

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-11-036133-094

DATE: **NOVEMBER 9, 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

And

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEWFOUNDLAND
AND LABRADOR**

Petitioner

**JUDGMENT ON MOTION TO ACCESS
THE ELECTRONIC DATA ROOMS CREATED BY THE DEBTORS (#275)**

THE MOTION AT ISSUE

[1] Her Majesty the Queen in Right of Newfoundland and Labrador (the "**Province**") seeks a declaratory order from this Court to access the electronic data rooms set up by the Debtors ("**Abitibi**").

[2] Abitibi is under the protection of the *Companies' Creditors Arrangement Act*¹ ("**CCAA**") since April 17, 2009. In the context of the restructuring process undertaken following the Initial Order, it created electronic data rooms containing non-public financial and corporate information.

[3] This was done in order to allow its stakeholders and their financial and legal advisors to better assess the ongoing condition of its business as the restructuring evolved. To have access to the electronic data rooms, permission has first to be obtained from Abitibi. Signature of confidentiality agreements is required as well.

[4] The Province requested such an access to the electronic data rooms. Abitibi denied its request.

[5] In its Motion², the Province contends that Abitibi's refusal is contrary to the principles underlying the CCAA. It argues that the denial is unfair, discriminatory and unjustifiable. It insists upon being treated in the same manner as other Abitibi's stakeholders.

[6] Abitibi strongly opposes the Motion³.

[7] It considers that the Province is neither a creditor of Abitibi, nor a genuine stakeholder in its restructuring. It adds that the Province does not come to Court with clean hands, but rather brings the Motion for collateral purposes, unrelated to the restructuring process. In that regard, Abitibi insists upon the fact the Province owes it in excess of \$300 million for the recent wrongful appropriation of its assets.

THE ELECTRONIC DATA ROOMS

[8] Based on the representations made to the Court, the electronic data rooms, subject of the debate, were created voluntarily at the initiative of Abitibi. There are no statutory requirements in the CCAA imposing upon a debtor company to do so.

[9] Abitibi has elected to do it in order to assist, facilitate and advance its restructuring process and to help transmitting its non-public financial and corporate information to those who required it in that context.

¹ R.S.C. 1985, c. C-36.

² "Motion for a Declaration that the Petitioner is Entitled to Access the Electronic Data Rooms Created by the Debtors" dated October 16, 2009.

³ "Motion to Contest the Motion for Access to the Electronic Data Rooms Created by the Petitioners" dated October 26, 2009.

[10] Creating such data rooms for the benefit of stakeholders in a CCAA restructuring process is not unheard of. In large restructurings such as this one, putting in place similar data rooms is acceptable, if not common, practice. It normally enhances the chances of success of the process. Seldom does one see litigation arising from the creation of these data rooms. No precedents have indeed been found on the issue that the Court is asked to decide.

[11] Here, access to Abitibi's electronic data rooms has, apparently, not been given to every stakeholder. In fact, according to Abitibi, no individual creditor has been granted such access so far.

[12] To this day, the data rooms have rather been accessed solely by the financial and legal advisors of precise creditor groups like the Ad Hoc Committee of the Unsecured Noteholders, the Term Lenders, the Ad Hoc Committee of the Senior Secured Noteholders, and the Unsecured Creditors Committee put in place pursuant to the Chapter 11 proceedings pending in the State of Delaware.

[13] These electronic data rooms provide information that goes beyond the quite extensive financial information already circulated by the Monitor on a regular basis. To that end, no less than 20 reports are currently available on the Monitor's public website.

[14] They include, amongst others, regular four-week reporting on Abitibi's cash-flow results, receipts and disbursements with variances analysis, current liquidity and revised cash-flow forecasts, and key performance indicators review. They cover as well a timely overview of current market conditions in the forest products industry.

THE POSITIONS OF THE PARTIES

a) The Province

[15] The Province pleads that it needs to have access to the electronic data rooms to properly assess Abitibi's financial status and to make informed decisions in the restructuring. It maintains that it has a duty to inform itself of the present and future potential ability of Abitibi to cover the Province's claims against it.

[16] To that end, it states that after Abitibi was granted CCAA protection in April 2009, the Province made a commitment to the latter's former employees whose entitlement to severance and termination pay was stayed by the Initial Order.

[17] Thus, in June 2009, it allegedly began to implement a plan whereby Abitibi's former employees in the Province received their entitlement to severance and termination pay. In exchange, these former employees assigned their rights to make a claim in the restructuring process to an organisation created by the various unions involved and funded by the Province.

[18] Apparently, the Province has expended in excess of \$24 million from the public purse to fulfil these obligations. It contends that it will be repaid for these severance and termination expenses from the claims that will be made at some point during the restructuring process.

[19] The Province also argues that Abitibi is responsible towards it for alleged environmental contamination from a former mine located in the town of Buchans. Relying on numerous media reports that it filed in the record⁴, the Province claims that because of Abitibi's economic activities, the latter has exposed itself to numerous environmental obligations, the precise extent of which remains to be determined.

[20] The Province alleges that it has incurred significant costs in that regard. It adds, furthermore, that agreements have been entered into for the Province's environmental consultants to have access to the sites for the purpose of determining the full nature and extent of Abitibi's residual and environmental obligations.

[21] In addition, during oral argument, the Province's Counsel claimed that his client would also have alleged tax claims to raise against Abitibi. However, no allegation in the Motion refers to such assertion.

[22] Because of the above, the Province submits that it should be treated similarly to other Abitibi's stakeholders with respect to the electronic data rooms. The Court's discretion under the CCAA should, in its view, be exercised in favour of the Province so that the right of access sought may be granted without delay.

b) Abitibi

[23] Abitibi replies that the Province is simply unable to justify any status as actual or even potential creditor in this restructuring process.

[24] According to Abitibi, with regard to the funding process of Abitibi's former employees, the allegations of the Motion indicate that the Province is simply not the assignee of the claims.

[25] Abitibi states further that no evidence supports either the Province's Counsel's contentions that alleged tax claims would be owed to his client.

[26] As for the environmental obligations that Abitibi would have, it considers that the Province is the owner of the lands and mining rights on which the mining site was situated. It adds that any residual interest was surrendered to the Province as far back as in 1994, such that the Province has owned and managed the lands in question for over 15 years.

⁴ Exhibit NL-1.

[27] Abitibi also notes that it never itself operated the mine in question, while the reports that have been received so far by the Province indicate a number of other possible causes of contamination.

[28] Simply put, Abitibi is of the view that this contingent claim is, at best, highly speculative.

[29] That said, Abitibi refers to the following background elements to justify its position that the Province does not come to Court with clean hands. In fact, it submits that ulterior motives warrant the filing of the Motion.

[30] From Abitibi's standpoint, the conflict with the Province on the access to the electronic data rooms has its roots in events going back to December 2008, some four months prior to the Initial Order issued in this case.

[31] On December 4, 2008, after unsuccessful negotiations with the unions representing its workers, Abitibi announced the closure of the Grand Falls mill located in the Province. The closure was to take place in the first quarter of 2009.

[32] In the days following the announcement, Abitibi attempted in vain to negotiate with the Province an orderly winding-down of the operations.

[33] On December 16, 2008, without notice and within a single day, the Province introduced and passed into law the *Abitibi-Consolidated Rights and Assets Act*⁵ (the "**Abitibi Act**").

[34] Pursuant to the *Abitibi Act*, the Province purported:

- a) to seize with immediate effect substantially all of the assets, property and undertakings of Abitibi in the Province;
- b) to cancel substantially all outstanding water and hydroelectric contracts and agreements between Abitibi and the Province;
- c) to cancel pending legal proceedings of Abitibi against the Province seeking the return of several hundreds of thousands of dollars in unlawfully assessed payments in respect of water rights;
- d) to deny Abitibi any compensation for the seized assets; and
- e) to deny Abitibi access to the Province's Courts to seek redress.

[35] Abitibi voiced strong opposition to this enactment and denounced it as unconstitutional, contrary to basic principles of Canadian law and adopted in bad

⁵ S.N.L. 2008, c. A-1.01, filed as Exhibit R-2.

faith. In April 2009, one of Abitibi's U.S. subsidiaries indeed filed a Notice of Intent to Submit a Claim to Arbitration in that regard under Chapter 11 of NAFTA⁶.

[36] According to Abitibi, the seized property and rights had a value in excess of \$300 million. As well, the expropriated assets were generating revenues for Abitibi; some of the fixed assets could have even been sold for profit during the restructuring process⁷.

[37] Because of this, Abitibi concludes that the filing of the Motion is nothing more than a reaction to the expected claims of Abitibi against the Province. Therefore, as part of its own Motion to Contest the Province's Motion, Abitibi itself seeks declaratory conclusions to the effect that the Province cannot claim any relief until it has recognized the property rights it has unlawfully seized.

[38] Abitibi even wants this Court to immediately designate a Claims Officer to hear and determine the respective claims, counter-claims, cross-claims and set-off claims of the parties against each other.

ANALYSIS AND DISCUSSION

[39] With all due respect to the position advanced by the Province, the Court considers that its Motion should be dismissed.

[40] None of the arguments it submitted are persuasive under the circumstances. In contrast, Abitibi's objections to the access sought are real; they are serious and they are many.

a) The principles underlying the CCAA

[41] To justify its request, the Province puts much emphasis on the principles underlying the CCAA. It is appropriate to briefly review them.

[42] It has often been said. No one seriously disputes it anymore. The CCAA is a remedial statute. Its purpose is to facilitate compromises or arrangements between an insolvent debtor company and its creditors⁸.

[43] Admittedly, the restructuring process conducted under the CCAA is, first and foremost, that of the debtor company and its creditors who, ultimately, have the final say on the process.

[44] Still, it is now accepted that the CCAA is designed as well to serve a broad constituency of stakeholders, be they investors, creditors, employees or even, sometimes, local communities. It has thus been stated that Courts must have regard

⁶ Exhibit R-3.

⁷ Testimony of Alice Minville at the hearing.

⁸ *Stelco Inc. (Bankruptcy), (Re)*, (2005), 9 C.B.R. (5th) 135, 2005 ONCA 8671 (CanLII), at paras 32ff; *Metcalf & Mansfield Alternative Investments II Corp., (Re)*, 2008 ONCA 587 (CanLII), at paras 44-61.

not only to the interests of those that are directly affected by the restructuring process, but also to a wider public interest⁹.

[45] However, if this broader public dimension goes beyond the simple direct relations between the debtor company and its creditors, it does not stand alone by itself. This wider public interest or broader public dimension must always be put in the balance together with the interest of those most directly affected by the restructuring process.

[46] Accordingly, in any application brought under the CCAA such as this one, it is fair to say that in giving weight to broader socio-economic or public interest considerations, the Court must keep in mind the key objectives of the Act. That is, to facilitate a restructuring so as to reach a compromise between the debtor company and its creditors and allow the business to continue as a going concern¹⁰.

[47] As well, in exercising its jurisdiction in a broad and flexible manner to insure the CCAA's effectiveness, the Court must remember that its role is one of judicial oversight. It is there to supervise the process and keep it moving towards its ultimate goal, that of an acceptable arrangement.

[48] In *Re Stelco*¹¹, the Ontario Court of Appeal stated that in carrying this supervisory function under the legislation, the judge in a CCAA restructuring process is exercising the statutory discretion provided by Section 11.

[49] That said, in a CCAA restructuring process, the radically different economic stakes of the various creditors in the debtor company entail that it is not realistic to constantly expect or have a level playing field¹². There will sometimes be asymmetries, variances and distinctions. Because of the flexibility of the CCAA, one is not to apply its regime rigidly, in the same manner in every situation.

[50] Bearing these considerations in mind, the Court considers that this is not a case where its judicial discretion should be exercised in the manner sought by the Province. There are no reasonable or reasoned justifications that would support it.

[51] To begin with, the status of the Province as creditor is not established, while its alleged status as potential creditor stands on rather weak grounds.

[52] Apart from that, relying on a mere and general quality of stakeholder remains quite insufficient to justify the relief sought. In this regard, the reasons for Abitibi's denial

⁹ *Metcalfe & Mansfield Alternative Investments II Corp., (Re)*, 2008 ONCA 587 (CanLII), at paras 50-52; *Syndicat national de l'amiante d'Asbestos v. Mine Jeffrey inc.*, [2003] R.J.Q. 420 (C.A.), at paras 27-30.

¹⁰ *Metcalfe & Mansfield Alternative Investments II Corp., (Re)*, 2008 ONCA 587 (CanLII), at paras 50-52; *Cliffs Over Maple Bay Investments Ltd. v. Fisgard Capital Corp.*, 2008 BCCA 327 (CanLII), at paras 27-29.

¹¹ (2005), 75 O.R. (3d) 5 (Ont. C.A.), at paras 32-34.

¹² Janis P. SARRA, *Rescue! : The Companies' Creditors Arrangement Act*, (Toronto: Thomson Carswell, 2007), at page 11.

appear legitimate and reasonable considering the objectives of the CCAA and the interests of those involved.

b) The creditor or potential creditor status of the Province

[53] In this case, the Province has simply failed to adduce any reliable or admissible evidence to establish that it is, actually, a creditor of Abitibi.

[54] On one hand, the Province alleges, without supporting evidence, that it has made payments to certain former employees of the Abitibi's Grand Falls mill. Yet, no evidence to establish the nature of the payments made or any lawful assignment of the related claims has been put forward.

[55] Indeed, when one reads paragraphs 7, 8 and 9 of the Motion, it appears obvious that if Abitibi's former employees in the Province claims have been assigned to anyone, it is to an organisation created by the various unions involved, not to the Province. Its role is simply to fund this organisation.

[56] In that regard, the Motion itself refers to claims that will ultimately be made in the restructuring by an "Assignee". According to the Motion, this "Assignee" is certainly not the Province.

[57] On the other hand, the Province has not provided the Court with any reasonable and convincing evidence in support of its other alleged status of potential creditor for environmental problems resulting from Abitibi's economic activities.

[58] The Motion has merely referred to several press articles in support of an alleged claim against Abitibi for the contamination arising from a closed mine in the town of Buchans.

[59] These vague and unsubstantiated allegations are, at this point in time, barely supported. This is hardly sufficient to give to the Province an alleged standing as creditor or even potential creditor of Abitibi.

[60] To conclude on this basis that the Province is a creditor of Abitibi would, in essence, substitute speculation for reason and guesswork for proof.

[61] In a CCAA context, a potential creditor with a contingent claim bears the onus of showing, at the very least, that its claim is neither speculative nor remote¹³. Some credible and reliable evidence must be offered in support. None exists here.

[62] Finally, even though the Province's Counsel raised, during oral argument, that the Province would have a status as creditor of Abitibi by reason of some outstanding tax claims, no allegation in the Motion, nor any evidence adduced in support thereof, substantiate that contention.

¹³ *Re Air Canada*, (2004) 2 C.B.R. (5th) 23 (Ont. S.C.J.).

c) The "stakeholder" argument

[63] The Province's other argument to the effect that it is, in any event, a "stakeholder" in Abitibi's restructuring process is no more convincing than the first one. Nor is the submission that, as alleged stakeholder in the process, the Province should be entitled to an unfettered access to the electronic data rooms.

[64] These data rooms have been set up to assist and enhance the Abitibi's restructuring process. However, there has not been an open access to the data rooms for every creditor, and certainly not for every potential stakeholder.

[65] In fact, based on the Court's understanding, access has been limited to some key undisputed creditors and their financial and legal advisors.

[66] More precisely, so far, access to the electronic data rooms has only been given to secured creditors of Abitibi whose assets are being used in the restructuring process, and to committees of unsecured creditors whose status is officially recognized in the U.S. proceedings or whose support is essential to the outcome of the restructuring because of the huge extent of the debt owed to them.

[67] No evidence suggests that mere potential or contingent creditors such as the Province have been given the kind of access the Province is seeking. To the contrary, it appears that it has not been the case. From that standpoint, the alleged discrimination claimed by the Province is simply not established.

[68] Likewise, the evidence offered does not support either the Province's claim that it is entitled to the same rights as those of other stakeholders. Again, no stakeholder with a status similar to that of the Province has been given the access sought here.

[69] Few would dispute that there are huge differences between the alleged status of the Province and that of key creditors whose claims are undisputed and whose involvement remains pivotal to the final outcome of the restructuring.

[70] In that regard, the Province's reference to the testimony of Mr. Robertson at another hearing ignores the particular context in which it was given. It hardly justifies opening the doors of the electronic data rooms to all stakeholders without distinction. True, by definition¹⁴, stakeholders are people who have an interest in a company's or organization's affairs. However, while creditors are inevitably stakeholders, not all stakeholders are necessarily creditors.

[71] In its Memorandum of Argument, the Province goes as far as pleading that the fact that it may not be a creditor of Abitibi is not a valid reason to deny the access sought. The Court does not share that view. With respect, this is certainly a very important consideration to keep in mind on an issue like this one.

¹⁴ Collins COBUILD Advanced Learner's English Dictionary on CD-ROM, Lexicon, 2003, HarperCollins Publishers, <stakeholder>.

[72] In fact, in the Court's opinion, seldom would a judge allow, in a CCAA restructuring process, mere stakeholders who are not creditors to have access to the non-public financial and corporate information of the debtor company.

[73] In a similar fashion, access to the electronic data rooms to some creditors does not mean that similar access must necessarily be given to everyone who requests it. The fact that Abitibi should ensure transparency and openness in its restructuring proceedings and process does not entail that everyone should be treated similarly. Fair and equitable treatment does not correspond to equal and identical treatment at all costs.

[74] For instance, Abitibi could well, in some cases, deny access to its electronic data rooms to some categories of creditors for legitimate commercial reasons. The example of a creditor who is a competitor of Abitibi comes to mind. There are no doubt others.

[75] Arguably, practical reasons could also justify Abitibi limiting access to its electronic data rooms to prevent its use becoming impractical or the signing of confidentiality agreements meaningless by reason of the fact that too many persons have access to the information.

[76] This notwithstanding, the Province seems to suggest that because some creditors have had access to the electronic data rooms, all stakeholders, no matter what is their status, should be given the same opportunity. The Court disagrees.

[77] Contrary to what the Province pleads, it is not a fundamental tenet of insolvency law that similarly situated "stakeholders" be treated in the same manner. The case law does not support this premise. It rather states that in insolvency law, unsecured creditors are normally treated in the same manner in similar situation¹⁵. To apply the statement to "stakeholders" as well, with no consideration to their precise status, goes way beyond what the case law indicates.

[78] In a restructuring process under the CCAA, voting on the plan of arrangement remains, at all times, in the hands of the creditors. If the interest of stakeholders other than creditors should, sometimes, be taken into consideration in the exercise of the Court's judicial discretion or inherent jurisdiction, it does not elevate nor equate the status of stakeholders to that of creditors.

[79] In the conduct of the restructuring process, mere "stakeholders" cannot realistically pretend to a status equal to that of the creditors. The latter have a say in the ultimate plan. The former do not unless they do qualify as creditors.

[80] This being so, the Court is of the view that Abitibi can, for legitimate business reasons and through the exercise of reasonable business judgment, restrict access to

¹⁵ See, in this respect, *Indalex Ltd. (Re)*, (2009), 55 C.B.R. (5th) 64 (Ont. S.C.); *Woodward's Ltd. (Re)*, (1993), 17 C.B.R. (3rd) 236 (B.C. S.C.); *Pacific National Lease Holding Corp. (Re)*, (1992) 15 C.B.R. (3rd) 265 (B.C.C.A.).

its electronic data rooms when its use by mere stakeholders (or, sometimes, even creditors) would not further nor enhance its restructuring process.

[81] In this regard, lacking evidence of bad faith, the Court should be reluctant to intervene in the reasonable exercise of a debtor company's business judgment. Such exercise should not be second-guessed lightly.

[82] Here, the Province wants access to the electronic data rooms not to enhance the restructuring process, but to assess the extent of Abitibi's present and future ability to cover the Province's undetermined and potential environmental claims.

[83] The Court considers it reasonable for Abitibi to deny access to its electronic data rooms to a potential creditor or mere stakeholder with whom it has a legitimate debate and reasonable expectations of upcoming litigation. In particular where, like here, the electronic data rooms apparently contain information concerning the economic claims of Abitibi against the Province.

[84] In such a situation, the CCAA process should not be used to further a collateral objective that, in the end, is not in connection with the ultimate goal of the Act.

[85] The broader public dimension of the CCAA does not entail an unlimited and unfettered access to the non-public books, records and financial data of a debtor company for all potential or contingent claimants, be they a public or governmental body.

[86] Similarly, considerations for the wider public interest and broad public dimension do not confer to a mere stakeholder the same status as a creditor in all aspects of the restructuring process.

[87] To that end, the judgments rendered in the cases of *Fracmaster*¹⁶ and *Calpine*¹⁷ hardly support the Province's argument. Transparency and openness in an asset sale process for an optimal recovery to the benefit of the debtor company is hardly comparable to the kind of openness and transparency that the Province is advocating here.

[88] Lastly, the alleged legitimate public interest relied upon by the Province is not in furtherance of the purposes of the CCAA. It is, to the contrary, in furtherance of the Province's own interest of determining the real value of its potential claims that are yet to be established.

[89] Put otherwise, the Province wants to have access to the electronic data rooms to better evaluate whether Abitibi's pockets will, one day, be deep enough.

¹⁶ *Fracmaster (Re)*, (1999), 11 C.B.R. (4th) 204 (Alta Q.B.).

¹⁷ *Calpine (Re)*, (2007), 28 C.B.R. (5th) 185 (Alta Q.B.).

[90] This does not constitute a legitimate legal interest in the restructuring process, nor a legitimate commercial interest in its success. From the allegations of its Motion, it is rather fair to say that the Province does not appear to have any genuine interest in the restructuring of Abitibi. At the present time, nothing suggests that the Province will either shape the plan of arrangement or have a say in its approval.

[91] The fact that the Province is a governmental body does not change anything. It does not have more investigative entitlement in the non-public financial or business information of a potential debtor than does any other person.

[92] One could easily add that if the Province's true goal is merely to assess Abitibi's on going financial condition, what the Monitor puts regularly on its website definitely provides the reader with what it needs in this respect.

[93] In sum, the Court accepts Abitibi's assertion that the Province's purpose here is a collateral one. It has nothing to do with the key objectives of the CCAA, namely to facilitate a restructuring and insure that Abitibi continues as a going concern.

[94] Abitibi's denial of the Province's request is legitimate and reasonable. It is based on proper considerations. This is not a situation where the Court should second-guess or review the exercise of Abitibi's business judgment.

[95] To paraphrase what Farley J. once wrote, justice does not dictate to grant the access sought. Nor does practicality demand that it be done here.

d) Closing remarks

[96] In closing, the Court notes that both sides have said a lot on the *Abitibi Act*.

[97] For its part, the Province considers that the *Abitibi Act* is constitutional, even though it is retrospective, targeted and confiscatory in nature¹⁸.

[98] In contrast, Abitibi contends that the enactment is contrary to fundamental constitutional principles of the *Canadian Charter of Rights and Freedoms* and *Canadian Bill of Rights*, as well as being unconstitutional. It considers the Act to be punitive, confiscatory in nature and repugnant to public policy¹⁹.

[99] While the Province argues that the potential claims of Abitibi against it as a result of the *Abitibi Act* are without merit, the latter maintains that if any claim is ever filed by the Province in the restructuring process, the Court will have to assess the constitutional validity of the *Abitibi Act* and the value of its cross-claims or set-off claims against the Province for the wrongful expropriation it has been subjected to.

¹⁸ To that end, it refers notably to *British Columbia v. Imperial Tobacco Canada Ltd.*, [2005] 2 S.C.R. 473, at pp. 503-504.

¹⁹ Amongst others, it invokes *Reference re Upper Churchill Water Rights Reversion Act*, [1984] 1 S.C.R. 297 and *Laane & Baltser v. Estonian S.S. Line*, [1949] S.C.R. 530.

[100] Be that as it may, the Court views as premature the requests contained in the conclusions of Abitibi's own Motion to Contest. It is not necessary to immediately designate a former judge as Claims Officer to hear and determine all alleged claims filed by the Province as well as any counter-claims or set-off claims to be raised by Abitibi.

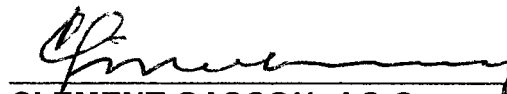
[101] For the time being, the Province has filed no claim in the Claims Process established in Abitibi's CCAA restructuring. Consequently, it is too early to implement any kind of special process in that regard.

FOR THESE REASONS, THE COURT:

[102] **DISMISSES** the "Motion for a Declaration that the Petitioner is Entitled to Access to the Electronic Data Rooms Created by the Debtors";

[103] **DISMISSES** as well conclusions [25] and [26] of the "Motion to Contest the Motion for Access to the Electronic Data Rooms Created by the Petitioners";

[104] **WITH COSTS** against Her Majesty the Queen in Right of Newfoundland and Labrador.


CLEMENT GASCON, J.S.C. J.S.C.

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Date of hearing : November 2, 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.

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