



This is the 1<sup>st</sup> affidavit of  
P. Sakai in this case and was  
made on March 16, 2012

No. S-120712  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*, R.S.C. 1985,  
c. C-44

AND

IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, S.B.C. 2002, c. 57

AND

IN THE MATTER OF CATALYST PAPER CORPORATION  
AND THE PETITIONERS LISTED IN SCHEDULE "A"

PETITIONERS

**AFFIDAVIT**

I, Patricia Sakai, businessperson, of 2<sup>nd</sup> Floor, 3600 Lysander Lane, Richmond, British Columbia, SWEAR THAT:

1. I am employed by Catalyst Paper Corporation ("CPC") a Petitioner in this proceeding (along with the other Petitioners and Catalyst Paper General Partnership, the "Company" or "Catalyst") and for the last 17 years have acted as the Director of

Taxation of CPC and as such I have personal knowledge of the facts below except where the same are stated to be on information and belief and as to such matters I verily believe them to be true.

2. This affidavit is in support of the Company's application to lift the stay of proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA Stay") for a limited purpose of allowing steps to be taken in proceedings that the Company commenced against Her Majesty the Queen in Right of British Columbia ("HMTQ").

3. The request to lift the CCAA Stay relates to the following three proceedings before this Honourable Court:

- (a) *Catalyst Paper Corporation v. HMTQ*, S.C.B.C. No. S081641 (Vancouver Registry);
- (b) *Catalyst Paper Corporation v. HMTQ*, S.C.B.C. No. S087199 (Vancouver Registry); and
- (c) *Catalyst Paper Corporation v. HMTQ*, S.C.B.C. No. S092112 (Vancouver Registry)

(collectively, the "PST Appeals").

4. The PST Appeals were commenced on March 6, 2008, October 14, 2008, and March 19, 2009, respectively. A proceeding related to the PST Appeals was also commenced on March 6, 2008 by a subsidiary of CPC that is not a party to the CCAA proceedings, Powell River Energy Inc. ("PREI"): *PREI v. HMTQ*, S.C.B.C. No. S081640 (Vancouver Registry).

5. The PST Appeals relate to the issue of whether or not tax is exigible under the *Social Service Tax Act* (British Columbia) (the "Act") on Rent (defined below) that has been paid by CPC to PREI under six Possessory Interest Agreements ("PIAs"). Specifically pursuant to Section 4.1 of each PIA, the grantee CPC covenanted to pay the grantor PREI rent in "the amount of \$1,166,666.67 per annum, payable in equal monthly instalments" (the "Rent"). CPC accordingly paid PREI a total of \$7,000,000 per year of Rent under the PIAs.

6. The PST Appeals concern tax on Rent that CPC has paid either voluntarily or as a result of an assessment in relation to the time period February 1, 2001 through to June 30, 2010. The PST Appeals also concern the interest that has accrued on the tax paid on the Rent.

7. The PST Appeals were brought pursuant to s. 119 of the Act and involve appeals from decisions of the Minister responsible for Social Service Tax that either affirmed the assessments of tax against CPC and PREI or, alternatively, affirmed the denial of a claim CPC had filed to obtain a refund of the tax it voluntarily paid on the Rent.

8. CPC and PREI have filed a series of affidavits in support of the PST Appeals. The affiants for each of these affidavits, specifically Carolyn Jean and I, have both been cross-examined by counsel for HMTQ. During one cross-examination, I refused to answer a series of questions on the grounds that the questions related to a matter that had no relevance to the PST Appeals.

9. Subsequent to our cross-examinations, Ms. Jean and I have each sworn one additional affidavit to address issues that had arisen during those cross-examinations.

10. At the time the CCAA Stay was granted, HMTQ informed CPC that it was in the process of preparing and filing the paper work necessary to bring an application to:

- (a) compel me to answer the refused questions; and
- (b) to attend an additional cross-examination on my affidavits

(the "**Discovery Application**").

11. HMTQ has not proceeded with the Discovery Application because of the CCAA Stay.

12. It is my understanding that CPC has a positive prospect of success in the PST Appeals and it would accordingly be beneficial for the Company and the Company's restructuring to continue to advance the PST Appeals. The PST Appeals will not detrimentally affect the progress of the restructuring of the Company. There is no

prejudice to any party or creditor of the Company if the PST Appeals are permitted to continue.

13. In order to advance the PST Appeals to resolution, the CCAA Stay would have to be lifted so that HMTQ can proceed with its Discovery Application and the requisite additional steps can be taken in the litigation process.

SWORN BEFORE ME at Richmond,  
British Columbia on March 16, 2012.

  
A Commissioner for taking Affidavits for  
British Columbia

DAVID L. ADDERLEY  
Barrister & Solicitor  
2nd Floor, 3600 Lysander Lane  
Richmond, B.C. V7B 1C3

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Patricia Sakai