

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

APPLICATION RESPONSE

Application Response of: Wells Fargo Bank, National Association.

To: The Service List.

THIS IS A RESPONSE TO the Notice of Application filed by the Petitioners on March 16, 2012.

PART 1: ORDERS CONSENTED TO

1. None.

PART 2: ORDERS OPPOSED

1. Certain terms of the Plan, Meetings Order, the Claims Procedure Order and the Sale and Investor Solicitation Process Order on the grounds as identified below.

PART 3: FACTUAL BASIS

1. The defined terms used in the fifth report of the Monitor, dated March 19, 2012 (the "Fifth Monitor's Report") are adopted herein.

2. Wells Fargo Bank, National Association ("Wells Fargo") is the trustee (the "2014 Indenture Trustee") under a trust indenture for the 7 ^{3/8}% senior notes issued by the Company to noteholders, which are due March 1, 2014.
3. A key issue in respect of the Plan that is being advanced by the Petitioners and Initial Supporting Noteholders is the division of value between the First Lien Noteholders and the Unsecured Noteholders. Certain facts should be emphasized:
 - a. First Lien Noteholders will receive substantially all of the value under the Plan, receiving dollar for dollar value of approximately US \$430 million;
 - b. In contrast, the Unsecured Claims (including the Unsecured Noteholders) receive approximately US \$15 million in value for claims of US \$325 million;
 - c. The Plan is substantially similar in form to the economic terms envisaged by the Initial RSA restructuring, which terms were not accepted by a requisite number of Unsecured Noteholders; and
 - d. The Unsecured Noteholders do not appear to have been actively represented in the formulation of the Plan (the 2014 Indenture Trustee recognizes that certain Unsecured Noteholders are included within the ambit of the Initial Supporting Noteholders. However, these Unsecured Noteholders are also First Lien Noteholders; as such, they have an inherent conflict insofar as the division of value between the First Lien Noteholders and Unsecured Noteholders is concerned).
4. The 2014 Indenture Trustee is also concerned that there does not appear to be sufficient information available on which to assess the division of value between First Lien Noteholders and Unsecured Noteholders under the Plan:
 - a. At paragraphs 5.3 to 5.4 of the Fifth Monitor's Report, the Monitor states "the Monitor is still considering the fairness and reasonableness of the Plan... [including] the anticipated recovery of the Unsecured Creditors under the Plan";
 - b. The Monitor explains in paragraph 5.4 that to come to an opinion on the fairness of the Plan it requires additional discussions with the Company and its financial advisors;
 - c. There is no reason to conclude that the Unsecured Noteholders are in a better position to assess the Plan than is the Monitor. Indeed, the fact that the Monitor requires further information to assess the fairness and reasonableness of the proposed distributions to Unsecured Noteholders is indicative that there is insufficient information;
 - d. Unsecured Noteholders should be given sufficient information to make a proper determination regarding the division of value being proposed by the Plan proponents; and

- e. In particular, insufficient information has been provided regarding the unencumbered assets of the Company, including, specifically, the Company's interest in Powell River Energy Inc., and their potential value to satisfy Unsecured Claims. In the absence of this information, it is not possible to assess the fairness of the \$15 million pool made available to satisfy Unsecured Claims.

PART 4: LEGAL BASIS

- 5. The Plan and the Meetings Order appear to be contrary to the provisions of the CCAA and have been structured in a highly tactical manner to secure Plan approval at the expense of procedural fairness:
 - a. The provisions of the Meetings Order that provide that non-voting creditors will be deemed to vote in favour of the Plan appear contrary to the terms of the CCAA are unprecedented and contrary to the interests of justice;
 - b. Section 6(1) of the CCAA requires that to bind all creditors in a class, a proposed compromise must be agreed to by "a majority in number representing two thirds in value of the creditors ... present and voting either in person or by proxy at the meeting or meetings of creditors". In other words, an actual affirmative creditor vote is a precondition to compromise;
 - c. At paragraph 6.17 of the Fifth Monitor's Report, the Monitor acknowledges that the proposed deeming provisions are without precedent;
 - d. Under the proposed deeming provisions, a perverse incentive is created whereby the Plan proponents benefit from creating an environment in which creditors do not vote;
 - e. Seen in this light, the Monitor's observations at paragraphs 6.20 and 6.21 of the Monitor's Fifth Report, that the time frames under the Claims Procedure Order are "extremely short" is troubling and suggests a highly engineered process that is being put forward for the tactical benefit of Plan proponents; and
 - f. This is buttressed by the "deeming" proposal itself, which suggests that the Plan proponents have created a process that is not balanced, not transparent and ultimately, not appropriate.
- 6. The Plan classifies the Unsecured Noteholders with General Unsecured Creditors. However, General Unsecured Creditors are given a right of election whereby they can elect to participate in the Plan as Convenience Creditors and become Cash Election Creditors. While the Plan proponents are free to garner votes from a majority of creditors in number through the use of the Convenience Creditors, it ought to provide such benefits on equal terms to Unsecured Noteholders who are participating in the same class as General Unsecured Creditors. Alternatively, Unsecured Noteholders ought to be treated as a separate class.

7. The Monitor notes in paragraph 6.10 of the Monitor's Fifth Report that it is expected that the indenture trustees for each of the First Lien Notes and the Unsecured Notes will "coordinate" with the Company with respect to certain matters concerning the identification and allowance of claims of these creditors. While the 2014 Indenture Trustee is prepared to assist in the process, it is not being funded by the Company. In contrast, the indenture trustee under the First Lien Notes is being funded by the Company. The 2014 Indenture Trustee has asked both the Company and the Monitor to consider that it be funded on the same terms as the indenture trustee under the First Lien Notes; however, to date its requests have not been responded to. Funding of the 2014 Indenture Trustee will have to be addressed, especially in circumstances in which the Company intended to seek its assistance in voting and distribution.
8. The Plan provides for the delivery of common shares and warrants to Unsecured Noteholders through Depository Trust Company, which is in contravention of the express terms of the indenture. In this process, the 2014 Indenture Trustee seeks to ensure that:
 - a. it will have no further obligations to Unsecured Noteholders, the Petitioners or any other parties under its indenture or the Plan;
 - b. the compensation, reimbursement and indemnification rights in favour of the 2014 Indenture Trustee under its indenture shall survive and continue in full force and effect;
 - c. the Plan not alter, impair or affect the ability of the 2014 Indenture Trustee to enforce its rights with respect to the charging lien against all payments and distributions in respect of the Unsecured Notes;
 - d. the distribution of common shares and warrants to Unsecured Noteholders shall be made through the 2014 Indenture Trustee, unless otherwise agreed to in writing by the 2014 Indenture Trustee; and
 - e. such charging lien apply and attach to any common shares and warrants distributed to Unsecured Noteholders in exchange for their Unsecured Notes.
9. The Sale and Investor Solicitation Process Order would approve, among other things, procedures for the marketing and sale of various assets of the Petitioners, some of which are unencumbered. In addition, it provides that the Petitioners be authorised and directed to enter into the Stalking Horse Purchase Agreement in the event of an unsuccessful Plan process. The 2014 Indenture Trustee reserves all of its rights and remedies with respect to the proposed sale process including, without limitation:
 - a. any disposition of unencumbered assets of the Company pursuant to the Stalking Horse Purchase Agreement or otherwise, including, specifically, the Company's interest in Powell River Energy Inc.; and
 - b. the value of said assets to satisfy Unsecured Claims.

PART 5: MATERIAL TO BE RELIED ON

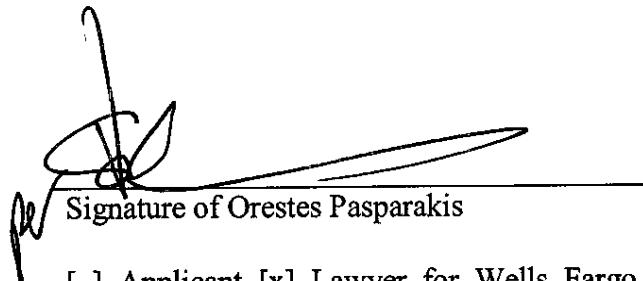
1. Fifth Report of the Monitor, dated March 19, 2012.

The Application Respondent estimates that the application will take: 10 minutes.

The application respondent has filed in this proceeding a document that contains the application respondent's address for service.

The application respondent has not filed in this proceeding a document that contains an address for service. The application respondent's ADDRESS FOR SERVICE is: Royal Bank Plaza, South Tower, Suite 3800, 200 Bay Street, P.O. Box 84, Toronto Ontario M5J 2Z4.

Date: March 21, 2012



Signature of Orestes Pasparakis

Applicant Lawyer for Wells Fargo Bank, National Association

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LISTED IN SCHEDULE "A"

PETITIONERS

UNITED STEEL, PAPER AND FORESTRY, RUBBER, MANUFACTURING, ENERGY, ALLIED INDUSTRIAL AND
SERVICE WORKERS INTERNATIONAL UNION

RESPONDENT

APPLICATION RESPONSE

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