 381 Q. And the context of this is an outline of a
4 structure leading to a termsheet?

5 A. Yes.

6 382 Q. And on the third page I see that there is a
7 reference to the tax refunds, although it says 20 million
8 instead of 10 million?

9 A. Right.

10 383 Q. Is there any other reference to that tax-
11 refund issue in here? I didn't see one but perhaps you
12 can have a look.

13 A. Do you want me to look right now?

14 384 Q. Yes, please.

15 A. Sure. That is the only reference I see to
16 it, to the tax refunds.

17 385 Q. Let's mark that email chain -- really, it's
18 just one email, in effect, as Exhibit 3. It's the email
19 of February 12, 2009 at 2:25 p.m. from Mr. O'Connor.

20 EXHIBIT NO. 3: Email dated February 12, 2009 at
21 2:25 p.m. from Mr. O'Connor.

22 BY MR. SWAN:

23 386 Q. All right. Moving from February 12, you've
24 provided another email from Mr. O'Connor, this time to
25 Hap Stephen at Stonecrest Capital, and you received a

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1 copy of this dated February 20, 2009.

2 Mr. McElcheran, are we getting into a level of
3 detail that this is a document that you would prefer to
4 request be sealed?

5 MR. McELCHERAN: Let me just see -- because I
6 haven't located -- February 20, okay, got it.

7 Okay, so February 20 attaches the draft
8 termsheet.

9 THE DEPONENT: I think this would -- the prior
10 email would also fall into that category, too.

11 MR. McELCHERAN: Exhibit 3 as well.

12 MR. SWAN: Okay.

13 MR. McELCHERAN: Okay. So the -- just to state
14 it on the record, counsel have discussed this point. We
15 had specifically not included the termsheet, which -- and
16 discussions around the restructuring because of the
17 potential effect it might have on ongoing marketing
18 activities that the company is going through as being
19 potentially prejudicial, and that we will be seeking an
20 order sealing Exhibits 3 -- any exhibits which relate to
21 that, to the termsheet, and the terms of the termsheet.

22 MR. SWAN: And just so that I -- I don't have any
23 instructions on any of this, so I'm hearing what you're
24 saying and I'll go away and do something reasonable.

25 MR. McELCHERAN: Yes. Well, on that basis we

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1 have brought them for production.

2 BY MR. SWAN:

3 387 Q. And is the document attached to the February
4 20, '09 email really the first draft of a new
5 termsheet?

6 A. I'd have to check my email to know for sure.
7 I suspect it is -- the first draft provided to the
8 company.

9 388 Q. All right. Let's mark that then as Exhibit
10 4. Exhibit 4 is an email. The substantive part of it is
11 an email from Bill O'Connor dated February 20, 2009, at
12 10:43 a.m.

13 EXHIBIT NO. 4: Email from Bill O'Connor dated
14 February 20, 2009, at 10:43 a.m.

15 BY MR. SWAN:

16 389 Q. And did you have discussions with other
17 members of the lending syndicate about this termsheet?

18 A. Not this particular draft but a final version
19 of the termsheet.

20 390 Q. And did you have discussions with other
21 members of the lending syndicate with respect to the
22 treatment of the 2009 tax refund?

23 A. No.

24 391 Q. You had no discussions with them?

25 A. It was never raised as an issue.

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1 392 Q. By any of the lenders?

2 A. Not -- a termsheet -- a termsheet that was
3 substantially similar to this was eventually provided to
4 the other lenders. That termsheet was discussed but the
5 tax -- I don't recall the taxes being specifically
6 discussed.

7 393 Q. The tax refund?

8 A. Right. The covenants in the termsheet that
9 addressed the taxes.

10 394 Q. All right. I don't want to clutter up the
11 record with all kinds of unnecessary paper. If there is
12 any communications or correspondence with the other
13 lenders in which there is reference made to the Tax
14 Refund Agreement or the tax refund in the context of the
15 termsheet discussions, I'd like to see those.

16 A. So that would consist of a notice from the --
17 it would have been that the term sheet provided, but we
18 can provide the final term sheet that was provided. I
19 think I'm fairly confident that that would be the only
20 reference or the only reference to the taxes and anything
21 provided to lenders.

22 MR. McELCHERAN: You need to speak louder.

23 For the purpose of the undertaking, just so we're
24 clear, from the -- there is, in fact -- and the client
25 probably knows this, there's a -- maybe not -- there's an

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1 interlink site where this document is posted. So that we
2 can -- we'll certainly produce the note that advised
3 lenders of that posting and any other correspondence in
4 relation to the termsheet from the other lenders
5 specifically in relation to this point.

6 If it doesn't relate to this point, we won't do
7 so.

8 --- UNDERTAKING

9 BY MR. SWAN:

10 395 Q. You don't recall any discussion?

11 A. I don't recall any discussion.

12 396 Q. Or communication?

13 A. Or communication.

14 397 Q. All right. And I would ask you to produce to
15 me the final termsheet?

16 MR. McELCHERAN: It's attached to an email that's
17 included in this group.

18 THE DEPONENT: Now, what we have here -- we can
19 produce it as an attachment to this email.

20 BY MR. SWAN:

21 398 Q. Which one is that?

22 MR. McELCHERAN: This is the one that's dated --
23 there's an exchange between Peter Lynch and Bill O'Connor
24 that takes place on March 16th, and the attachment is not
25 included with the email that I have here, which is the --

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1 which is the difficulty I'm having at the moment.

2 THE DEPONENT: But I can dig it up.

3 MR. McELCHERAN: But we'll undertake to produce
4 it.

5 --- UNDERTAKING

6 MR. McELCHERAN: So I think I gave you the email
7 dated March 16th, '09?

8 MR. SWAN: Yes, I do have an attachment to the
9 one that -- to that email.

10 MR. McELCHERAN: Maybe I'm --

11 MR. SWAN: But it doesn't have the look of a
12 final document because it includes all of the --

13 MR. McELCHERAN: All the marking on the left.

14 MR. SWAN: Black line or the red line.

15 THE DEPONENT: We can produce the one that was
16 put on Interlink; so that would -- we'll be able to get
17 that to you.

18 BY MR. SWAN:

19 399 Q. Can you have a look at this copy though? I
20 presume that it's close to a final one for the purpose of
21 asking a couple of questions?

22 A. Yes.

23 400 Q. So in respect of the termsheet -- and this
24 was ultimately signed, this termsheet?

25 A. I don't recall if it was signed. It was

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1 agreed to by Peter Lynch. I don't believe he signed it.

2 MR. McELCHERAN: The term sheet doesn't provide
3 for a signature.

4 BY MR. SWAN:

5 401 Q. It was agreed to though?

6 A. Yes.

7 402 Q. On behalf of the bank?

8 A. Sorry?

9 403 Q. On behalf of the bank it was agreed to as
10 well?

11 A. It's just a draft summary of terms and
12 conditions. There's nothing --

13 404 Q. But it was one that the bank was prepared to
14 proceed upon?

15 A. Subject to credit approval.

16 405 Q. And under the negative covenants in this
17 copy, covenant 9 is a prohibition on repayment of the
18 U.S. \$10 million deposit against the sale of any portion
19 of the 2009 tax refund.

20 So to put that in every-day language --

21 A. Yes.

22 406 Q. -- the bank was requiring -- I think you say
23 this in your Affidavit -- the bank was requiring that the
24 company not transfer that tax refund to Mr. Grant?

25 A. Again, this term sheet was not subject to

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1 credit approval. So the bank was not requiring anything.

2 We were signalling that if we were to agree to
3 amend our credit facilities, that this is something that
4 TD, as a lender, would look for.

5 407 Q. You weren't just signalling it. You were
6 saying you required it?

7 A. We required, yes, we required that in
8 connection with a restructuring of the credit facilities.
9 But we were not credit-approved yet on this.

10 408 Q. And were you ultimately credit-approved?

11 A. It never got that far because the syndicate
12 -- once it was posted to Interlinks, it didn't really get
13 too far with the syndicate.

14 409 Q. The syndicate said no?

15 A. No, they never said yes or no. It's just
16 other events unfolded that ultimately led to the filing.

17 But the broad restructuring of the credit
18 facilities that this term sheet contemplated, we never
19 got too far on that other than this termsheet.

20 410 Q. Can you look at your Affidavit for a
21 moment?

22 A. Sure.

23 411 Q. Paragraph 13 and 14, just take a moment to
24 read that.

25 You're not intending to express a legal opinion

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1 there, are you?

2 A. No. This is my own opinion.

3 412 Q. I may have covered this off, but I'd like to
4 ensure that I have any correspondence between the TD Bank
5 either in its capacity as agent or in its capacity as
6 lender and any other members of the lending syndicate in
7 respect of the Tax Refund Agreement or the tax refund,
8 whether in the context of the termsheet or otherwise?

9 MR. McELCHERAN: Okay. Well, that's -- can you
10 give me your parameters on time? Because it's going --
11 looking at every file is -- it's over a two-year
12 period.

13 MR. SWAN: Let's say from November '08 to the
14 present.

15 MR. McELCHERAN: November '08 to present. Okay.

16 --- UNDERTAKING

17 MR. McELCHERAN: I'm going to make an exception
18 to that. I think the present is too long because it
19 includes the time privilege period while the litigation
20 is going on up to the time of your motion being served.

21 MR. SWAN: That's fine. Well, or if there are --
22 I see what you're saying, there may be litigation
23 privilege.

24 MR. McELCHERAN: Right.

25 MR. SWAN: Up to the time the motion is served.

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1 BY MR. SWAN:

2 413 Q. You were obviously watching GFPI's financial
3 position through to this period?

4 A. Yes.

5 414 Q. And one of the factors that impacted on the
6 company was a significant downturn in the U.S. housing
7 market, wasn't it?

8 A. That's correct.

9 415 Q. And the Canadian housing market?

10 A. To a lesser degree, yes.

11 416 Q. But significantly a significant downturn in
12 the U.S. housing market had a serious impact on the
13 company's fortunes, didn't it?

14 A. Well, I think three things did. One was the
15 downturn in the housing market. The other was the --
16 there was major cost overruns on the mills being
17 constructed. And the third thing was, in hindsight, was
18 our borrower was financing, you know, what we've come to
19 call the non-core assets.

20 417 Q. Well, the non-core assets were approved and
21 under way at the time the First Lien Agreement was
22 signed; right?

23 A. We weren't aware of their existence until
24 early this year.

25 418 Q. You weren't aware of their existence. Did

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1 you not --

2 A. Sorry. We weren't aware that our borrower
3 was paying for them.

4 419 Q. Did you not do due diligence before you
5 undertook the loan?

6 A. We did.

7 420 Q. In any event, the downturn in the U.S.
8 housing market was a significant factor, wasn't it?

9 A. It was.

10 421 Q. Is there some reason you don't mention that
11 in your Affidavit?

12 A. I think that's already mentioned in the
13 Affidavit from Mr. Grant. And I don't deny that the
14 downturn in the housing market was a major contributor;
15 my point is that it was not the only contributor.

16 422 Q. It was "the" major contributor, wasn't it?

17 A. No. It was "a" major contributor, not "the"
18 only.

19 423 Q. Not the only. "The" major contributor.
20 "The" most significant factor?

21 A. No, not necessarily. If there hadn't been
22 cost overruns on the mills and our borrower had not paid
23 for the non-core assets, I'm not sure that they would
24 have filed. They may have had sufficient liquidity to
25 continue operating.

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1 424 Q. You haven't done that calculation, have
2 you?

3 A. It's pretty subjective.

4 425 Q. You haven't done it, have you?

5 A. I have not done it, no.

6 426 Q. You make reference in your Affidavit to a
7 "straw man termsheet," and you might just tell us so the
8 court knows what a "straw man" termsheet is?

9 A. Sure. It was a termsheet that the company
10 provided to Goldman Sachs as a set of terms and
11 conditions that potential -- Goldman Sachs was mandated
12 to raise equity or capital, and in order to entice an
13 investor to put capital into the business, they would
14 have needed existing lenders to consent to a set of
15 amendments.

16 And this was -- the straw man termsheet is
17 effectively a summary of terms and conditions that they
18 should think -- you know, that might be a good indication
19 of where the First Lien Lenders might look to do in order
20 to agree to amendments to the credit agreement.

21 427 Q. Looking again at your Affidavit page 7,
22 paragraph 23, you refer to Mr. Grant expressly obtaining
23 no, legal or beneficial interest in the refund. Again,
24 you're not meaning to express a legal opinion, are you?

25 A. Correct. That's my own opinion.

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1 428 Q. And you're not a lawyer?

2 A. I am not a lawyer.

3 429 Q. And you have no legal training?

4 A. I have no legal training.

5 430 Q. And the same is true in respect to paragraph
6 24, isn't it?

7 A. That's correct. This is based on my own
8 interpretation of the credit agreements and related
9 documentation.

10 431 Q. In paragraph 25, you say:

11 "The fact that no transfer was delivered was not
12 inadvertent or accidental. It was deliberate and
13 a necessary step to preserve cash as the business
14 struggled with tight liquidity." [as read]

15 A. Mm-hmm.

16 432 Q. You use "deliberate" to refer to whose
17 actions there?

18 A. The company's.

19 433 Q. And you say it was a necessary step. Did you
20 think it was a necessary step?

21 A. Yes.

22 434 Q. You then say --

23 A. I also believe the company thought it was a
24 necessary step.

25 435 Q. Did you ask them?

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1 A. No.

2 436 Q. That's just your own speculation?

3 A. Yes.

4 437 Q. And you say: "Mr. Grant as the CEO and a
5 member of the board must have participated in a decision
6 not to complete the transfer"? [as read] ?

7 I take it you've never been to a GFPI board
8 meeting?

9 A. I have not.

10 438 Q. And you were not present when Mr. Grant had
11 any involvement in any such decision?

12 A. No, I was not.

13 439 Q. And this is pure speculation on your part,
14 isn't it?

15 A. Yes.

16 440 Q. And Mr. Grant in his Affidavit says that he
17 did not participate and consent to such a decision, and
18 you have nothing to suggest otherwise, do you?

19 A. No.

20 MR. SWAN: Those are all of my questions, subject
21 to the fulfillment to the undertakings.

22 MR. McELCHERAN: I have only one tidy-up thing.
23 I'm not sure that we marked the termsheet that was
24 referred to in testimony.

25 MR. SWAN: Why don't we do that then.

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1 MR. McELCHERAN: And I don't have any questions.

2 MR. SWAN: So while we're still on the record,
3 just to facilitate this, I have no idea how much material
4 you're going to produce. I ask you to produce it as
5 quickly as you can.

6 MR. McELCHERAN: Yes.

7 MR. SWAN: It may not be necessary to put
8 everything in the record.

9 MR. McELCHERAN: Agreed.

10 MR. SWAN: So why don't we deal with that when we
11 see what is there.

12 MR. McELCHERAN: Okay. What I'm going to do --
13 fair enough. And we'll do that between counsel, select
14 what will -- on the basis that I've done my -- you know,
15 I think that there has to be an agreement, I think, about
16 what goes in and what doesn't go in.

17 You've asked us for productions to produce, and I
18 think at that point I think relevance should be the
19 determination, rather than whether we like it or don't
20 like it. But that's a discussion we can have later.

21 What I'm going to do with the termsheet for the
22 moment, because this particular is mentioned in the
23 transcript, I just want -- the one we're showing here has
24 got some markings on the side of it. It appears not to
25 be the final draft. So I'll mark it Exhibit A and what

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1 we'll do is part of our productions will include the one
2 that was attached to that email.

3 EXHIBIT A: Termsheet with Markings on Side.

4 MR. SWAN: I guess the one other thing I should
5 raise is, as I haven't seen what you're going to produce,
6 it's possible that you might produce a document that
7 requires a question, a follow-up question.

8 MR. McELCHERAN: Yes.

9 MR. SWAN: Hopefully we could do that in writing.
10 Another alternative is by teleconference or video
11 conference, if we need to.

12 You'll be in Vancouver next week?

13 MR. MONTGOMERY: Yes.

14 MR. SWAN: So let's just leave it at that.

15 Thank you.

16 MR. McELCHERAN: That's acceptable to me as well.

17 --- WHEREUPON THE EXAMINATION ADJOURNED AT 12:00 NOON.

18
19 I HEREBY CERTIFY THE FOREGOING
20 to be a true and accurate
21 transcription of my shorthand notes
22 taken to the best of my skill and ability.

23 
24 KATHARINE MCMENEMY, CSR
25 Computer-Aided Transcription

TAB # 5.

TO: Frazer Scott

RE: Possible Sale by GFPI of Income Tax Refund Claims to Improve GFPI's Liquidity

SUMMARY OF PROPOSED SALE

Objective: To improve GFPI's liquidity and to continue to comply with its liquidity covenants under the first lien credit agreement (Section 9.02(5)) and the second lien credit agreement (Section 9.02(4)).

Tax Refunds: Refunds under the *Income Tax Act* in an estimated amount:

1. in excess of Cdn \$45 million, expected to be received by GFPI from September 1, 2008 to December 31, 2008 due to the overpayment of 2005-2006 tax (the "2008 Tax Refund"); and
2. in excess of Cdn \$15 million, expected to be received by GFPI from September 1, 2009 to December 31, 2009 due to overpayment of 2006 tax (the "2009 Tax Refund").

Method: Convert GFPI's tax refund claims to cash of GFPI before the tax refunds are received by GFPI by the following steps:

1. GFPI sells to a purchaser (the "**Purchaser**") related to GFPI, GFPI's interests in Canadian dollar equivalent of US \$20 million of the tax refunds to be received by GFPI for a sale price of Canadian dollar equivalent of US \$20 million (i.e. without a discount) as follows:
 - (a) before March 31, 2008, sale of the Canadian dollar equivalent of US \$10 million of the 2008 Tax Refund (the "**Sold 2008 Refund**") for sale price of the Canadian dollar equivalent of US \$10 million paid in cash to GFPI in March, 2008; and
 - (b) on January 2, 2009, sale of the Canadian dollar equivalent (as at January 2, 2009) of US \$10 million of the 2009 Tax Refund (the "**Sold 2009 Refund**") for sale price of the Canadian dollar equivalent in March, 2008 of US \$10 million paid in cash to GFPI in March, 2008 (i.e. purchase price prepaid but with an agreement to adjust price on January 2, 2009 for exchange rate fluctuations). The prepaid purchase price is not held by GFPI in trust and may be used by GFPI.

If any of the Sold 2008 Refund is not received by the Purchaser by

December 31, 2008, the purchase price thereof would be adjusted, GFPI would refund a pro rata amount of the purchase price to Purchaser without interest or deduction and the Purchaser would remit to GFPI any of such unreceived refund if it were ever received by the Purchaser.

If any of the Sold 2009 Refund is not received by the Purchaser by December 31, 2009, the purchase price thereof would be adjusted, GFPI would refund a pro rata amount of the purchase price to Purchaser without interest or deduction and the Purchaser would remit to GFPI any of such unreceived refund if it were ever received by the Purchaser.

[NTD: US \$10 million of refund sold in each of 2008 and 2009 to comply with the limitations on Dispositions pursuant to Section 9.04(1)(c) of the first lien credit agreement and Section 9.04(1)(c) of the second lien credit agreement.]

2. Each of applicable First Lien Agent and Second Lien Agent provides Purchaser with a partial discharge of its security to discharge the Sold 2008 Refund and the Sold 2009 Refund (collectively, the "Sold Refunds") from such security.

[NTD: See Section 10.04 of first lien credit agreement and Section 10.04 of second lien credit agreement.]

3. GFPI could direct CRA to pay the Sold Refunds to the Purchaser.
4. GFPI would agree to hold in trust for Purchaser, keep segregated and pay to Purchaser any amount of the Sold Refunds received by GFPI.
5. GFPI would not grant Purchaser any security for GFPI's obligations to Purchaser with respect to the Sold Refunds and would not pay any interest on prepaid sale price for the Sold 2009 Refund or any fee related to the refund sales.
6. Purchaser would file a financing statement against GFPI with respect to the sale of an account.

Documents
Required:

A. March, 2008:

1. Agreement between GFPI and Purchaser re sales of Sold Refunds.
2. Transfer by GFPI to Purchaser of Sold 2008 Refund.
3. Partial discharge by First Lien Agent of the Sold Refunds from

security.

4. Partial discharge by Second Lien Agent of the Sold Refunds from security.
5. Financing statement filed by Purchaser re absolute transfer of an account.
6. Approval of independent committee of GFPI's board of directors.

[NTD: See Sections 9.04 (15) of first and second lien credit agreements.]

B. January 2, 2009:

1. Transfer by GFPI to Purchaser of the Sold 2009 Refund.

Ross Walker
Fraser Milner Casgrain LLP
March 19, 2008

Pieterseon, Linda

From: Pieterseon, Linda
Sent: Monday, March 24, 2008 2:19 PM
To: Walker, Ross
Cc: 'O'Meara, Matthew'; Scott, Frazer
Subject: Grant

Ross, here is a reminder list of points discussed in our call this am:

1. Critical that the 2009 sale be structured such that it could not be considered a disposition in 2008. Nothing can indicate that the 2009 receivables have been assigned/transferred in 2008.
2. Re 2009 receivables, no partial discharge to be given in 2008, no rights to notify CRA and no PPSA registrations that could indicate a sale in 2008.
3. Consider FMV point re pricing
4. No purchase price adjustment clause
5. Confirm that no Encumbrance is being created as a result of PPSA registration
6. Confirm no Excess Cash Flow repayment requirements
7. Confirm no negative tax implications – any future tax liability
8. Timing - to be completed before March 31

Linda Pieterseon
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Pieterseon, Linda

From: MacLaren, Sandi [Sandi.MacLaren@FMC-Law.com] on behalf of Walker, Ross [Ross.Walker@FMC-Law.com]
Sent: Tuesday, March 25, 2008 5:27 PM
To: O'Meara, Matthew; Pieterseon, Linda
Cc: PLynch@GFP-inc.com; edavis@GFP-inc.com
Subject: Proposed Sale by GFPI of Income Tax Refund Claims
Importance: High
Attachments: TorDocs_5381929_18.DOC; TorDocs_5410428_1.DOC

Matt and Linda:

I enclose for your review a revised version of the summary.

The enclosed draft has not been reviewed by GFPI and is subject to any further comments it may have.

However please let me know if you have any further comments.

Best regards,

Ross Walker
Fraser Milner Casgrain LLP
1 First Canadian Place
100 King Street West
Toronto, ON M5X 1B2
Direct Line: 416-863-4742
Fax: 416-863-4592
ross.walker@fmc-law.com

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09/29/2009

TO: GRANT FOREST PRODUCTS INC.

RE: Possible Sale by GFPI of Income Tax Refund Claims to Improve GFPI's Liquidity

SUMMARY OF PROPOSED SALE

Objective: To improve GFPI's liquidity and to continue to comply with its liquidity covenants under the first lien credit agreement (Section 9.02(5)) and the second lien credit agreement (Section 9.02(4)).

Tax Refunds: Refunds under the *Income Tax Act* in an estimated amount:

1. in excess of Cdn \$45 million, expected to be received by GFPI from September 1, 2008 to December 31, 2008 due to the overpayment of 2005-2006 tax (the "2008 Tax Refund"); and
2. in excess of Cdn \$15 million, expected to be received by GFPI from September 1, 2009 to December 31, 2009 due to overpayment of 2006 tax (the "2009 Tax Refund").

Method: Convert GFPI's tax refund claims to cash of GFPI before the tax refunds are received by GFPI by the following steps:

1. GFPI sells to a purchaser (the "**Purchaser**") related to GFPI, GFPI's interests in that amount of the 2008 Tax Refund and that amount of the 2009 Tax Refund which together have, when sold, a fair market value equivalent to the Canadian dollar equivalent of US \$20 million for a total sale price of the Canadian dollar equivalent of US \$20 million as follows:
 - (a) on March 31, 2008, sale of that portion of the 2008 Tax Refund (the "**Sold 2008 Refund**"), the present value of which on March 31, 2008 is the Canadian dollar equivalent of US \$10 million (based on a discount rate equivalent to 90-day LIBOR on March 31, 2008) for the sale price of the Canadian dollar equivalent of US \$10 million paid in cash to GFPI on March 31, 2008; and
 - (b) on January 2, 2009, sale of that portion of the 2009 Tax Refund (the "**Sold 2009 Refund**"), the present value of which on January 2, 2009 is the Canadian dollar equivalent of US \$10 million (based on a discount rate equivalent to 90-day LIBOR on January 2, 2009) for the sale price of the Canadian dollar equivalent of US \$10 million, with the estimated sale price (based on the

exchange rate in effect on March 31, 2008) paid in cash to GFPI on March 31, 2008 (i.e. estimated purchase price prepaid but with an agreement to adjust price on January 2, 2009 using the then current exchange rate and with an agreement to adjust the amount of the Sold 2009 Refund based on the 90-day LIBO rate in effect on January 2, 2009). The actual sale proceeds received by GFPI are the Canadian dollar equivalent as at January 2, 2009 of US \$10 million. The prepaid purchase price is not held by GFPI in trust and may be used by GFPI.

Purchaser would agree that it does not acquire any right, title or interest in the Sold 2009 Refund until it receives the transfer thereof from GFPI on January 2, 2009.

If it is subsequently determined by CRA that the purchase price paid for the Sold 2008 Refund or the purchase price paid for the Sold 2009 Refund was not fair market value, the Purchaser and GFPI shall, to the extent not prohibited by the provisions of the first lien credit agreement or the second lien credit agreement, adjust such purchase price so it is equivalent to such fair market value.

If any of the Sold 2008 Refund is not received by the Purchaser by December 31, 2008, to the extent not prohibited by the provisions of the first lien credit agreement or the second lien credit agreement, the purchase price thereof would be adjusted, GFPI would refund a pro rata amount of the purchase price to Purchaser without interest or deduction and the Purchaser would remit to GFPI any of such unreceived refund if it were ever received by the Purchaser.

If any of the Sold 2009 Refund is not received by the Purchaser by December 31, 2009, to the extent not prohibited by the provisions of the first lien credit agreement or the second lien credit agreement, the purchase price thereof would be adjusted, GFPI would refund a pro rata amount of the purchase price to Purchaser without interest or deduction and the Purchaser would remit to GFPI any of such unreceived refund if it were ever received by the Purchaser.

[NTD: US \$10 million sale proceeds received by GFPI from sale of refunds in each of 2008 and 2009 at fair market value to comply with the limitations on Dispositions pursuant to Section 9.04(1)(c) of the first lien credit agreement and Section 9.04(1)(c) of the second lien credit agreement.]

2. GFPI would not sell to Purchaser any interest payable by CRA to GFPI with respect to the 2008 Tax Refund or the 2009 Tax Refund.
3. The Purchaser would pay income tax on its gain from the purchased refunds (based on the difference between the amount of the refunds it receives and the amount it paid to buy them).
4. Each of applicable First Lien Agent and Second Lien Agent provides Purchaser with a partial discharge of its security to discharge each of the Sold 2008 Refund and the Sold 2009 Refund (collectively, the "Sold Refunds") from such security (and to release any interest therein) when the applicable transfers are delivered.

[NTD: See Section 10.04 of first lien credit agreement and Section 10.04 of second lien credit agreement.]

5. GFPI may, after delivery to the Purchaser of the transfer of the Sold 2008 Refund, direct CRA to pay the Sold 2008 Refund to the Purchaser and may, after the delivery to the Purchaser of the transfer of the Sold 2009 Refund, direct CRA to pay the Sold 2009 Refund to the Purchaser.
6. GFPI would agree to hold in trust for Purchaser, keep segregated and pay to Purchaser any amount of the Sold Refunds received by GFPI.
7. GFPI would not grant Purchaser any security for GFPI's obligations to Purchaser with respect to the Sold Refunds and would not pay any interest on the prepaid sale price for the Sold 2009 Refund or any fee related to the refund sales.
8. Purchaser would file a financing statement against GFPI with respect to the sale of an account with respect to each transfer.

Documents
Required:

A. On or before March 31, 2008:

1. Agreement between GFPI and Purchaser re sales of Sold Refunds.
2. Transfer by GFPI to Purchaser of Sold 2008 Refund.
3. Partial discharge by First Lien Agent of the Sold 2008 Refund from security.
4. Partial discharge by Second Lien Agent of the Sold 2008 Refund from security.

5. Financing statement filed by Purchaser re absolute transfer of an account with respect to the Sold 2008 Refund.
6. Approval of independent committee of GFPI's board of directors.
[NTD: See Sections 9.04 (15) of first and second lien credit agreements.]

B. January 2, 2009:

1. Transfer by GFPI to Purchaser of the Sold 2009 Refund.
2. Partial discharge by First Lien Agent of Sold 2009 Refund.
3. Partial discharge by Second Lien Agent of Sold 2009 Refund.
4. Financing statement filed by Purchaser re absolute transfer of an account with respect to the Sold 2009 Refund.

Ross Walker
Fraser Milner Casgrain LLP
March 25, 2008

Pieterseon, Linda

From: Walker, Ross [Ross.Walker@FMC-Law.com]
Sent: Friday, March 28, 2008 5:37 PM
To: O'Meara, Matt; Pieterseon, Linda
Cc: PLynch@GFP-inc.com; edavis@GFP-inc.com; Scott, Frazer
Subject: RE: Sale by GFPI to Peter Grant Sr. of Tax Refunds

Matt: The intention is that, if adjustments need to be made because the sold refund is not received by the purchaser, CRA determines that the sales were not made at fair market value, or the exchange rate is different on January 2, 2009 than on March 31, 2008, the adjustments can be made, at GFPI's option, by including in the sales an appropriate amount of post-2009 tax refunds rather than GFPI's refunding a portion of the purchase price.

I included this alternative to assist with Linda's concern about the perception that the purchaser has recourse to GFPI if GFPI has to return a portion of the purchase price as part of an adjustment.

Please give me a call if you wish to discuss further.

Best regards.

Ross Walker
Fraser Milner Casgrain LLP
Phone: (416) 863-4742
Fax: (416) 863-4592
E-Mail: ross.walker@fmc-law.com

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From: O'Meara, Matt [mailto:MOmeara@winston.com]
Sent: Friday, March 28, 2008 5:26 PM
To: Walker, Ross; LPIETERS@MCCARTHY.CA
Cc: PLynch@GFP-inc.com; edavis@GFP-inc.com; Scott, Frazer
Subject: RE: Sale by GFPI to Peter Grant Sr. of Tax Refunds

Ross,

One question on the purchase agreement is the mechanism relating to the Post-2009 Tax Refund. What is the intent of this provision as it relates to the purchaser's rights in tax refunds that arise after 2009?

Matt

Matthew D. O'Meara
Winston & Strawn LLP
35 West Wacker Drive

09/29/2009

Chicago IL 60601
Phone: (312) 558-7504
Fax: (312) 558-5700

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From: MacLaren, Sandi [mailto:Sandi.MacLaren@FMC-Law.com] **On Behalf Of** Walker, Ross
Sent: Thursday, March 27, 2008 3:01 PM
To: LPIETERS@MCCARTHY.CA; O'Meara, Matt
Cc: PLYNCH@GFP-inc.com; edavis@GFP-inc.com
Subject: Sale by GFPI to Peter Grant Sr. of Tax Refunds
Importance: High

Linda and Matt:

I enclose for review draft copies of the following:

1. revised summary;
2. tax refund purchase and sale agreement;
3. transfer by GFPI of the Sold 2008 Refund;
4. partial discharge by the First Lien Agents of the Sold 2008 Refund;
5. partial discharge by the Second Lien Agents of the Sold 2008 Refund;
6. draft of the financing statement to be filed on closing with respect to the transfer of the Sold 2008 Refund; and
7. approval of the independent committee of GFPI's board of directors.

In order to help with the concern about the "non-recourse" issue, I have provided that, instead of adjustments requiring a refund by GFPI of either purchase price, the adjustments can be made, at GFPI's option, by increasing the amount of the refund sold to include post-2009 income tax refunds. I have also included an overriding provision that, in the event any adjustment contravenes either of the credit agreements, the adjustment will be deferred until it would no longer contravene either credit agreement.

The enclosed drafts have not yet been reviewed by GFPI and are subject to any comments it may have. However please let me know if you have any comments with respect to these drafts.

Best regards,

Ross Walker
Fraser Milner Casgrain LLP

09/29/2009

1 First Canadian Place
100 King Street West
Toronto, ON M5X 1B2
Direct Line: 416-863-4742
Fax: 416-863-4592
ross.walker@fmc-law.com

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<<TorDocs_5381929_22.DOC>> <<TorDocs_5418866_1.DOC>> <<TorDocs_5412303_5.DOC>>
<<TorDocs_5413416_5.DOC>> <<TorDocs_5413401_6.DOC>> <<TorDocs_5417657_5.DOC>>
<<TorDocs_5413661_3.DOC>> <<Draft Grant PPSA Reg'n.pdf>>

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Pieterseon, Linda

From: Pieterseon, Linda
Sent: Saturday, March 29, 2008 2:26 PM
To: 'Walker, Ross'; 'Scott, Frazer'; 'O'Meara, Matt'
Subject: Grant

Attachments: Document.pdf



Document.pdf (177
KB)

Ross, a couple of comments on the smaller docs are attached.

Also, on the revised purchase and sale agreement, you likely wish to add "heirs, executors" into section 9.07.

Could you send a draft of the partial release filing that you propose to make. I would like the wording to be very clear that it relates only to the 2008 refunds. There can't be any implication at all that it relates to the 2009 refunds.

Linda Pieterseon
Partner
Financial Services
T:/Tél : 416-601-7587
F:/Téléc : 416-868-0673
E:/Courriel : lpieters@mccarthy.ca
McCarthy Tétrault LLP / S.E.N.C.R.L., s.r.l.

Suite 5300
Toronto Dominion Bank Tower
Toronto, Ontario
Canada M5K 1E6
www.mccarthy.ca

-----Original Message-----

From: TOR-CMFP52-091 [mailto:TOR-CMFP52-091@mccarthy.ca]
Sent: Saturday, March 29, 2008 2:12 PM
To: Pieterseon, Linda
Subject: PDF Document from McCarthy Tétrault LLP

Pieterseon, Linda

From: Pieterseon, Linda
Sent: Monday, March 31, 2008 3:41 PM
To: 'Walker, Ross'
Subject: RE: Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 between Grant Forest Products Inc. as vendor and Peter Grant Sr. as purchaser

I actually think you should just leave the last paragraph out. It muddies things unnecessarily.

Also, you don't need to formalize it in a letter - an email would be fine.

Linda Pieterseon

Partner

Financial Services

T:/Tél : 416-601-7587

F:/Téléc : 416-868-0673

E:/Courriel : lpeters@mccarthy.ca

McCarthy Tétrault LLP / S.E.N.C.R.L., s.r.l.

Suite 5300

Toronto Dominion Bank Tower

Toronto, Ontario

Canada M5K 1E6

www.mccarthy.ca

From: MacLaren, Sandi [<mailto:Sandi.MacLaren@FMC-Law.com>] **On Behalf Of** Walker, Ross
Sent: Monday, March 31, 2008 3:16 PM
To: Pieterseon, Linda
Subject: Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 between Grant Forest Products Inc. as vendor and Peter Grant Sr. as purchaser
Importance: High

Linda:

I enclose for your review a draft copy of the confirmation you requested.

Please let me know if it is satisfactory to you.

If it reflects your views, I will forward it to you so that you could respond to indicate that you agree with the confirmation.

Please give me a call if you wish to discuss further.

Best regards,

Ross Walker
Fraser Milner Casgrain LLP
1 First Canadian Place

09/29/2009

100 King Street West
Toronto, ON M5X 1B2
Direct Line: 416-863-4742
Fax: 416-863-4592
ross.walker@fmc-law.com

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<<RWW Email to L Pieters.pdf>>

Pieterseon, Linda

From: O'Meara, Matt [MOmeara@winston.com]
 Sent: Monday, March 31, 2008 11:35 AM
 To: Montgomery, Ben; Pieterseon, Linda
 Cc: Scott, Frazer
 Subject: RE: Sale by GFPI to Peter Grant Sr. of Tax Refunds

Ben,
 Please find this email as confirmation that the sale of certain tax refunds by GFPI to Peter Grant Sr. and the corresponding release of the security interest in such refunds complies with Section 9.04 and 10.04 of the Second Lien Credit Agreement. TD as second lien agent should execute the release which has been prepared by company counsel and to which Linda referred in her previous email. Please don't hesitate to call me with questions.
 Regards, Matt

Matthew D. O'Meara
 Winston & Strawn LLP
 35 West Wacker Drive
 Chicago IL 60601
 Phone: (312) 558-7504
 Fax: (312) 558-5700

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-----Original Message-----

From: Montgomery, Ben [mailto:Ben.Montgomery@tdsecurities.com]

Sent: Monday, March 31, 2008 9:15 AM
 To: O'Meara, Matt; 'LPIETERS@MCCARTHY.CA'
 Cc: Scott, Frazer
 Subject: RE: Sale by GFPI to Peter Grant Sr. of Tax Refunds

Linda / Matt - the Cdn and US Agents will be looking for some guidance from you on how to document the release of security. Perhaps it makes sense to have a call with the Agents once they have had a chance to read your opinions?

Matt - did you provide the confirmation with respect to 9.04 / 10.04 that Frazer was looking for?

-----Original Message-----

From: Scott, Frazer
 Sent: March 29, 2008 8:51 AM
 To: 'MOmeara@winston.com'; 'LPIETERS@MCCARTHY.CA'

Cc: Montgomery, Ben
Subject: Re: Sale by GFPI to Peter Grant Sr. of Tax Refunds

Thanks Matt - it will be helpful if you can also confirm that the disposition is permitted under section 9.04 and therefore release of the security under section 10.04 is ok.

This will help the agent(s) understand the exact provision.

Linda - I am hoping McCarthys can do a similar confirmation.

----- Original Message -----

From: O'Meara, Matt <MOmeara@winston.com>
To: Scott, Frazer
Sent: Fri Mar 28 20:01:53 2008
Subject: FW: Sale by GFPI to Peter Grant Sr. of Tax Refunds

Frazer,

Per our conversation I wanted to send this email to you to confirm that based on our conversations with Linda and Ross and my review of the Second Lien Credit Agreement I feel that the proposed transactions regarding the tax refund comply with the terms of the Second Lien Credit Agreement.
Best, Matt

Matthew D. O'Meara
Winston & Strawn LLP
35 West Wacker Drive
Chicago IL 60601
Phone: (312) 558-7504
Fax: (312) 558-5700

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From: MacLaren, Sandi [mailto:Sandi.MacLaren@FMC-Law.com] On Behalf Of Walker, Ross
Sent: Friday, March 28, 2008 5:05 PM
To: LPIETERS@MCCARTHY.CA; O'Meara, Matt
Cc: PLYNCH@GFP-inc.com; edavis@GFP-inc.com; Steeves, Christopher
Subject: Sale by GFPI to Peter Grant Sr. of Tax Refunds
Importance: High

Linda and Matt:

I enclose for your review revised draft copies of the following:

1. summary; and
2. tax refund purchase and sale agreement.

The enclosed drafts have not yet been reviewed by GFPI and are subject to any comments it may have. However please let me know if the revised documents are satisfactory to you.

Thank you.

Ross Walker
Fraser Milner Casgrain LLP
1 First Canadian Place
100 King Street West
Toronto, ON M5X 1B2
Direct Line: 416-863-4742
Fax: 416-863-4592
ross.walker@fmc-law.com

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Pieter~~s~~on, Linda

From: O'Meara, Matt [MOmeara@winston.com]
 Sent: Monday, March 31, 2008 4:36 PM
 To: Pieter~~s~~on, Linda; Ross.Walker@FMC-Law.com
 Subject: Re: Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 between Grant Forest Products Inc. as vendor and Peter Grant Sr. as purchaser

I confirm as well.
 Matthew D. O'Meara
 Winston & Strawn
 35 West Wacker Drive
 Chicago IL 60601
 Phone: (312) 558-7504
 Fax: (312) 558-5700

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----- Original Message -----

From: Pieter~~s~~on, Linda <LPIETERS@MCCARTHY.CA>
 To: Walker, Ross <Ross.Walker@FMC-Law.com>; O'Meara, Matt
 Sent: Mon Mar 31 15:32:04 2008
 Subject: RE: Tax Refund Purchase and Sale Agreement dated as of March 31, 2008 between Grant Forest Products Inc. as vendor and Peter Grant Sr. as purchaser

I confirm as well.

Linda Pieter~~s~~on
 Partner
 Financial Services
 T:/Tél : 416-601-7587
 F:/Téléc : 416-868-0673
 E:/Courriel : lpieters@mccarthy.ca
 McCarthy Tétrault LLP / S.E.N.C.R.L., s.r.l.

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 Toronto Dominion Bank Tower
 Toronto, Ontario
 Canada M5K 1E6
 www.mccarthy.ca <<http://www.mccarthy.ca/>>

From: MacLaren, Sandi [mailto:Sandi.MacLaren@FMC-Law.com] On Behalf Of Walker, Ross

Sent: Monday, March 31, 2008 4:21 PM
To: Pieterston, Linda; O'Meara, Matthew
Subject: Tax Refund Purchase and Sale Agreement dated as of March 31, 2008
between Grant Forest Products Inc. as vendor and Peter Grant Sr. as
purchaser
Importance: High

Linda and Matt:

In accordance with your request, I confirm my view that the transactions contemplated by the above-noted agreement do not contravene the First Lien Credit Agreement dated as of October 26, 2005, as amended, or the Second Lien Credit Agreement dated as of March 21, 2007, assuming that:

1. the tax refunds being sold are being sold for fair market value; and
2. the total amount of the gross proceeds derived from all Dispositions (as defined by each of the Credit Agreements) made by Grant Forest Products Inc. and the other Restricted Parties (as defined by such Credit Agreements) in any single fiscal year of Grant Forest Products Inc. does not in the aggregate exceed US \$10 million..

Please confirm that the foregoing also reflects your views.
Thank you.

Ross Walker
Fraser Milner Casgrain LLP
1 First Canadian Place
100 King Street West
Toronto, ON M5X 1B2
Direct Line: 416-863-4743
Fax: 416-863-4592
sandi.maclaren@fmc-law.com

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Pieterseon, Linda

From: Kowpak, Ron [Ron.Kowpak@tdsecurities.com]
Sent: Monday, March 31, 2008 4:37 PM
To: Pieterseon, Linda; Montgomery, Ben; Scott, Frazer
Cc: O'Meara, Matthew
Subject: RE: Grant - Confirmation

I have no issues.

Ronald J. Kowpak

Loan Syndications - Agency
THE TORONTO-DOMINION BANK, as Agent
 Royal Trust Tower
 77 King Street West, 18th Floor
 Toronto, Ontario, Canada M5K 1A2
 T: 416 944-5046 F: 416 982-5535
 ron.kowpak@tdsecurities.com

From: Pieterseon, Linda [mailto:LPIETERS@MCCARTHY.CA]
Sent: Monday, March 31, 2008 4:34 PM
To: Montgomery, Ben; Kowpak, Ron; Scott, Frazer
Cc: O'Meara, Matthew
Subject: Grant - Confirmation

All:

Winston C. Strawn

Based on our conversations with ~~Shearman & Sterling~~ and GFPI and the documentation to be delivered at closing, it is our view that GFPI's proposed transactions regarding the refund comply with the covenant in respect of dispositions in Section 9.04 of the First Lien Credit Agreement and that accordingly, TD, as Agent, can discharge, at this time, the Sold 2008 Refund in accordance with Section 10.04.

At this time, we are waiting for Grant to deliver signed copies of the documentation at which time TD's pages can be sent over to Grant, subject to any additional comments or issues that any of you have.

Linda Pieterseon

Partner

Financial Services

T:/Tél : 416-601-7587

F:/Téléc : 416-868-0673

E:/Courriel : lpeters@mccarthy.ca

09/29/2009

McCarthy Tétrault LLP / S.E.N.C.R.L., s.r.l.

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www.mccarthy.ca

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Wille, Kathy

From: Montgomery, Ben
Sent: Tuesday, September 29, 2009 1:01 PM
To: Wille, Kathy
Subject: FW: Grant - Liquidity Discharges

Attachments: Liquidity Discharges 03-31-08.pdf



Liquidity Discharges

03-31-08....

Undertaking #3

-----Original Message-----

From: Kowpak, Ron
Sent: Monday, March 31, 2008 12:37 PM
To: Pieterston, Linda
Cc: Montgomery, Ben; Murray, Ian E
Subject: Grant - Liquidity Discharges

Linda, attached please find pdf copies of discharges which have been executed by The Toronto-Dominion Bank as Agent and Toronto Dominion (Texas) LLC. These discharges are delivered to you in escrow pending confirmation that the transaction complies with the 1st Lien Credit Agreement. Do you require original copies of the discharge to be delivered to you and if so how many. Please advise. Thanks!

Ronald J. Kowpak
Loan Syndications - Agency
THE TORONTO-DOMINION BANK, as Agent
Royal Trust Tower
77 King Street West, 18th Floor
Toronto, Ontario, Canada M5K 1A2
T: 416 944-5046 F: 416 982-5535
ron.kowpak@tdsecurities.com

Yoon, Jamie

From: Montgomery, Ben [Ben.Montgomery@tdsecurities.com]
Sent: Tuesday, February 10, 2009 6:56 PM
To: Kowpak, Ron; O'Connor, Bill
Cc: Sfikas, Chris
Subject: RE: Grant - shareholder loan

Thanks Ron – appreciate it if you could let us know if you get a request to discharge this security interest

From: Kowpak, Ron
Sent: Tuesday, February 10, 2009 3:45 PM
To: O'Connor, Bill
Cc: Montgomery, Ben; Sfikas, Chris
Subject: RE: Grant - shareholder loan

Bill, the only discharge that was signed was back in March 2008 wherein we discharged our interest in \$10MM 2008 Tax Refund. The second \$10MM represented a deposit on the purchase of the 2009 refund. I have not been requested to discharge our security interest in the 2009 Tax refund to this point.

Ronald J. Kowpak
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From: O'Connor, Bill
Sent: Tuesday, February 10, 2009 4:42 PM
To: Kowpak, Ron
Subject: Fw: Grant - shareholder loan

Ron can you check on this issue and let me know. Thanks.

From: Montgomery, Ben
To: O'Connor, Bill
Cc: Sfikas, Chris
Sent: Tue Feb 10 16:22:35 2009
Subject: Grant - shareholder loan

Bill,

Below is a summary of how the \$20MM was injected in Q1 F08 (credit dated Mar 28/08). An addition \$25M was subsequent injected as straight equity.

Presumably they haven't yet received the \$10MM relating to 2009 tax refunds (I'm not sure).

I didn't bring it up on the call b/c not sure if Hap knows about it.

09/30/2009

If we restructure we would want to make sure that shareholders do not take payment on this "deposit"

We should check with Ron to see if we have discharged security on the \$10MM deposit re: the 2009 tax refund

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- The shareholders are intending maintain compliance with the liquidity covenant by injecting ~\$20MM of capital into the Borrower. From a timing perspective we believe that the new capital will be injected prior to March 31, and therefore the liquidity covenant would not technically be breached. In the event the new capital is not injected by March 31, and the liquidity covenant is breached, the shareholders would have 30 days to inject the capital to prevent an EOD from occurring on the credit facility (30 day cure period).
- The capital will be injected in a manner that does not require any consents from the lenders.
- TD (as Agent) has been provided with a draft summary (that has been reviewed by both Borrower's and Lenders' counsel) on how the shareholders intend to inject the capital. The capital will not be injected as equity. The shareholders intend to take advantage of the asset disposition basket (US\$10MM per annum) to inject the capital. The capital will effectively be a monetization of future tax refunds (\$10MM in F08 and \$10MM in F09), and the shareholders will look to pull their capital back out when the tax refunds come in.
- 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
 - vi. the proceeds of the of the monetized tax refunds in 2008 and the 2009 will be greater than the US\$20MM purchase price as the Purchase is buying the tax refunds at a discount (at the rate of 90 day LIBOR); the discounted purchase price is to ensure that the transaction does not conflict with the credit agreement, which sets out that such dispositions must be done at fair market value
- While it is contemplated that the Purchaser will pay the US\$20MM to the Borrower in advance of March 31, they have until April 30 (30 day cure period) to do so in order to avoid an EOD in the credit agreement with respect to the liquidity covenant.
- The highly structured nature of this transaction is not so that the shareholders can avoid injecting straight equity. If the Borrower were to inject straight equity, it would be swept against the 1st lien debt, and therefore it would not be available to satisfy the liquidity covenant.
- Lenders' counsel believes that this structure will not require any consents under the 1st and 2nd lien credit agreements, however, there are still some technicalities that need to be

worked out by Borrower's and lenders' counsel. In the event that it is determined that this structure conflicts with either the 1st or 2nd lien credit agreements, we believe that the shareholders would be highly motivated to seek another option to inject the necessary capital to maintain compliance with the liquidity covenant. We believe that another option open to the shareholders to inject new capital is to increase the postponed s/h loans (currently \$50MM), the proceeds of which would not be swept.

- TD as Agent (for both 1st and 2nd lien) will provide the partial discharge of security (refer (ii) above) on the basis of an opinion from lenders' counsel that the structure does not conflict with the credit agreement.

Ben Montgomery, Vice President & Director
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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. C51296

COURT OF APPEAL FOR ONTARIO

EXHIBIT BOOK OF THE APPELLANT

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