

Vancouver

30-Mar-12

REGISTRY

No. S120712

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

NOTICE OF APPLICATION

Names of applicants: Western Forest Products Inc., Seaspan Marine Corporation, and International Forest Products

To: All Parties on Service List attached as Schedule "B"

TAKE NOTICE that an application will be made by the applicants to the presiding judge or master at the courthouse at 800 Smithe Street, Vancouver, British Columbia V6Z 2E1 on Monday, 02/Apr/2012 at 10:00 am for the orders set out in Part 1 below.

Part 1: ORDER(S) SOUGHT

1. An Order determining the "Commencement Date" in the Claims Procedure Order and Meeting Order to be 17/Jan/2012, for all Critical Suppliers.
2. An Order that paragraph 25 (d) of the Amended and Restated Initial Order dated 03/Febr/2012, be deleted and the following inserted in its place, *nunc pro tunc*:

(d) The Critical Suppliers are hereby granted a charge (the "Critical Suppliers' Charge") on the Charged Property for any amounts for which the Petitioner Parties become indebted to Critical Suppliers for the supply of goods or services on or after January 17, 2012, including interest pursuant to subparagraph (j) below.

3. An order setting aside or terminating; without prejudice to the applicants' rights under the Critical Supplier Charge, the order pronounced herein by Mr. Justice Sewell on 06/Febr/2012, which designated certain parties, including the applicants, "Critical Suppliers" (the "Critical Supplier Order").

Part 2: FACTUAL BASIS

1. The Petitioners' restructuring proceedings commenced on 17/Jan/2012, when they sought and were granted protection under the CBCA in Vancouver Registry Action No. S-120362.
2. The Initial CBCA Order, which was obtained without notice, included an unusual request in the form of a stay of proceedings found at paragraph 34. This provision is not included in the Ontario Model CBCA Order. In addition to seeking the unusual stay of proceedings, unlike the protections granted to suppliers under s. 11.01 of the CCAA, there was no ability for suppliers require cash on delivery ("COD") or cash in advance protection and as such, unlike the CCAA, suppliers were forced, by order of the Court, to continue to supply goods *and* to extend credit to the Petitioners.
3. In obtaining the CBCA order, the Petitioners represented that the restructuring was intended to be a capital restructuring that would not prejudicially affect the trade creditors, including the applicants.
4. The CBCA stay of proceedings was enforced as against Western Forest Products Inc. ("WFP"), Seaspan Marine Corporation ("Seaspan"), and International Forest Products ("Interfor") to their detriment for the time period 17/Jan/2012 to 31/Jan/2012.
5. The Petitioners then filed for CCAA protection on 31/Jan/2012, at which time the applicants, relying upon s. 11.01 of the CCAA, were able to require immediate payment (cash in advance) for all future supplies.
6. As of January 31, 2012, the applicants arranged cash in advance terms with the Petitioners. In response, the Petitioners sought an order declaring the applicants, among others, as Critical Suppliers, and establishing a credit facility for post-filing advances.
7. On 06/Febr/2012 Mr. Justice Sewell made the Critical Supplier order which declared that certain suppliers, including the applicants, were Critical Suppliers and would be required to supply product to the Petitioners on certain credit terms, pursuant to s. 11.4 of the *Companies' Creditors Arrangements Act*, R.S.C. 1985, c. C-36 (the "CCAA").

8. The Critical Supplier Order specifically granted leave to any Critical Supplier to file and serve a Notice of Application any time after 11/Mar/2012 seeking to amend or rescind the terms of the Critical Supplier Order as it applies to such Critical Supplier, and further provided that the onus of maintaining the Critical Supplier order would be on the Petitioners.
9. Despite the importance of the 11/Mar/2012 date, in its 4th Report dated 07/Mar/2012 the Monitor indicated that it would provide a revised report on cash flow by 23/Mar/2012. Despite repeated requests for information by certain Critical Suppliers, and repeated requests for an explanation why the report was not to be delivered on 11/Mar/2012, the report was finally delivered, without explanation or answers to the further questions on 27/Mar/2012 (being the 7th report of the Monitor).
10. Despite being supportive of the continuation of the Critical Supplier Order, the 7th Report of the Monitor indicates sufficient cash flow such that the extraordinary remedy granted by this Court on 06/Feb/2012 should be not continued in any form.
11. If the present form of Plan is approved, and if the present form of Claims Procedure Order and Meetings Order are enforced against the Critical Suppliers, the applicants' trade debt between 17/Jan/12 and 31/Jan/2012, when it was compelled to supply but not able to require immediate payment, would be compromised and the debt incurred by them during the CBCA proceedings, as a direct result of the stay of proceedings and orders sought by the Petitioners while under Court protection, would be compromised.
12. The terms proposed by the applicants would balance the obligations imposed under the CBCA Order with the rights afforded to compelled suppliers under the CCAA.

Part 3: LEGAL BASIS

1. s. 11.01, s. 11.4 of the CCAA;
2. The Critical Supplier Order pronounced February 6, 2012; and
3. the inherent and equitable jurisdiction of this Honourable Court.

Part 4: MATERIAL TO BE RELIED ON

1. Monitor's 7th report to the Court dated 27/Mar/2012;
2. The Affidavit of Susan Wood #1;
3. Order pronounced January 17, 2012, and Transcript of Proceedings in Court on January 17, 2012, in Vancouver Registry Action No. S-120362;
4. The Affidavit of N. Stevens #1;
5. Such further and other material as counsel may request and this Honourable Court deem meet and just.

The applicants estimate that the application will take 2 hours.

This matter is within the jurisdiction of a master.
 This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that:
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Bull, Housser & Tupper LLP

per:



Signature of Steven D. Dvorak

applicant lawyer for applicants

Date: 29/Mar/2012

To be completed by the court only:

Order made

- in the terms requested in paragraphs _____ of Part 1 of this notice of application
- with the following variations and additional terms:

Date: _____

Signature of Judge Master**APPENDIX****THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

Schedule "A"

LIST OF ADDITIONAL PETITIONERS

Catalyst Pulp Operations Limited
Catalyst Pulp Sales Inc.
Pacifica Poplars Ltd.
Catalyst Pulp and Paper Sales Inc.
Elk Falls Pulp and Paper Limited
Catalyst Paper Energy Holdings Inc.
0606890 B.C. Ltd.
Catalyst Paper Recycling Inc.
Catalyst Paper (Snowflake) Inc.
Catalyst Paper Holdings Inc.
Pacifica Papers U.S. Inc.
Pacifica Poplars Inc.
Pacifica Papers Sales Inc.
Catalyst Paper (USA) Inc.
The Apache Railway Company

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AND

IN THE MATTER OF CATALYST PAPER CORPORATION and others

PETITIONERS

SERVICE LIST

(Last Updated: March 26, 2012)

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NOTICE OF APPLICATION

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