

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

No.: 500-11-036133-094

SUPERIOR COURT

Commercial Division
*Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act,
R.S.C., c. C-36, as amended*

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

ABITIBIBOWATER INC., a legal person incorporated under the laws of the State of Delaware, having its principal executive offices at 1155 Metcalfe Street, in the City and District of Montréal, Province of Quebec, H3B 5H2;

And

ABITIBI-CONSOLIDATED INC., a legal person incorporated under the laws of Canada, having its principal executive offices at 1155 Metcalfe Street, in the City and District of Montréal, Province of Quebec, H3B 5H2;

And

BOWATER CANADIAN HOLDINGS INC., a legal person incorporated under the laws of the Province of Nova Scotia, having its principal executive offices at 1155 Metcalfe Street, in the City and District of Montréal, Province of Quebec, H3B 5H2;

And

the other Petitioners listed on Appendices "A", "B" and "C";

Petitioners

And

ERNST & YOUNG INC., a legal person incorporated under the laws of Canada, having a place of business at 800 René-Lévesque Blvd. West, Suite 1900, in the City and District of Montréal, Province of Quebec, H3B 1X9;

Monitor

TWENTY-EIGHTH REPORT OF THE MONITOR

DECEMBER 9, 2009

INTRODUCTION

1. On April 17, 2009, Abitibi-Consolidated Inc. (“**ACI**”) and its subsidiaries listed in Appendix “A” hereto (collectively with ACI, the “**ACI Petitioners**”) and Bowater Canadian Holdings Incorporated (“**BCHI**”) and its subsidiaries listed in Appendix “B” hereto (collectively with BCHI, the “**Bowater Petitioners**”) (the ACI Petitioners and the Bowater Petitioners are collectively referred to herein as the “**Petitioners**”) filed for and obtained protection from their creditors under the *Companies’ Creditors Arrangement Act* (the “**CCAA**” and the “**CCAA Proceedings**”) pursuant to an Order of this Honourable Court, as amended on May 6, 2009 (the “**Initial Order**”).
2. Pursuant to the Initial Order, Ernst & Young Inc. (“**EYI**”) was appointed as monitor of the Petitioners (the “**Monitor**”) under the CCAA and a stay of proceedings in favour of the Petitioners was granted until May 14, 2009 (the “**Stay Period**”). The Stay Period has been extended until December 15, 2009 pursuant to further Orders of this Honourable Court.
3. On April 16, 2009, AbitibiBowater Inc. (“**ABH**”), Bowater Inc. (“**BI**”), and certain of their direct and indirect U.S. and Canadian subsidiaries, including BCHI and Bowater Canadian Forest Products Inc. (“**BCFPI**”) (collectively referred to herein as “**U.S. Debtors**”), filed voluntary petitions (collectively, the “**Chapter 11 Proceedings**”) for relief under Chapter 11 of the U.S. Bankruptcy Code, 11 U.S.C. §§ 101 et seq. (the “**U.S. Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**U.S. Bankruptcy Court**”). On April 17, 2009, the U.S. Bankruptcy Court granted certain interim and final orders and set dates for the final hearing of the motions for which the U.S. Bankruptcy Court granted the interim orders.
4. The Petitioners are all subsidiaries of ABH (ABH, collectively with its subsidiaries, are referred to as the “**ABH Group**”).
5. On April 17, 2009, ABH and the petitioners listed on Appendix “C” hereto (collectively with ABH, the “**18.6 Petitioners**”) obtained Orders under Section 18.6 of the CCAA in

respect of voluntary proceedings initiated under Chapter 11 and EYI was appointed as the Information Officer in respect of the 18.6 Petitioners.

6. On April 16, 2009, ACI and ACCC filed petitions for recognition under Chapter 15 of the U.S. Bankruptcy Code. On April 21, 2009, the U.S. Bankruptcy Court granted the recognition orders under Chapter 15 of the U.S. Bankruptcy Code.
7. On April 22, 2009, the Court amended the Initial Order to extend the stay of proceedings to the partnerships listed in Appendix “D” hereto.

BACKGROUND

8. ABH is one of the world’s largest publicly traded pulp and paper manufacturers. It produces a wide range of newsprint and commercial printing papers, market pulp and wood products. The ABH Group owns interests in or operates pulp and paper facilities, wood products facilities and recycling facilities located in Canada, the United States, the United Kingdom and South Korea.
9. Incorporated in Delaware and headquartered in Montreal, Quebec, ABH functions as a holding company and its business is conducted principally through four direct subsidiaries: BI, Bowater Newsprint South LLC (“**Newsprint South**”) (BI, Newsprint South and their respective subsidiaries are collectively referred to as the “**BI Group**”), ACI (ACI and its subsidiaries are collectively referred to as the “**ACI Group**”) and AbitibiBowater US Holding LLC (“**ABUSH**”) (ABUSH and its respective subsidiaries are collectively referred to as the “**DCorp Group**”).
10. ACI is a direct and indirect wholly-owned subsidiary of ABH. ABH wholly owns BI which in turn, wholly owns BCHI which, in turn, indirectly owns BCFPI which carries on the main Canadian operations of BI.
11. ACCC, a wholly-owned subsidiary of ACI, and BCFPI hold the majority of ABH’s Canadian assets and operations.

PURPOSE

12. This is the twenty-eighth report of the Monitor (the “**Twenty-Eighth Report**”) in these CCAA Proceedings, the purpose of which is to report to this Honourable Court with respect to:
- (i) the motion of ACI to this Honourable Court (the “**Doughan Motion**”) requesting directions concerning the payment of a portion of the proceeds of letters of credit that were issued to guarantee the obligations of ACI under the “Canadian Supplemental Executive Retirement Plan (SERP) for Executive Employees of Abitibi-Consolidated Inc.” dated January 1, 1999 and the “Secured Management Supplementary Benefit Agreements” dated before 1988 (hereinafter collectively referred to as the “**SERP**”) to Mr. James Doughan (hereinafter “**Doughan**”); and
 - (ii) the Monitor’s review of the consequences of the proposed payment to Doughan of the full amount of his entitlement under the SERP in view of the ongoing disputes between ACI and Doughan.

TERMS OF REFERENCE

13. In preparing this Twenty-Eighth Report, the Monitor has been provided with and, in making comments herein, has relied upon unaudited financial information, the ABH Group’s books and records, financial information and projections prepared by the ABH Group and discussions with management of the ABH Group and its advisers (the “**Management**”). The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of such information and, accordingly, the Monitor expresses no opinion or other form of assurance in respect of such information contained in this Twenty-Eighth Report. Some of the information referred to in this Twenty-Eighth Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Canadian Institute of Chartered Accountants Handbook, has not been performed. Future-oriented financial information referred to in this Twenty-Eighth Report was prepared by the ABH Group based on Management’s estimates and assumptions. Readers are cautioned that, since these projections are based

upon assumptions about future events and conditions, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.

14. Capitalized terms not defined in this Twenty-Eighth Report are as defined in the previous reports of the Monitor and the Initial Order. All references to dollars are in U.S. currency unless otherwise noted.
15. Copies of all of the Monitor's Reports, in both English and French, including a copy of this Twenty-Eighth Report, and all motion records and Orders in the CCAA Proceedings will be available on the Monitor's website at www.ey.com/ca/abibibowater. The Monitor has also established a bilingual toll-free telephone number that is referenced on the Monitor's website so that parties may contact the Monitor if they have questions with respect to the CCAA Proceedings.
16. Copies of all of the U.S. Bankruptcy Court's orders are posted on the website for Epiq Bankruptcy Solutions LCC ("**Epiq**") at <http://chapter11.epiqsystems.com/abibibowater>. The Monitor has included a link to Epiq's website from the Monitor's website.

THE DISPUTE BETWEEN ACI AND DOUGHAN

17. Doughan is an American citizen domiciled in Scottsdale, Arizona (United States).
18. Doughan was president and CEO of Stone-Consolidated Corporation (hereinafter "**Stone**") in the United States.
19. In 1995, Doughan accepted to move to Canada and continued to exercise the same functions in Canada.
20. In 1997, Stone merged with Abitibi-Price Inc. and the company which resulted from said merger is ACI.
21. Following such merger, Doughan continued in the same position for ACI until April 26, 1999. Thereafter, he occupied other positions until December 31, 1999, the date on which he retired.

22. Since his arrival in Canada, Doughan and Stone have executed a tax equalization agreement whereby Stone, and thereafter ACI, obliged itself to maintain Doughan in the same after-tax position he would have been had his income generated in Canada been generated in the United States (hereinafter the “**Equalization Agreement**”).
23. In 1997, Doughan and Stone concluded an agreement pursuant to which Stone committed itself to pay to Doughan an indemnity equal to three years’ salary upon the end of his employment (hereinafter the “**End of Employment Indemnity**”).
24. This agreement was subsequently modified to provide that the End of Employment Indemnity payment would be made by way of a “Retirement Compensation Arrangement”.
25. Doughan also participated in a pension plan for executive employees of ACI (hereinafter the “**Base Pension**”) as well as the SERP.
26. In January 2000, Doughan received his End of Employment Indemnity, which amounted to \$4,300,000.00.
27. Commencing January 2000, Doughan also began receiving a retirement benefit at the time of CDN\$570.00 per month from the Base Pension and a retirement benefit at the time of US\$27,600.00 per month from the SERP.
28. The payment of the End of Employment Indemnity, as well as the fact that Doughan had not resided in Canada since the end of 1998, resulted in Canadian taxes (CDN\$1,583,041.00) being lower than the American taxes (CDN\$2,545,137.00) for the tax year 1999.
29. As a result, ACI took the position that Doughan was indebted to it under the Tax Equalization Agreement for the year 1999 in the amount of US\$590,621.00, representing the difference between the hypothetical American taxes and the real Canadian taxes, and the amount of US\$379,342.00, representing advances already received by Doughan to pay his taxes, being a total of US\$969,963.00.

30. In May 2002, ACI instituted proceedings against Doughan, claiming from him the amounts mentioned above totalling US\$969,963.00, which translated to CDN\$1,527,021.70, as well as the amount of CDN\$100,000.00 on account of certain foreign tax credits claimed by Doughan (hereinafter the “**ACI Action**”).
31. ACI subsequently amended the ACI Action to claim, in addition to the above amount, amounts relating to the 1997 and 1998 taxation years. The total amount claimed by ACI amounted to CDN\$2,519,347.17 plus interest and the special indemnity provided for under the *Civil Code of Quebec*.
32. Commencing July 1, 2002, ACI ceased making payments of Doughan’s retirement benefits pursuant to the Base Pension and SERP, claiming that it had a right of compensation between these amounts and the amounts claimed from Doughan in the context of the ACI Action.
33. In June 2003, Doughan filed a Motion for declaratory judgment, asking the Court to declare that there could not be legal compensation between the retirement benefits and the amounts claimed by ACI in the ACI Action (hereinafter the “**Motion for Declaratory Judgment**”).
34. On July 15, 2004, the Honourable Justice Danièle Mayrand granted the Motion for Declaratory Judgement in part, declaring that the retirement benefits paid pursuant to the Base Pension were unseizable, that the retirement benefits paid pursuant to the SERP were seizable and that ACI could not effect compensation because its claim was neither liquid nor exigible (hereinafter the “**Mayrand Judgment**”), as appears from a copy of the Mayrand Judgement communicated with ACI’s motion as exhibit **R-1**.
35. ACI thereafter instituted an appeal from the Mayrand Judgment and Doughan instituted a cross-appeal.
36. Commencing September 1, 2004, ACI restarted paying Doughan his retirement benefits pursuant to the Base Pension as well as those pursuant to the SERP. Doughan did not receive retirement benefits between July 1, 2002 and August 31, 2004, in the total amount of CDN\$1,041,277.86.

37. In November 2007, the Honourable Justice Roger E. Baker heard the action on the merits in the ACI Action and took it under advisement.
38. On January 17, 2008, the Court of Appeal partially overturned the Mayrand Judgment (hereinafter the “**Court of Appeal Judgment**”), as appears from a copy of the Court of Appeal Judgment communicated with ACI’s motion as exhibit **R-2**.
39. ACI thereafter presented a motion for permission to appeal the Court of Appeal Judgment before the Supreme Court, which permission was granted on August 8, 2008 (hereinafter the “**Inscription for Appeal before the Supreme Court**”).
40. In April 2008, Doughan instituted a motion to institute proceedings against ACI in the context of which he claimed from ACI payment of the retirement benefits pursuant to the Base Pension and SERP which were not paid between July 1, 2002 and August 31, 2004 (hereinafter the “**Doughan Action**”).
41. On June 25, 2008, the Honourable Justice Chantal Corriveau granted the Doughan Action and ordered ACI to pay to Doughan the total amount of CDN\$1,041,277.86 plus interest and the special indemnity (hereinafter the “**Corriveau Judgment**”), as appears from a copy of the Corriveau Judgment communicated with ACI’s motion as exhibit **R-4**.
42. On or around July 22, 2008, ACI filed an inscription to appeal the Corriveau Judgment.
43. On July 7, 2008, the Honourable Justice Roger Baker granted the ACI Action and ordered Doughan to pay to ACI the amount of CDN\$2,519,347.17 plus interest and the special indemnity (hereinafter the “**Baker Judgment**”), as appears from a copy of the Baker Judgment communicated with ACI’s motion as exhibit **R-6**.
44. On or around August 4, 2008, Doughan filed an inscription in appeal of the Baker Judgment.
45. In November 2008, ACI and Doughan reached an agreement as to the different pending proceedings between them, providing that:
 - (i) ACI desisted from the Inscription to Appeal before the Supreme Court;

- (ii) the proceedings to appeal the Corriveau Judgment were suspended until final judgment was rendered in the file in which the Baker Judgment was rendered. At that time, ACI could desist from the appeal against the Corriveau Judgment and compensation would operate, as applicable;
- (iii) Doughan renounced the Court of Appeal Judgment in the file relating to the Motion for Declaratory Judgment;
- (iv) ACI recognized the validity of the payment of the retirement benefits paid until that date and accepted to continue making monthly payments of the retirement benefits pursuant to the Base Pension and the SERP, notwithstanding the right of compensation which it claimed; and
- (v) when final judgment was rendered on appeal against the Baker Judgment, compensation would operate between the amount due to Doughan from ACI pursuant to the Corriveau Judgment and all amounts payable to ACI, up to the amount of the smaller debt,

(hereinafter the “**Settlement Agreement**”), as appears from a copy of the Settlement Agreement communicated with ACI’s motion as exhibit **R-8**.

THE SUSPENSION OF PAYMENTS OF RETIREMENT BENEFITS PURSUANT TO THE SERP

- 46. Beginning on April 17, 2009, the date of the Initial Order in these CCAA Proceedings, ACI suspended payment of retirement benefits pursuant to the SERP for all beneficiaries, including Doughan, as authorized by the Initial Order.
- 47. The retirement benefits pursuant to the Base Pension continued to be paid to all beneficiaries, including Doughan.

THE LETTERS OF CREDIT

- 48. According to the terms of the “Supplementary Executive Retirement Compensation Trust Agreement” entered between ACI and Desjardins Trust Inc. (hereinafter “**Desjardins**”),

on April 23, 2004, a trust was constituted to guarantee the obligations created by the SERP and Desjardins was appointed trustee (hereinafter the “**Trust Convention**”), as appears from a copy of the Trust Convention communicated with ACI’s motion as exhibit **R-9**.

49. In order to guarantee the obligations of ACI under the SERP, three letters of credit totalling CDN\$57,198,000.00 were issued by Canadian Imperial Bank of Commerce in favour of Desjardins, in its capacity as trustee (hereinafter the “**Letters of Credit**”).
50. The suspension by ACI of payment of the retirement benefits pursuant to the SERP constituted a default under the SERP and, accordingly, Desjardins cashed the Letters of Credit on June 11, 2009.
51. In accordance with the terms of the Trust Convention, Desjardins is required to liquidate the SERP and use the proceeds of the Letters of Credit to pay the guaranteed beneficiaries the amounts to which they are entitled.
52. Pursuant to calculations prepared by Mercer, the lump sums payable by Desjardins to Doughan would be as follows:

Date	Gross Amount	Withholding Tax (25%)	Net Amount
December 2009	\$2,268,268.00	\$567,067.00	\$1,701,201.00
In 2010 (estimated amounts)	\$2,826,802.00	\$706,700.00	\$2,120,101.00

(collectively the “**Lump Sum**”).

THE DIRECTIONS SOUGHT

53. Pursuant to the Doughan Motion, ACI has asked that this Honourable Court issue directions to Desjardins not to pay the Lump Sum to Doughan, but to keep that amount and continue to pay to Doughan monthly, out of the Lump Sum, the same monthly amount as he was paid as a retirement benefit pursuant to the SERP prior to the issuance of the Initial Order, until a final judgment is rendered in the file in which the Baker Judgment was rendered.

54. ACI has submitted in the Doughan Motion that it is necessary that this measure be put in place to permit ACI to conserve its right to effect compensation between the amounts due to Doughan from ACI pursuant to the Corriveau Judgment (totalling \$1,550,946.17 in principal, interest and the special indemnity as of November 17, 2009 according to calculations provided by counsel for ACI) and the amounts due to ACI from Doughan pursuant to the final judgment to be rendered in the file in which the Baker Judgment was rendered (totalling CDN\$3,991,577.91 in principal, interest and the special indemnity as of December 4, 2009 according to calculations provided by counsel for ACI).
55. ACI has alleged in the Doughan Motion that the right to effect compensation was expressly recognized by Doughan and ACI in the Settlement Agreement.
56. ACI has also alleged in the Doughan Motion that recovery from Doughan, an American citizen and resident, of the amount currently calculated as CDN\$3,991,577.91 under the Baker Judgment, would be complicated and expensive. ACI has advised the Monitor that it will likely have to institute new legal proceedings in order to have the final judgment recognized in the United States and to recover the amount that would be owed to it thereunder.
57. On December 2, 2009, ACI filed a request for, and this Honourable Court granted, a Safeguard Order ordering Desjardins to make no payments to, *inter alia*, Doughan out of the SERP until such time as this Honourable Court has rendered judgment on the Doughan Motion or until a written settlement agreement among the concerned parties has been executed.
58. ACI has requested that this Honourable Court order that:
- (i) Desjardins not remit to Doughan and retain the Lump Sum due to Doughan under the SERP;
 - (ii) Desjardins pay to Doughan, from the Lump Sum, the amount which he was paid monthly as the retirement benefit calculated according to the SERP before the issuance of the Initial Order in these proceedings and continue to do so until a final judgment is rendered with respect to the Baker Judgment; and

- (iii) Doughan and ACI provide Desjardins with joint instructions for the payment of any balance of the Lump Sum within fifteen (15) days following the rendering of a final judgment in the file in which the Baker Judgment was rendered.

THE MONITOR'S RECOMMENDATIONS ON THE DOUGHAN MOTION

59. Without in any way commenting on the legal issues involved, the Monitor notes that the effect of the orders requested by ACI is to maintain the status quo, which appears to cause no prejudice to either party and, furthermore, leaves both parties in essentially the same position as if these CCAA Proceedings had never been instituted and the Settlement Agreement remained in full force and effect.
60. Considering the need to protect the interests of all stakeholders, and bearing in mind the complex and longstanding legal disputes between the parties, the orders sought by ACI in the Doughan Motion appear to be fair, reasonable and equitable to both parties, considering that once all of the legal proceedings have terminated in final judgments, each party will receive the amounts to which he or it is entitled without any further potential expenses of exemplification and enforcement.

All of which is respectfully submitted.

ERNST & YOUNG INC.
in its capacity as the Court Appointed Monitor
of the Petitioners

Per:



Alex Morrison, CA, CIRP
Senior Vice President

Greg Adams, CA, CIRP
Senior Vice President

Ken Brooks
Senior Vice President

APPENDIX “A”

ABITIBI PETITIONERS

1. Abitibi-Consolidated Company of Canada
2. Abitibi-Consolidated Inc.
3. 3224112 Nova Scotia Limited
4. Marketing Donohue Inc.
5. Abitibi-Consolidated Canadian Office Products Holding 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 Jonquière Pulp Company
17. The International Bridge and Terminal Company
18. Scramble Mining Ltd.
19. 9150-3383 Quebec Inc.

APPENDIX “B”

BOWATER PETITIONERS

1. Bowater Canada Finance Corporation
2. Bowater Canadian Limited
3. Bowater Canadian Holdings. Inc.
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. Canoxel Hardboard Inc.
13. 9068-9050 Quebec Inc.
14. Alliance Forest Products Inc. (2001)
15. Bowater Belledune Sawmill Inc.
16. Bowater Maritimes Inc.
17. Bowater Mitis Inc.
18. Bowater Guérette Inc.
19. Bowater Couturier Inc.

APPENDIX "C"

18.6 PETITIONERS

1. AbitibiBowater US Holding 1 Corp.
2. AbitibiBowater Inc.
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

APPENDIX “D”

PARTNERSHIPS

1. Bowater Canada Finance Limited Partnership
2. Bowater Pulp and Paper Canada Holdings Limited Partnership
3. Abitibi-Consolidated Finance LP