copie

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-11-036133-094

DATE: **DECEMBER 1, 2009**

PRESENT: THE HONOURABLE MR. JUSTICE CLÉMENT GASCON, J.S.C.

IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF:

ABITIBIBOWATER INC.
And
ABITIBI-CONSOLIDATED INC.
And
BOWATER CANADIAN HOLDINGS INC.
And
The other Petitioners listed on Schedules "A", "B" and "C"
Debtors

And
ERNST & YOUNG INC.
Monitor

JUDGMENT
ON MOTION FOR THE ISSUANCE
OF AN ORDER AUTHORIZING PETITIONERS
TO IMPLEMENT CERTAIN RESTRUCTURING STEPS (#337)

<u>THE MOTION AT ISSUE</u>

[1] In the context of the restructuring process undertaken by the Petitioners under the protection of the *CCAA*[1], Abitibi-Consolidated Inc. ("**ACI**") and Abitibi-Consolidated

JG1793

1 *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, (the "***CCAA***").

Company of Canada ("**ACCC**") present a Note Restructuring Motion[2] whereby they seek authorization:

a) to implement a series of intercompany transactions (the "**Repayment Steps**") involving ACI, ACCC, AbitibiBowater Inc. ("**ABH**"), AbitiBowater U.S. Holding LLC ("**ABH LLC**"), AbitibiBowater Canada Inc. ("**ExchangeCo**") and three newly-created limited liability companies ("**LLC Holdco**", "**LLC 1**" and "**LLC 2**", respectively) in order to repay a promissory note issued by ABH LLC to ACCC on April 1, 2008 (the "**ABH LLC Note**") and, ultimately, issue a new promissory note (the "**LLC 2 Note**") with terms and conditions substantially identical to that of the ABH LLC Note;

b) to execute in that regard a support agreement (the "**Support Agreement**") among LLC Holdco, ABH LLC, LLC 1 and ACCC; and

c) to make as a result amendments to existing pre-filing financing arrangements (the "**Pre-filing Financing Amendments**").

[2] The Repayment Steps involve the participation of ABH, ABH LLC, LLC Holdco, LLC 1 and LLC 2, all debtors in the U.S. Chapter 11 proceedings. That being so, the completion of these steps requires the authorization of the U.S. Bankruptcy Court for the District of Delaware as well.

[3] Accordingly, on November 4, 2009, a corresponding *Debtors' Motion for an order pursuant to sections 105 (a), 363 (b) and 364 of the Bankruptcy Code authorizing the debtors to implement certain tax repayment transactions* was served and filed in the U.S. Chapter 11 proceedings. It was heard and granted on November 24, 2009.

[4] Albeit not contested by any of the Petitioners' stakeholders, the Note Restructuring Motion raises issues that remain unusual and uncommon. Hence, the necessity for this Court to provide brief reasons in support of this Order.

[5] The following background is relevant for a proper understanding of the issues.

THE RELEVANT BACKGROUND

[6] On April 1, 2008, namely at the time of the merger of ACI and Bowater Inc. ("**BI**"), ABH LLC issued the ABH LLC Note whereby it promised to pay to ACCC the sum of US $201,614,222.50, together with any principal increase and all accrued and unpaid interest[3].

---

[2] *Motion for the Issuance of an Order Authorizing Petitioners Abitibi-Consolidated Inc. and Abitibi-Consolidated Company of Canada to Implement Certain Restructuring Steps* dated November 17, 2009 (the "**Note Restructuring Motion**").

[3] Exhibit R-1.

[7] On April 17, 2009, when the Court issued the Initial Order granting the protection of the *CCAA* to the Petitioners, an amount of some US $250 million was then outstanding under the ABH LLC Note.

[8] Pursuant to Canadian tax laws, more particularly Subsection 15(2) of the *ITA*[4], a non-resident person (such as ABH LLC), who is a shareholder of a particular corporation or connected with a shareholder of a particular corporation (such as ACCC), may, in a taxation year, receive a loan from or become indebted to the particular corporation without triggering adverse Canadian tax consequences <u>if the loan or the indebtedness is repaid within one year after the end of the taxation year of the lender or creditor in which the loan was made or the indebtedness arose.</u>

[9] If the loan or the indebtedness is not repaid within this grace period, it is then re-characterized as a dividend as of the date of incurrence.

[10] In such a situation, the dividend payer (ACCC, the Canadian corporation) must first withhold, as withholding agent for the non-resident person (ABH LLC, the U.S. corporation), a withholding tax of 25%. Second, it must remit that amount to the Canadian tax authorities on or before the 15th day of the 13th month following the end of the taxation year in which the indebtedness arose.

[11] The taxation year of ACCC corresponds to the calendar year. Therefore, the indebtedness represented by the ABH LLC Note must be repaid on or before December 31, 2009, failing which this withholding tax liability will be triggered.

[12] However, ABH LLC has no operations, no assets other than its equity investment in the DCorp Group and receivables from other companies in the *CCAA* and the U.S. Chapter 11 proceedings, and no known liabilities other than the ABH LLC Note and other intercompany payables.

[13] In other words, ABH LLC does not have sufficient funds to repay to ACCC the amounts outstanding under the ABH LLC Note prior to December 31, 2009.

[14] If the ABH LLC Note is not repaid by the end of this calendar year, a withholding tax of approximately US $55.25 million, being 25% of the outstanding principal amount of the ABH LLC Note, would have to be remitted by ACCC to the Canadian tax authorities by January 15, 2010.

[15] If ACCC were not to make such remittance, even if the withholding tax would be pre-filing liability as it relates to the 2008 taxation year, the Canada Revenue Agency ("**CRA**") would have the right to collect the amount by way of set-off against GST refunds that ACCC would otherwise receive.

---

[4] *Income Tax Act*, 1985, c. 1 (5th Supp.), (the "***ITA***").

[16] In that regard, ACCC receives approximately $3.5 million to $7.0 million per month on account of post-filing GST refunds. Of course, these amounts are factored into account in assessing its monthly liquidity levels.

[17] As a result, given ACCC's current financial situation, this liability in the amount of US $55.25 million as of January 15, 2010 would adversely and immediately impact its liquidity position and, therefore, the Petitioners' ability to reorganize their affairs in Canada and in the United States.

THE TAX RESTRUCTURING TRANSACTION

[18] In order to avoid the potential consequences associated with a failure to repay the ABH LLC Note before year end, the Petitioners want to implement a tax restructuring transaction that would ultimately resolve the tax issues pertaining to the ABH LLC Note, while replacing ACCC's economic interests therein with an interest of equivalent value.

[19] In this respect, the transactions contemplated in the Note Restructuring Motion are intended to result in a deemed repayment of the ABH LLC Note through the merger of the issuer and holder thereof. The tax restructuring involves the implementation of the Repayment Steps, the execution of the Support Agreement and the signing of Pre-filing Financing Amendments.

a) The Repayment Steps

[20] To begin with, the Petitioners want to implement the Repayment Steps. These steps will ultimately permit the repayment of the ABH LLC Note without altering ACCC's rights under it.

[21] The Repayment Steps are reflected graphically in the step plan (the "**Step Plan**")[5]. They are explained in details in the Note Restructuring Motion (paragraph 16) and in the Monitor's Twenty-Second Report of November 19, 2009 (paragraphs 27 to 30).

[22] Suffice it to note here that the Repayment Steps consist in the eight (8) following steps:

a) Creation of LLC Holdco, LLC 1 and LLC 2;

b) Transfer of the ABH LLC Note;

c) ACCC reduction of capital. To that end, ACCC will reduce the share capital maintained in respect of its class D preferred shares by US $250 million and distribute to ACI, subject to the security interest of the ACCC Term Lenders, the LLC 2 Preferred Units and other units of LLC 2 issued upon its creation;

---

[5] Exhibit R-2.

d) ACI reduction of capital. To that end, ACI will in turn reduce the stated capital maintained in respect of its common shares by US $305 million and distribute US $250 million, being 82 % of US $305 million, to ABH through the transfer, subject to the security interest of the ACCC Term Lenders, of the LLC 2 Preferred Units and other units of LLC 2 issued upon its creation. Concurrently, ExchangeCo will renounce to its share of the distribution, being US $55 million (18 % of US $305 million);

e) Transfer of LLC 2 Preferred Units;

f) Transfer of LLC 1 Units;

g) Conversion of LLC 2 Preferred Units into the LLC 2 Note; and

h) Merger of LLC 2 and ABH LLC.

b) The Support Agreement

[23] Second, in order to protect ACCC's interest in the residual value of the LLC 2 Note, LLC Holdco, ABH LLC, LLC 1, and ACCC intend, as part of the Repayment Steps, to execute the Support Agreement[6].

[24] Pursuant to that Support Agreement, LLC Holdco and LLC 1 will, among other things and unless otherwise provided in the *CCAA* Plan and the U.S. Bankruptcy Plan, be required to transfer to ACCC the LLC 2 Note, the LLC 1 Units or assets of equivalent value in case of certain triggering events.

[25] The Support Agreement will also include a covenant by each of ABH LLC and LLC 1 not to make any payment or otherwise reduce any amount owing under the LLC2 Note without an order from the Court and the U.S. Bankruptcy Court.

c) the Pre-Filing Financing Amendments

[26] Third and last, following the completion of the Repayments Steps, it is contemplated by the Petitioners that LLC 1 will become a guarantor under:

- the Term Loan Facility;
- the Senior Notes; and
- the US$293M 15.5% Exchange Notes due July 15, 2010 (the "**Exchange Notes**").

[27] In addition to these new guarantees (collectively, the "**New Guarantees**"), LLC 1 will grant a first priority security interest in all of its assets and pledge the LLC 2 Note, while LLC Holdco will grant a first priority security interest in the LLC 1 Units, in each case in favour of the ACCC Term Lenders (the "**New Security**").

---

[6] Exhibit R-3.

[28] Consequently, amendments to the Term Loan Facility, the Senior Notes and the Exchange Notes will be required in order to take into account the New Guarantees and the New Security.

ANALYSIS AND DISCUSSION

[29] In light of this background, the Court considers that it is appropriate to grant the authorization sought for the implementation of this tax restructuring transaction.

[30] The economic reasons for the tax restructuring at issue are well articulated. The justifications for the restructuring from a tax standpoint appear reasonable and legitimate. The legality of the various corporate steps contemplated is properly supported.

[31] The Court is satisfied that a requirement to pay the withholding tax and the potential ability of CRA to effect collection by setting off post-filing GST refunds otherwise payable to ACCC would adversely affect ACCC's liquidity and negatively impact its creditors and other stakeholders.

[32] A potential monthly reduction of between $3.5 to $7.0 million in liquidity is certainly quite serious in the actual context of this *CCAA* process. Any legitimate steps to prevent this from happening would be welcomed by most.

[33] As a result of the merger between LLC 2 and ABH LLC, the ABH LLC Note will be deemed, for the purposes of the *ITA,* to have been settled by a payment made by ABH LLC to LLC 2 equal to LLC 2's cost amount of the ABH LLC Note, being equal to the principal amount outstanding under the ABH LLC Note.

[34] From that perspective, it appears that the Repayment Steps and the Support Agreement permit the satisfaction, for tax purposes, of the ABH LLC Note in a manner that could prevent the payment of the withholding tax by ACCC, while replacing the Petitioners' interest in the ABH LLC Note with a residual interest in the LLC 2 Note through the Support Agreement.

[35] As such, the Support Agreement preserves the economic benefit currently attributable to the ABH LLC Note for the good of ACCC and its stakeholders.

[36] As a matter of fact, none of the Petitioners' stakeholders oppose the Note Restructuring Motion. In addition, the Court notes that the Monitor is of the view that the Repayment Steps and the Support Agreement are reasonable in the circumstances[7].

[37] On the other hand, even if the Repayment Steps consist, amongst others, in a reduction of capital for ACI and ACCC, the Court is satisfied that this remains acceptable under the circumstances.

7 Monitor's Twenty-Second Report of November 19, 2009.

[38] It is true that ACI and ACCC are currently, and will at the time of these reductions continue to be, insolvent. Both are Petitioners in the *CCAA* proceedings.

[39] As ACI is a federal corporation incorporated under the *CBCA*[8] and ACCC a provincial company incorporated under Part 1A of the *QCA*[9], this state of insolvency may, at first sight, create a problem in terms of capital reduction.

[40] However, the Court accepts Counsel's arguments that this situation can be properly dealt with under the terms of both acts.

[41] The *CBCA* and the *QCA* contain express provisions (Sections 38(1) *CBCA* and 123.62 *QCA*) authorizing a corporation or a company to reduce the amount of its stated capital ("issued share capital" pursuant to the *QCA*), including for the distribution of an amount to its shareholders:

- Section 38(1) *CBCA* :

> *"Subject to subsection (3), a corporation may by special resolution reduce its stated capital for any purpose including, without limiting the generality of the foregoing, for the purpose of (a) extinguishing or reducing a liability in respect of an amount unpaid on any share; (b) distributing to the holder of an issued share of any class or series of shares an amount not exceeding the stated capital of the class or series; and (c) declaring its stated capital to be reduced by an amount that is not represented by realizable assets."*

- Section 123.62 *QCA*:

> *"A company may also reduce the amount of its issued share capital, in particular to limit or remove the shareholder's obligation to pay for the shares issued, or to reimburse any portion of the share capital exceeding its needs to the shareholders, if a by-law to that effect is adopted by the company."*

[42] In the case of ACI, an exception to the authority of a *CBCA* corporation to reduce its stated capital is set out in Section 38(3):

- Section 38(3) *CBCA*:

> *"A corporation shall not reduce its stated capital for any purpose* [...] *if there are reasonable grounds for believing that (a) the corporation* ***is, or would after the reduction be,*** *unable to pay its liabilities as they become due, or (b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities"* [Emphasis added].

---

8 *Canada Business Corporation Act*, R.S.C. c. C-44, (the "***CBCA***").
9 *Companies Act*, R.S.Q. c. C-38 (Québec), (the "***QCA***").

[43] This notwithstanding, Subsections 191(1)(c) and 191(2) *CBCA* still permit the Court to authorize a reorganization effecting amendments to the articles of the corporation, including amendments providing for a reduction of capital under Subsection 173(1)(f), without reference to the limits in Subsection 38(3):

> <u>Definition of reorganization</u>
>
> **191.** (1) In this section, "reorganization" means a court order made under
>
> (...)
>
> (*c*) any other Act of Parliament that affects the rights among the corporation, its shareholders and creditors.
>
> <u>Power of the Court</u>
>
> (2) If a corporation is subject to an order referred to in subsection (1), its articles may be amended by such order to effect any change that might lawfully be made by an amendment under section 173.
>
> <u>Amendment of articles</u>
>
> **173.** (1) Subject to sections 176 and 177, the articles of a corporation may by special resolution be amended to
>
> (...)
>
> (*f*) reduce or increase its stated capital, if its stated capital is set out in the articles;

[44] Insolvent corporations pursuing a restructuring process under the *CCAA* can use the Section 191 reorganization provisions to amend their articles[10], provided that the statutory requirements are met, the debtors are acting in good faith and the capital restructuring remains fair and reasonable[11].

[45] While Section 191 reorganizations are normally carried out in conjunction with a *CCAA* plan of arrangement at the final approval stage, nothing in the *CBCA* prevents such a reorganization to take place at an earlier stage, like here where the tax restructuring is required immediately before year end.

[46] Petitioners' Counsel suggests that Subsection 38(3) and Section 191 are, in fact, complementary pieces of a comprehensive legislative scheme. Pursuant to both, shareholders are given the power to effect capital reductions except where insolvency either exists or would ensue. At that point, Parliament recognizes that other interests – those of creditors – come into play.

---

[10] By virtue of Section 20 (now 42) of the applicable *CCAA* and Subsection 191(1)(c) of the *CBCA*.

[11] See, in this respect, *Cable Satisfaction International Inc.* vs *Richter & Associates Inc.*, [2004] Q.J. No. 5461 (Que. S.C.), AZ-50226599, and *Doman Industries Ltd. (Re)*, [2003] B.C.J. No. 561 (B.C.S.C.).

[47] Under Section 191, where creditor rights have been recognized and placed under court supervision in formal proceedings such as those under the *CCAA*, the Court is granted the power to authorize the steps that the shareholders alone are no longer enabled to do.

[48] The transaction brought for authorization before the Court, and in particular the reorganization provisions sought to be approved pursuant to Section 191 *CBCA*, are necessary in order to prevent the creation of an unnecessary new claim (the withholding tax claim) and the prospect of off-sets being asserted in the future, both of which would challenge the Debtors' liquidity in a manner not currently provided for in their cash flows.

[49] While the transaction, viewed as a whole, is neutral to the estate of ACI since its patrimony remains effectively unchanged before and after the intended transaction on a net basis, the potential liability, if no timely repayment were to occur, would be material.

[50] The benefit to ACI's creditors thus seems obvious. Without surprise, none of the creditors raises issue with the tax restructuring that, in the end, serves their interests.

[51] As for the CRA, the scheme of the applicable tax provisions is to provide a period of time during which certain types of loans must be repaid. As such, the tax authorities are deprived of no tax revenue and have no right to the tax revenue provided that the repayment transaction proceeds and occurs on time.

[52] In other words, the CRA is not a creditor with an expectation that is being likely defeated in this instance. Indeed, even though the Attorney-General of Canada Counsel are on the Service List, they raised no opposition to the authorization sought, similarly to what all the other stakeholders did.

[53] All in all, through the ACI's reorganization under Section 191 *CBCA*, the Court is merely asked to assist the Debtor in choosing the option least harmful to its creditors (using a small portion of its tax shelter versus potentially paying significant cash taxes) by exempting ACI from provisions[12] designed to protect its creditors in the first place.

[54] To that end, no creditor disputes that the conclusions sought and granted in this regard to ACI (namely, conclusions [5], [8] and [9] of this Order) are improper, to the contrary.

[55] That said, as regards ACCC now, the situation is slightly different.

[56] As a *QCA* company, ACCC is subject to a regime that, while different in form from the combination of Sections 38, 173 and 191 *CBCA*, nevertheless pursues the same general policy goals.

[57] The exception to the authority of a *QCA* company to reduce its issued share capital is set out in Section 123.63, which reads as follows:

---

[12] Such as Subsection 38(4) *CBCA* in terms of recourses of the creditors.

"A company may in no case reduce the amount of its issued share capital if there is reasonable ground to believe that, ***as a consequence****, (1) it could not discharge its liabilities when due, or (2) the book value of its assets would, after the reduction, be less than the sum of its liabilities and its issued and paid-up share capital account"* [Emphasis added.].	*"Une compagnie ne peut toutefois réduire le montant de son capital-actions émis s'il y a des motifs raisonnables de croire* ***qu'en raison de ce fait****: (1) elle ne pourrait acquitter son passif à échéance; ou (2) la valeur comptable de son actif serait inférieure au total de son passif et de son compte de capital-actions émis et payé après cette réduction."* [Emphasis added.].

[58] This Section does not apply in the present circumstances.

[59] As noted above, ACCC is currently, and will at the time of the ACCC reduction of capital continue to be, insolvent. As such, it is not "*as a consequence/en raison de ce fait*" [i.e. the ACCC reduction of capital], that ACCC will not meet the financial tests provided for in Section 123.63.

[60] Section 123.63 is designed to prohibit a reduction in share capital that causes the tests not to be met, as opposed to a reduction in capital that occurs at a time where the tests are not met at the outset. The transaction is not, in this case, "*la goutte qui fait déborder la vase*"; the company is already insolvent and has placed itself under the protection and supervision of the Court.

[61] The *QCA* restricts its solvency limitation to transactions that cause insolvency. Where insolvency already exists, there is no need for the *QCA* to stipulate how to protect creditor interests. The Court exercising insolvency jurisdiction (in this case, under the *CCAA*) can consider all the facts and circumstances and make an appropriate order taking creditor interests into account.

[62] The insolvency test in Section 123.63 *QCA* is materially different from that found in Section 38(3) *CBCA*. The latter applies where the corporation is or would be rendered insolvent. This bar is more stringent than Section 123.63, which applies a causation test.

[63] That said however, contrary to the *CBCA*, the *QCA* does not have a built in mitigation feature (a court order under Section 191) to ensure creditor interests are not damaged in the interest of better protecting them.

[64] As a result, conclusions [5], [8] and [9] of this Order will be limited to ACI only since ACCC is not a *CBCA* corporation to whom Section 191 applies. No provision of the *QCA* as it stands now allows the Court to grant these kinds of orders for the benefit of ACCC.

[65] When a capital reduction occurs, the *QCA* provides for mechanisms in terms of ratification and calling of meetings (Section 123.65). The potential creditors' recourses,

if any are applicable, are dealt with as well in Section 123.64. No provision of the *QCA* allows the Court to set these sections aside.

[66] Petitioners' Counsel recognizes this reality and concedes that from that standpoint, the conclusions of the Order must differ between ACI and ACCC.

[67] Lastly, two other conclusions sought require comments.

[68] The initial conclusion [10] of the Note Restructuring Motion is not necessary as redundant with the initial conclusion [3]. The reserve of the initial conclusion [12] is not needed either as useless. Neither one will be included in the Court's Order.

FOR THESE REASONS, THE COURT:

[1] **AUTHORIZES** the Petitioners to implement and complete the transactions and steps (collectively, the **"Repayment Steps"**) contemplated in the Step Plan (the **"Step Plan"**) communicated as **Exhibit R-2** in support of the Motion in order to permit the repayment of the promissory note (the **"ABH LLC Note"**) issued by AbitibiBowater U.S. Holding LLC (**"ABH LLC"**) to Abitibi-Consolidated Company of Canada (**"ACCC"**) on April 1, 2008;

[2] **AUTHORIZES** ACCC, in completing the Repayment Steps, to execute the support agreement (**"Support Agreement"**), a draft of which is communicated as **Exhibit R-3** to the Motion (upon such non-material amended terms and conditions as may be approved by the Monitor) and further **DECLARES** that, upon execution of the Support Agreement, no amendment thereto shall become effective without prior leave of the Court;

[3] **AUTHORIZES** ACCC, in completing the Repayment Steps, to enter into non-material amendments to the Term Loan Facility, the Senior Notes and the $293M Exchange Notes due July 15, 2010 (collectively, the **"Pre-filing Financing Agreements"**) pursuant to which (a) LLC 1 (as defined in the Motion) will become a guarantor under the Pre-Filing Financing Agreements, and (b) LLC 1 will grant a first priority security interest in all of its assets and pledge that certain promissory note created as part of the Repayment Steps (being the LLC 2 Note), and LLC Holdco will grant a first priority security interest in the units held in LLC 1, in each case to the ACCC's Term Lenders (collectively, the **"Pre-filing Financing Amendments"**);

[4] **AUTHORIZES** ACCC, in completing the Repayment Steps contemplated in the Step Plan:

a) to execute the agreements and to execute and deliver any documents and assurances governing or giving effect to the Repayment Steps as the Petitioners, in their discretion, may deem to be reasonably necessary or advisable to conclude the Repayment Steps, including the execution of such deeds, contracts or documents, as may be contemplated in the Step Plan; and

b) to take such steps as are, in the opinion of the Petitioners, necessary or incidental to the implementation of the Repayment Steps provided, however, that ABH LLC and LLC 1 shall not make any payment or otherwise reduce any amount owing under the LLC 2 Note (as defined in the Support Agreement) without obtaining a prior order from the Court;

[5] **DECLARES** that this Order shall constitute the only authorization required by Petitioner Abitibi-Consolidated Inc. ("**ACI**") to proceed with the Repayment Steps and that no board of directors, shareholder or regulatory approval shall be required by ACI in connection with the Repayment Steps save and for those contemplated in the Step Plan;

[6] **ORDERS AND DECLARES** that if all the steps of the Repayment Steps are not completed in their entirety and in the order provided in the Step Plan on or before December 31, 2009, each and every completed steps will be automatically deemed null and void *ab initio*, thereby leaving the ABH LLC Note and capital structure of each of the parties to the Repayment Steps unchanged;

[7] **ORDERS AND DECLARES** that the transfers of the ABH LLC Note in the context of the implementation of the Repayment Steps shall be made free and clear of any charges, liens or encumbrance including without limitation, (i) the *CCAA* charges and any and all other encumbrances, liens, assignments, charges, hypothecs, pledges, security interests of any nature, adverse claims, exceptions, reservations, options, privileges or any contract to create any of the foregoing, or (ii) any liability or obligation of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, secured or unsecured, joint or several, solidary or not solidary, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on any financial statements, the whole save and except for the rights to be granted under and pursuant to the Pre-filing Financing Amendments and the security interest in the ABH LLC Note in favour of the ACCC Term Lenders;

[8] **AUTHORIZES** ACI to file Articles of Reorganization substantially in the form of the draft attached as **Schedule "D"** to this Order;

[9] **ORDERS,** only insofar as ACI is concerned, that notwithstanding:

a) the proceedings under the *CCAA*;

b) any petitions for a receiving order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ("**BIA**") and any received order issued pursuant to any such petition; or

c) the provision of any federal or provincial statute;

the Pre-Filing Financing Amendments, the vesting of the ABH LLC Note, the execution of the Repayment Steps pursuant to this Order and the security interest to be created in favour of the ACCC Term Lenders are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *BIA* or any other applicable federal or provincial legislation, nor shall it give rise to an oppression remedy;

[10] **ORDERS** the provisional execution of this Order notwithstanding any appeal and without the necessity of furnishing any security.

[11] **WITHOUT COSTS.**

CLÉMENT GASCON, J.S.C. J.S.C.

Me Sean Dunphy and Me Joseph Reynaud
STIKEMAN, ELLIOTT
Attorneys for the Petitioners

Me Avram Fishman
FLANZ FISHMAN MELAND PAQUIN
Attorneys for the Monitor

Me Robert I. Thornton
THORNTON GROUT FINNIGAN
Attorneys for the Monitor

Me Dominique Gibbens
FASKEN, MARTINEAU, DuMOULIN
Attorneys for Wells Rargo Bank, N.A., Administrative Agent under the Credit and Guarantee Agreement Dated April 1, 2008

Me Marc Duchesne
BORDEN, LADNER, GERVAIS
Attorneys for the Ad hoc Committee of the Senior Secured Noteholders and U.S. Bank National Association, Indenture Trustee for the Senior Secured Noteholders

Me Jean-Yves Simard
LAVERY, DE BILLY
Co-Counsel for the Ad Hoc Committee of Unsecured Noteholders of AbitibiBowater Inc. and certain of its Affiliates

Date of hearing: November 23, 2009

SCHEDULE "A"

ABITIBI PETITIONERS

1. ABITIBI-CONSOLIDATED INC.
2. ABITIBI-CONSOLIDATED COMPANY OF CANADA
3. 3224112 NOVA SCOTIA LIMITED
4. MARKETING DONOHUE INC.
5. ABITIBI-CONSOLIDATED CANADIAN OFFICE PRODUCTS HOLDINGS INC.
6. 3834328 CANADA INC.
7. 6169678 CANADA INC.
8. 4042140 CANADA INC.
9. DONOHUE RECYCLING INC.
10. 1508756 ONTARIO INC.
11. 3217925 NOVA SCOTIA COMPANY
12. LA TUQUE FOREST PRODUCTS INC.
13. ABITIBI-CONSOLIDATED NOVA SCOTIA INCORPORATED
14. SAGUENAY FOREST PRODUCTS INC.
15. TERRA NOVA EXPLORATIONS LTD.
16. THE JONQUIERE PULP COMPANY
17. THE INTERNATIONAL BRIDGE AND TERMINAL COMPANY
18. SCRAMBLE MINING LTD.
19. 9150-3383 QUÉBEC INC.
20. ABITIBI-CONSOLIDATED (U.K.) INC.

SCHEDULE "B"

BOWATER PETITIONERS

1. BOWATER CANADIAN HOLDINGS INC.
2. BOWATER CANADA FINANCE CORPORATION
3. BOWATER CANADIAN LIMITED
4. 3231378 NOVA SCOTIA COMPANY
5. ABITIBIBOWATER CANADA INC.
6. BOWATER CANADA TREASURY CORPORATION
7. BOWATER CANADIAN FOREST PRODUCTS INC.
8. BOWATER SHELBURNE CORPORATION
9. BOWATER LAHAVE CORPORATION
10. ST-MAURICE RIVER DRIVE COMPANY LIMITED
11. BOWATER TREATED WOOD INC.
12. CANEXEL HARDBOARD INC.
13. 9068-9050 QUÉBEC INC.
14. ALLIANCE FOREST PRODUCTS (2001) INC.
15. BOWATER BELLEDUNE SAWMILL INC.
16. BOWATER MARITIMES INC.
17. BOWATER MITIS INC.
18. BOWATER GUÉRETTE INC.
19. BOWATER COUTURIER INC.

SCHEDULE "C"

18.6 CCAA PETITIONERS

1. **ABITIBIBOWATER INC.**
2. **ABITIBIBOWATER US HOLDING 1 CORP.**
3. **BOWATER VENTURES INC.**
4. **BOWATER INCORPORATED**
5. **BOWATER NUWAY INC.**
6. **BOWATER NUWAY MID-STATES INC.**
7. **CATAWBA PROPERTY HOLDINGS LLC**
8. **BOWATER FINANCE COMPANY INC.**
9. **BOWATER SOUTH AMERICAN HOLDINGS INCORPORATED**
10. **BOWATER AMERICA INC.**
11. **LAKE SUPERIOR FOREST PRODUCTS INC.**
12. **BOWATER NEWSPRINT SOUTH LLC**
13. **BOWATER NEWSPRINT SOUTH OPERATIONS LLC**
14. **BOWATER FINANCE II, LLC**
15. **BOWATER ALABAMA LLC**
16. COOSA PINES GOLF CLUB HOLDINGS LLC

SCHEDULE "D"

Industry Canada Canada Business Corporations Act	Industrie Canada Loi canadienne sur les sociétés par actions	FORM 14 ARTICLES OF REORGANIZATION (SECTION 191)	FORMULAIRE 14 CLAUSES DE RÉORGANISATION (ARTICLE 191)

1-- Name of Corporation - Dénomination sociale de la société	2 -- Corporation No. - N° de la société
ABITIBI-CONSOLIDATED INC.	337578-1

3-- In accordance with the order for reorganization, the articles of incorporation are amended as follows:

Conformément à l'ordonnance de réorganisation, les statuts constitutifs sont modifiés comme suit :

1. The outstanding balance in the stated capital account maintained by the Corporation for the common shares is $5,574,441,705.

2. The stated capital maintained by the Corporation for its common shares is hereby reduced by an amount of $250,000,000, such amount to be distributed to the holders of the common shares of the Corporation in accordance with that certain order issued by the Superior Court of Québec (commercial division) on November 23, 2009 in file n° 500-11-036133-094.

Signature	Printed Name - Nom en lettres moulées	4 -- Capacity of - En qualité de	5 -- Tel. No. - N° de tél.

FOR DEPARTMENTAL USE ONLY - À L'USAGE DU MINISTÈRE SEULEMENT