| | |
|---|---|
| **CANADA** | **SUPERIOR COURT** |
| **PROVINCE OF QUÉBEC**<br>**DISTRICT OF**<br>**MONTRÉAL** | Commercial Division<br>*Sitting as a court designated pursuant to the Companies' Creditors Arrangement Act, R.S.C., c. C-36, as amended* |
| **No.: 500-11-036133-094** | |

**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 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**

# SIXTIETH REPORT OF THE MONITOR
# SEPTEMBER 27, 2010

## 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 and affiliates 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**"). Pursuant to an Order of this Honourable Court dated November 10, 2009, Abitibi-Consolidated (U.K.) Inc., a subsidiary of ACI, was added to the list of the ACI Petitioners.

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 subsequently extended to the date of implementation of the plan of reorganization and compromise filed by the Petitioners 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 the "**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**").

4. BCHI, Bowater Canada Finance Corporation, Bowater Canadian Limited, AbitibiBowater Canada Inc., BCFPI, Bowater LaHave Corporation and Bowater Maritimes Inc. have commenced both CCAA Proceedings and Chapter 11 Proceedings

and are referred to herein collectively as the "**Cross-Border Petitioners**" and are also included in the definition of "**Petitioners**".

5. The Petitioners are all subsidiaries of ABH (ABH, collectively with its subsidiaries, are referred to as the "**ABH Group**").

6. 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.

7. On April 16, 2009, ACI and Abitibi-Consolidated Company of Canada ("**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.

8. On April 22, 2009, the Court amended the Initial Order to extend the stay of proceedings to the partnerships (the "**Partnerships**") listed in Appendix "D" hereto.

**BACKGROUND**

9. 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 and South Korea. The Petitioners' United Kingdom subsidiary, Bridgewater Paper Company Ltd. ("**Bridgewater**"), filed for administration, pursuant to the United Kingdom's Insolvency Act of 1986 on February 2, 2010. The UK administrator announced on May 19, 2010 that it had sold the property formerly owned by Bridgewater.

10. 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**").

11. ACI is a direct and indirect wholly-owned subsidiary of ABH.

12. 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.

13. ACCC, a wholly-owned subsidiary of ACI, and BCFPI hold the majority of ABH's Canadian assets and operations.

## PURPOSE

14. This is the sixtieth report of the Monitor (the "**Sixtieth Report**") in the CCAA Proceedings, the purpose of which is to report to this Honourable Court with respect to:

    (a) the Petitioner's request for:

        (i) an order authorizing the execution by ACCC and ACI of the Purchase and Sale Agreement (the "**Purchase and Sale Agreement**") by and between ACCC and ACI (together, the "**Vendors**") and 1512513 Alberta Ltd. (the "**Purchaser**"), and the completion of the transaction contemplated therein (the "**Proposed Transaction**"); and

        (ii) the issuance of a Vesting Order (as defined herein) in connection with the Proposed Transaction;

    (b) the Monitor's view of the Proposed Transaction; and

    (c) the Monitor's recommendation regarding the Proposed Transaction.

## TERMS OF REFERENCE

15. In preparing this Sixtieth 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 (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 Sixtieth Report. Some of the information referred to in this Sixtieth Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the Canadian Institute of Chartered Accountants Handbook, has not been performed. Future-oriented financial information referred to in this Sixtieth 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.

16. Capitalized terms not defined in this Sixtieth Report are as defined in the previous reports of the Monitor and the Initial Order. All references to dollars are in U.S. currency and are translated at a rate of CDN$1.00=US$0.98 unless otherwise noted.

17. Copies of all of the Monitor's Reports, in both English and French, including a copy of this Sixtieth Report, and all motion records and Orders in the CCAA Proceedings are available on the Monitor's website at www.ey.com/ca/abitibibowater. 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.

18. 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/abitibibowater. The Monitor has included a link to Epiq's website from the Monitor's website.

## BACKGROUND TO THE PROPOSED TRANSACTIONS

19. The Purchase and Sale Agreement contemplates the sale of:

    (a) the Vendors' rights to a fishing camp and associated lands and premises located at Hunt River and Char Lake in the Province Newfoundland and Labrador (the "**Camp**") pursuant to certain leases, licences and permits, as more particularly set out in the Purchase and Sale Agreement (the "**Permits**");

    (b) various buildings, structures, wharves and fixtures situated at the Camp (the "**Real Property**"); and

    (c) certain personal property owned by the Vendor and located at the Camp (the "**Personal Property**");

20. The Camp, the Permits, the Real Property and the Personal Property are collectively referred to herein as the "**Hunt River Assets**".

21. The Vendors incur costs of approximately CDN$480,000 per year to operate the Hunt River Assets. The Camp is primarily used for corporate entertaining, but is also occasionally rented out to third parties as a means to subsidize operations.

## THE SALE PROCESS

22. The Petitioners determined that the Hunt River Assets were not strategic properties required for operation of the Petitioners' business and should be sold.

23. Given the nature of the Hunt River Assets, the Vendors engaged Sotheby's International Realty Canada ("**Sotheby's**") to market the Camp and related assets. Sotheby's was formally engaged in July, 2009.

24. Under the terms of its engagement, Sotheby's undertook the following for the purposes of marketing the Hunt River Assets:

    (a) preparation of marketing materials and mailings related to the Hunt River Assets;

(b) presentation of the listing for the Hunt River Assets on websites hosted by Sotheby's, their affiliates and a listing agent; and

(c) advertising the listing periodically in newspapers.

25. Based on their experience and expertise in appraising and marketing properties similar in nature to the Hunt River Assets, Sotheby's estimated that a reasonable list price for the Hunt River Assets was CDN$3,500,000.

26. The Monitor has been advised by the Petitioners that interest in the Hunt River Assets was limited. Moreover, while the efforts employed by Sotheby's generated nearly 2,000 website visits, there were only four inquiries about the property and none of them led to serious discussions with the Vendors.

27. The Nunatsiavut Government (a regional Inuit government within the Province of Newfoundland and Labrador) holds a right of first refusal in respect of the Hunt River Assets pursuant to Chapter 12 of the Labrador Inuit Land Claim Agreement (the "**ROFR**"). Accordingly, the Petitioners contacted the Nunatsiavut Government to inquire as to whether it was interested in acquiring the Hunt River Assets. On November 9, 2009, the Nunatsiavut Government advised that it was not interested in acquiring the Hunt River Assets.

28. During the spring of 2010, the Petitioners were approached by an individual familiar with the Hunt River Assets. This individual made multiple offers on the Hunt River Assets ranging from CDN$300,000 to CDN$500,000. However, given the preliminary estimate of value noted in paragraph 25 of this report, with the approval of the Monitor, the Petitioners rejected those offers as they were substantially lower than the potential value of the Hunt River Assets.

29. In early June 2010, the Petitioners received an offer from a prospective purchaser to acquire the Hunt River Assets for CDN$1,000,000 (the "**First Offer**").

30. On June 18, 2010, the Purchaser made an offer to acquire the Hunt River Assets for CDN$1,400,000 plus HST (the "**Second Offer**").

31. Shortly thereafter, a third potential purchaser expressed interest in the opportunity, but could not offer more than that offered by the Purchaser.

32. On June 23, 2010, the Petitioners, in consultation with the Monitor, accepted the Second Offer and proceeded to negotiate the terms and conditions of the Purchase and Sale Agreement with the Purchaser.

**THE PURCHASE AND SALE AGREEMENT**

33. On September 16, 2010, the Vendors entered into the Purchase and Sale Agreement with the Purchaser.

34. The purchase price for the Hunt River Assets is CDN$1,400,000, plus HST.

35. As part of the Purchase and Sale Agreement, the Purchaser has represented that: (i) it has inspected the Hunt River Assets prior to entering into the Purchase and Sale Agreement, and (ii) enters into the Purchase and Sale Agreement on the basis that (a) the Purchaser is purchasing the Hunt River Assets on an "as-is, where-is" basis, and (b) no warranty or condition can be implied as to description, zoning, fitness for purpose, quality and state of construction and services of the Hunt River Assets, or in respect of any other matter or thing, except as expressly set out in the Purchase and Sale Agreement.

36. The Purchase and Sale Agreement provides that the Vendors may, at their sole option, apply for a vesting order (the "**Vesting Order**"). The Monitor notes that although the issuance of the Vesting Order is not a condition to closing the Proposed Transaction, should the Vendors not obtain a Vesting Order, they must provide additional representations and warranties under the Purchase and Sale Agreement.

37. The Purchase and Sale Agreement provides that the closing date for this transaction (the "**Closing Date**") shall be on the earliest of the following: (i) three business days following the date on which the Approval and Vesting Order is granted, or (ii) on the later of October 15, 2010 or two business after the Vendors' emergence from the CCAA Proceedings, if the Vendors determine they will not apply for the Approval and Vesting

Order. Further, the Closing Date may be extended, subject to certain conditions set forth in the Purchase and Sale Agreement.

38. The closing of the Proposed Transaction is subject to the following conditions:

(a) waiver by the Nunatsiavut Government of its ROFR;

(b) the provision of notice to the Government of Newfoundland and Labrador and the consent of the Nunatsiavut Government to the assignment of the Permits from the Vendors to the Purchaser;

(c) the Permits being in good standing as of the Closing Date; and

(d) the Vendors providing a bill of sale in respect of the Personal Property.

**THE MONITOR'S VIEW**

39. The Vendors engaged Sotheby's to market the Hunt River Assets on their behalf. The Hunt River Assets were available for sale for a total of 12 months, during which time little interest was expressed.

40. The Vendors were contacted by the Purchaser, an unrelated third party, and discussions ensued which later culminated in the execution of the Purchase and Sale Agreement.

41. The sale of the Hunt River Assets is consistent with the Petitioners' continuing objective and strategy of disposing of non-strategic assets. The Hunt River Assets are not required for the continuing operations of the Petitioners or the reorganized ABH entity post-emergence. In addition, the estimated annual carrying costs related to the Hunt River Assets of CDN$480,000 will be eliminated subsequent to the closing of the Proposed Transaction.

**RECOMMENDATION**

42. Based on the foregoing, the Monitor recommends that this Honourable Court grant the Petitioners' Motion for:

(a) an order authorizing the execution by ACCC and ACI of the Purchase and Sale Agreement; and

(b) the issuance of a Vesting Order in connection with the Proposed Transaction.

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

Todd Caluori, CA, CBV
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 Québec Inc.
20. Abitibi-Consolidated (U.K.) 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. Canexel Hardboard Inc.
13. 9068-9050 Québec 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