



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 THE CATALYST PAPER CORPORATION AND THE
PETITIONERS LISTED IN SCHEDULE "A"**

**AFFIDAVIT OF ANDREW J. HATNAY
(sworn September 20, 2012)**

I, Andrew J. Hatnay, of the City of Toronto, in the Province of Ontario MAKE OATH
AND SAY:

1. I am a partner with the firm of Koskie Minsky LLP ("KM"), counsel to the Catalyst Salaried Employees & Pensioners Group ("CSEP") and as such have personal knowledge of the matters to which I depose. Where my knowledge is based upon information and belief, I have indicated the source of this knowledge and believe the same to be true.

Origins of KM's Retainer and the Fee Memorandum

2. The Initial CCAA Order (the "Initial Order") in this proceeding was issued on January 31, 2012. Shortly after the issuance of the Initial Order, I was contacted by Mr. Gary McCaig and other retirees of Catalyst. The focus of their concerns was the underfunded state of the Catalyst Paper Corporation Retirement Plan for Salaried Employees (the "Salaried Plan") and that if the company's CCAA restructuring failed or the company was sold then the Salaried Plan would be wound up in an underfunded state and the retirees would have their monthly pension benefits reduced by approximately 35%. Mr. McCaig and other retirees wished to retain our firm to protect Catalyst's salaried employees and retirees in this proceeding.

3. On February 10, 2012, I and other members of my firm met in Vancouver with several Catalyst retirees and employees, including Gary McCaig, Jeff Whittaker, Doug Meredith, Francesca Pomeroy, Terry Stewart and Bob Gordon. The purpose of this meeting was to discuss the status of Catalyst's CCAA proceedings to date, to obtain further information regarding Catalyst and the Salaried Plan and to obtain instructions going forward. Following this meeting, Mr. McCaig and his colleagues formed a steering committee to formally establish the CSEP.

4. We were subsequently instructed to bring an application to this Court for an order appointing Mr. McCaig and other Catalyst retirees and employees as representatives of all retirees and non-unionized employees in this proceeding, and appointing our firm as Representative Counsel to those individuals.

CSEP's challenge to provisions of the Initial CCAA Order

5. In the meantime, Catalyst was moving forward quickly with various activities in the CCAA proceeding. On February 14, 2012, Catalyst brought an application, *inter alia*, to amend the Initial Order to remove the application of the "comeback clause" in order to prevent a challenge to the granting of certain priority charges to Catalyst's lenders in this proceeding ahead of claims based on a breach of fiduciary duty by the company to the pension plan members or claims based on statutory deemed trust for amounts owing to an underfunded pension plan.

6. As this issue required immediate action, on February 14, 2012. Ari Kaplan and James Harnum of KM attended at the hearing of this application, and sought an adjournment of this aspect on the grounds that KM had only recently been retained and needed time to assess the impact of the application and potential re-ordering of priorities on employees' and retirees' claims and to obtain instructions. Our particular concern at this time was that the various charges granted to other creditors, including the DIP lender and other secured lenders, would operate to preclude any later claim by the retirees for a declaration that the deemed trust under the B.C. *Pension Benefits Standards Act* ("PBSA") ranked in priority to the claims of other creditors, as well as any claims based on breach of fiduciary duty in the event that Catalyst breached its fiduciary obligations.

7. This request was denied, and the amendments to the Amended and Restated Initial Order were granted in an Order dated February 14, 2012.

8. CSEP applied for leave to appeal the provisions of the February 14, 2012 Order which had granted priorities to certain parties and had removed the application of the comeback clause and thus blocked any challenge to the impugned provisions of the Initial CCAA Order. Those provisions were in our view potentially highly prejudicial to the members of the CSEP, as well as all the retirees of Catalyst.

9. Counsel to Catalyst subsequently contacted us and requested that CSEP withdraw the challenge to certain priorities granted to the DIP lender.

10. Ultimately, a settlement was reached with counsel to Catalyst which was set out in a Memorandum of Agreement dated March 9, 2012 between Catalyst and CSEP (the "Memorandum"), a true copy of which is attached hereto as **Exhibit "A"**. The main terms of the Memorandum are as follows:

- (a) The Initial Order was amended to specify that it did not provide priority for the 2016 Notes security ahead of the three potential employee/pension claims referenced at paragraph 55 of that order;

- (b) Employee/pension statutory priority claims pursuant to sections 81.5 and 81.6 of the *Bankruptcy and Insolvency Act* would not be subordinated to the DIP Lender's Charge;
- (c) CSEP would amend their Notice of Application for Leave to Appeal to clarify that CSEP would not advance any claim or make any argument for a pension claim priority ahead of the DIP Lender's Charge or the Administration Charge;
- (d) CSEP would not bring any claim or make any argument or advance any appeal which would give a pension claim priority ahead of the DIP Lender's Charge in respect of the DIP Lender's First Lien Collateral;
- (e) \$25,000 of the legal costs incurred by the CSEP up to the date of the agreement would be paid by Catalyst; and
- (f) Up to \$30,000, plus reasonable disbursements, would be paid for each subsequent month for the legal costs of the CSEP in this proceeding, starting in March 2012;

Catalyst states it expects to emerge from CCAA by April 2012

11. At the time that this Memorandum was negotiated, it had been indicated by Catalyst and its counsel that the company would be preparing a Plan of Compromise for a vote by its creditors and that it hoped the CCAA proceeding would be completed within a month or so. At paragraph 78 of the First Affidavit of Brian Baarda (the CFO of Catalyst), sworn on January 31st, 2012, Mr. Baarda states that "[t]he company hopes to emerge from the CCAA process before a April 2012 special costs payment is due". Those representations made it seem that the legal costs of CSEP in this proceeding would be within the \$30,000 per month fee cap

12. Unfortunately, that did not turn out to be the case. A large number of issues subsequently arose, including the failure of the company's first Plan of Compromise, and Catalyst's CCAA restructuring rapidly became complex and chaotic. As a result, a far more

active role was required by our firm to represent CSEP and the retirees than what was believed at the time of the negotiation of the Memorandum.

Challenge to the SISP and the failure of the first Plan of Compromise

13. On March 22, 2012, Catalyst filed a Plan of Compromise with the Court to be put to a vote at a creditors meeting. The general terms of the Plan are described at section 3.3 of the Fifth Report of the Monitor, dated March 19, 2012, as follows:

Generally, the Plan would effect a recapitalization of the 2016 Notes and 2014 Notes and a compromise of all other unsecured pre-filing claims (except for the Unaffected Claims), as well as the cancellation of all existing equity interests in the Company.

14. In furtherance of the Plan of Compromise, Catalyst brought an application to the Court on March 21 and 22, 2012, seeking:

- a) approval of meeting Order;
- b) approval of a Claims Procedure Order; and,
- c) approval of a Sale and Investor Solicitation Process Order ("SISP").

15. Under the SISP, if the Plan of Compromise did not receive the requisite approval from Catalyst's creditors at the creditor's meeting, then Catalyst would automatically be put up for sale in a stalking horse sales process. Under that scenario, the Salaried Plan would be wound up in its underfunded state resulting in pension benefit reductions to all retirees of Catalyst. This was of great concern to CSEP.

16. The terms of the asset sale agreement included the following provision at paragraph 2.1(d)(v) under the definition of "Excluded Liabilities:"

any pension or post-retirement Liability of Sellers to their current or former employees which are accrued as of the Closing, whether or not under any Seller Employee Plans, except with respect to any Transferred Employee Plan;

17. Ari Kaplan of our firm was in attendance on behalf of CSEP at the application by Catalyst seeking the foregoing orders, and on behalf of the CSEP opposed that part of the order permitting the SISP and the wind up of the underfunded pension plan. I understand that

CSEP was the only employee/pensioner group that expressed concerns over the detrimental impact of the SISP on pension benefits.

CSEP's Deemed Trust Application

18. On April 13, 2012, in light of the heightened risk to retirees and employees in the event of a sale of Catalyst's assets described above, CSEP filed an application for a declaration that the assets of Catalyst were subject to a deemed trust pursuant to section 43.1 of the PBSA for the benefit of the beneficiaries of the Salaried Plan in the amount of the deficiency owing by the company to the Salaried Plan. A true copy of the Written Argument filed on behalf of the CSEP on this application is attached hereto as **Exhibit "B"**.¹

19. Prior to the first creditors meeting, CSEP had filed a claim in the claims process for the amount of the deficit of the Salaried Plan. This claim was rejected by the Monitor and the company. CSEP was therefore denied the ability to vote on the Plan of Compromise.

20. The meeting of creditors took place on May 23, 2012. CSEP supported the Amended Plan, as it would see the continuation of the Salaried Plan.²

21. By this time, given the escalating complexity of Catalyst's CCAA proceeding, CSEP retained Ernst & Young as financial advisor, E&Y determined that there was a considerable risk that the Plan of Compromise would not receive sufficient creditor support. I attended the vote and addressed all creditors publicly in support of the Plan of Compromise.

¹ Several weeks later, on June 1, 2012, RSEA filed a similar deemed trust application, also seeking recovery of the amount of the deficit to the Salaried Plan. Catalyst subsequently supported CSEP's deemed trust application. This was made clear in Catalyst's Application Response to CSEP's application, dated June 15, 2012, a copy of which is attached hereto as **Exhibit "C"** where Catalyst indicated its consent to CSEP's application:

As plan sponsor and plan administrator, the applicable Petitioner entity has a fiduciary duty to the pension beneficiaries. In that capacity, the applicable Petitioner entity supports the position of the Applicant.

² Neither RSEA nor its counsel attended the creditors meeting.

22. The Plan of Compromise was defeated by a vote of the creditors, primarily due to a negative vote by an unsecured bondholder group.

Negotiations leading to the Amended Plan of Compromise

23. Given the failure of the Plan of Compromise, the SISP was activated. CSEP was thus required to become even more active to head off the sale and the resulting wind up of the underfunded Salaried Plan. CSEP engaged in a multi-pronged strategy to press the company to negotiate further with its creditors, particularly the dissident unsecured bondholder group, prepare a Second Plan of Compromise, organize a second meeting of creditors, and hold a second vote. This strategy had been successfully pursued in 2010 in the CCAA proceedings of *Fraser Papers*, with which our firm was involved, and in our view should be pursued by Catalyst as well.

24. KM, with CSEP's financial advisor, E&Y, contacted counsel to various creditors to discuss the possibility of compromising either part of the Salaried Plan's deficit or retiree post-retirement benefits in order to have that amount accepted as a claim for voting purposes on a Second Plan of Compromise.³

25. Over the ensuing weeks, further discussions and negotiations about a second Plan of Compromise proceeded between KM, RSEA and other creditors and the company.

26. As well and concurrently, our firm engaged in discussions and negotiations between Catalyst, RSEA, and the Government of British Columbia to obtain relief in respect of Catalyst's pension funding obligations and to obtain additional portability options. It was hoped that these measures would assist Catalyst by reducing its pension funding obligations.

27. The substance of the proposed Salaried Plan amendments were set out in a "Proposal for Regulatory Assistance," (the "Proposal") from Catalyst addressed to the Government of British Columbia, a copy of which is attached hereto as **Exhibit "D"**. In summary, under the Proposal, Catalyst sought regulatory approval for:

- (a) a reduction of the required special payments by Catalyst to amortize the solvency deficiency owing to the Salaried Plan; and,
- (b) permission to amend the Salaried Plan to provide a special portability election option, pursuant to which pensioners would be entitled to withdraw the commuted value of his or her pension benefit, adjusted to the funded ratio of the Salaried Plan, plus a top up of the pensioners' lump sum amount, equal to 8% of the value of the lump sum.

28. In order to implement the proposed amendments, Catalyst required the B.C. Government to pass special regulations under the PBSA for Catalyst. The British Columbia Government indicated that it would consider implementing the proposed regulations provided that both the CSEP and RSEA approved Catalyst's Proposal.

29. I am informed by Ari Kaplan and believe that during discussions about the Proposal, Catalyst proposed that the amendments, including the special portability option, would proceed in the event that a vote on a Second Amended Plan proceeded but did not receive the requisite support of creditors. While RSEA was content with this form of amendment, CSEP recognized that the pension plan amendment was necessary notwithstanding the vote because retirees would retain some risk even in the event that Catalyst emerged from CCAA protection. The portability option would grant retirees flexibility in accepting such future risk, or in crystallizing any losses at a point in time of their own choosing. This position was relayed in an email from Ari Kaplan to Kenneth Burns, pension counsel to Catalyst, dated May 10, 2012, a copy of which is attached hereto as **Exhibit "E"**.

30. In an exchange of emails on May 31, 2012, pension counsel to Catalyst indicated that Catalyst urgently required CSEP's response to a revised version of the Proposal pursuant to which the proposed amendments would proceed whether or not the Second Amended Plan received sufficient creditor approval. In response, Ari Kaplan indicated that CSEP would likely support the Proposal on the condition that Catalyst proceeded to file and seek creditor approval of a Second Amended Plan. A copy of this email was forwarded to Mr. Adderley, in-house counsel to Catalyst, and is attached hereto as **Exhibit "F"**.

31. CSEP was required to review the Proposal quickly given the very short notice provided by Catalyst. CSEP ultimately supported the Proposal on the condition that Catalyst prepare and file a Second Amended Plan of Compromise. A true copy of the letter from Ari Kaplan to Mr. Colin Hansen, MLA, and David Adderley, expressing CSEP's support for the Proposal is attached hereto as **Exhibit "G"**.

32. Following further discussions and negotiations with the company and other creditors, the company subsequently agreed to prepare and file an Amended Plan of Compromise. On June 18, 2012, the Court issued a Supplemental Meetings Order permitting Catalyst to hold a second meeting of creditors to vote on the Amended Plan.

33. KM, CSEP and RSEA and RSEA's counsel discussed and arranged for the filing of a claim based on the termination of all the retirees' health benefits. The claim was accepted for voting purposes and the retirees voted in favour of the Amended Plan.

34. As set out at paragraph 3.6 of the Monitor's 17th Report, dated June 17, 2012, excerpts of which are attached hereto as **Exhibit "H"**, it was the termination and compromise of the retirees' extended health benefits that led to function of the Amended Plan. The employees' and retirees' claim was valued at \$22.4 million by the Monitor for voting purposes.

35. There was still significant and potentially fatal opposition to the Amended Plan by the 2014 Noteholders. To counter the objections of the 2014 Noteholders, Catalyst requested the participation and attendance of KM, on behalf of CSEP, at the June 17, 2012 court hearing to support the Amended Plan. A copy of the email chain, dated June 15, 2012, from Peter Rubin of Blakes to me is attached hereto as **Exhibit "I"**.

36. While the group of dissident unsecured Noteholders continued to oppose the Amended Plan, their opposition was withdrawn after further negotiations and the company agreeing to pay that group's legal costs in the amount of \$1.3 million.

37. The vote on the Amended Plan proceeded on June 25, 2012. The Amended Plan passed the vote and the Court issued a Sanction Order on June 28, 2012. The company had restructured and the SISP was cancelled. The Salaried Plan continues in place and reductions

to pension benefits have been avoided. Catalyst's Amended Plan of Compromise has now been implemented and Catalyst has effectively concluded its restructuring under the CCAA.

Work Performed by KM representing CSEP

38. Catalyst is refusing to pay two aspects of the costs of CSEP: 1) the costs of Ernst & Young as financial advisor on the basis that E&Y was not a "reasonable" disbursement and, 2) the legal costs of CSEP for certain months where the \$30,000 cap was exceeded.

39. The increased work required to properly represent CSEP and achieve the favourable outcome for the retirees of Catalyst was far beyond what was expected and represented at the time of the negotiation of the Memorandum on March 7, 2012, and the monthly fee cap of \$30,000. As a result, the \$30,000 fee cap was exceeded in March, April, May and June by the amounts on the far right side of the chart below:

40. Date of Account	Amount of Account	Total Amount Received	Actual Legal Costs Incurred
March, 2012	\$30,000 (Fees) \$5,096.64 (Disbursements) \$4,211.12 (Taxes) \$39,307.76 (Total)	\$39,307.76	\$87,906.00 (Fees) \$5,096.64 (Disbursements) \$11,427.78 (Taxes) \$104,430.42 (Total)
April, 2012	\$30,000 (Fees) \$7,642.45 (Disbursements) \$4,495.75 (Taxes) \$42,138.20 (Total)	\$42,138.20	\$77,316.50 (Fees) \$7,642.45 (Disbursements) \$10,051.15 (Taxes) \$95,010.10

			(Total)
May, 2012	\$30,000 (Fees) \$33,457.03 (Disbursements) \$7,612.83 (Taxes) \$71,069.86 (Total)	\$43,840.33	\$96,385.00 (Fees) \$33,457.03 (Disbursements) \$12,530.05 (Taxes) \$142,372.078 (Total)
June, 2012	\$30,000 (Fees) \$49,801.05 (Disbursements) \$9,543.85 (Taxes) \$89,344.90 (Total)	\$55,845.37	\$97,554.50 (Fees) \$49,801.05 (Disbursements) \$12,682.09 (Taxes) \$160,037.63 (Total)
July, 2012	\$30,000 (Fees) \$26.33 (Disbursements) \$3,603.16 (Taxes) \$33,629.49 (Total)	\$33,629.49	\$31,163.00 (Fees) \$26.33 (Disbursements) \$4,051.19 (Taxes) \$35,240.52 (Total)
August, 2012	\$30,000 (Fees) \$5,747.58 (Disbursements) \$4,249.15 (Taxes) \$39,723.73 (Total)	Unpaid	

41. Lawyers from our firm were required to travel from Toronto to Vancouver on 16 occasions. In addition to the Court attendances and meetings, Ari Kaplan of our firm delivered three Powerpoint presentations to employees and retirees of Catalyst concerning the Proceeding and its potential impact on pension and employee benefits, on February 23 (Richmond), April 3 (Qualicum) and April 4, 2012 (Powell River).

Catalyst's refusal to pay the additional legal costs incurred by CSEP

42. In an email dated July 12, 2012 to David Adderley, Ari Kaplan requested that Catalyst pay the amount of CSEP's costs in excess of the \$30,000 fee cap in light of the significant costs which were incurred in representing CSEP and for directing contributing to the successful restructuring of Catalyst. Catalyst has refused to pay those costs.

43. I am further advised by Mr. Kaplan that our client, Gary McCaig, also contacted representatives of Catalyst requesting payment of the additional legal costs, in an email dated July 23, 2012. Catalyst refused. In particular, Brian Baarda, in an email dated July 27, 2012, advised that he took issue with CSEP's cost for a financial advisor:

We agreed to pay K&M up to \$30,000 per month plus reasonable disbursements. That did not include the unauthorized hiring of a financial advisor plus business class airfares to and from Toronto for that advisor. We do not view the hiring of E&Y as a reasonable expense.

44. A true copy of the foregoing email exchange is attached hereto as **Exhibit "J"**.

E&Y was necessary and its fees are reasonable

45. A financial advisor for CSEP was a necessary and reasonable disbursement in the circumstances of this case. Based upon my experience representing retiree and employee groups in insolvency proceedings, financial advice is essential to quickly analyze the many financial issues that continually arise, particularly where a company is attempting to restructure such as Catalyst. It is my understanding that a number of other stakeholder groups, including the bondholder creditor groups, each had their own financial advisor.

46. At the commencement of this proceeding, Catalyst represented that the restructuring would be quick and would not impact or reduce pension and employee benefits. The opposite turned out to be the case. CSEP had the foresight to engage legal and financial advisers to protect retirees' rights in their complex proceeding where their pension benefits were directly at risk. CSEP's efforts were a major driving force in the success of the Amended Plan and the successful emergence of Catalyst from CCAA protection.

47. It is my understanding that RSEA did not retain a financial advisor. CSEP made E&Y available to RSEA. CSEP's financial advisor discussed aspects of this case with RSEA and attended a number of meetings with RSEA.

48. The work performed by E&Y included:

- (a) Conducting an analysis of Catalyst's debt obligations, including secured, preferred and unsecured debt;
- (b) Reviewing and analysing Catalyst's short term cash flow and liquidity projections, as prepared by Catalyst and the Monitor;
- (c) Reviewing and analyzing Catalyst's restructuring plans;
- (d) Reviewing the proposed sale process and procedures that Catalyst proposed to use for the divestiture of its assets and commenting on the reasonableness of that process;
- (e) Advising on the proposed allocation of Catalyst assets among creditor groups;
- (f) Reviewing any other strategic alternatives presented by Catalyst or the Monitor related to the progress of the Proceeding;
- (g) Analysing other financial information prepared by Catalyst and the Monitor relating to the proceeding;
- (h) Assisting in filing a claim in the claims processes;
- (i) Participating in discussions and negotiations with other stakeholders; and
- (j) Negotiations on the terms of the Second Plan of Compromise

49. A copy of a letter prepared by E&Y listing their work and contributions to Catalyst's CCAA proceeding, which has been provided to Catalyst, dated August 30, 2012 is attached hereto as **Exhibit "K"**.

50. The costs of E&Y is a reasonable disbursement under the terms of the Memorandum. These costs should be paid by Catalyst and not have to be borne by Catalyst's retirees.

Catalyst terminates all future funding for CSEP

51. Catalyst has recently advised our firm that since the Amended Plan has now been implemented no further fees for CSEP will be paid by Catalyst. A true copy of the letter dated August 29, 2012 from David Adderley is attached hereto as **Exhibit "L"**.

52. However, there remain at least two important matters arising directly from Catalyst's CCAA proceeding for which CSEP (and other Catalyst retirees for that matter) requires legal representation:

- (a) the implementation of the Special Portability Option in the Salaried Plan, including the drafting and final regulatory authorization associated with that option which is part of the Second Amended Plan of Compromise; and,
- (b) implementation of the provincial government Order in Council allowing Catalyst to proceed with a relaxed amortization period for the special payments it owes to the Salaried Plan, which is also part of the Amended Plan of Compromise.

53. In light of the above remaining issues CSEP believes that Catalyst should continue to provide funding for the retirees' legal costs, at least until the two above-noted issues are resolved and concluded.

Catalyst paid substantial legal costs of other stakeholders

54. As indicated in the Monitor's 18th Report as at May 31, 2012, Catalyst had paid approximately \$11.1 million in restructuring professional fees. That amount has surely increased since May 31, 2012. The legal costs sought by CSEP are a fraction of the costs paid by Catalyst to other professionals, including legal counsel and financial advisors of other creditors such as the bondholder (both secured and unsecured) groups. The cash flow statement from the Monitor's 18th Report is attached hereto as **Exhibit "M"**.

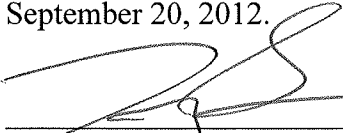
Relief Sought

56. There are two components to CSEP's costs request. First, the costs of its financial advisor, E&Y. As of August 30, 2012, E&Y has invoices in this matter that total \$88,668.31, inclusive of taxes and disbursements. Catalyst has said that it will not pay this amount on the basis that this was not a "reasonable" disbursement of CSEP.

57. Second, CSEP has incurred legal costs in this proceeding totaling approximately \$500,000. CSEP is not seeking repayment of those amounts which were incurred by KM in preparation for the Representation Application, nor for those amounts which were expended prior to the negotiation of the Memorandum with Catalyst. To date, Catalyst has paid \$205,000, plus taxes and some disbursements. However, even accounting for the reduction for pre-March legal expenses, CSEP still has legal costs, plus taxes, in the amount of \$261,085.37. As a result, CSEP is seeking costs paid by Catalyst of approximately \$155,000 in respect of KM's legal fees.

58. I swear this affidavit in good faith and for no improper purpose.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario on
September 20, 2012.

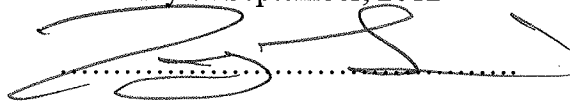


A Commissioner for taking affidavits, etc.



ANDREW J. HATNAY

This is **Exhibit "A"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, appearing to be "B. J. Hatnay", written over a horizontal dotted line.

A Commissioner for taking affidavits, etc.

MEMORANDUM OF AGREEMENT

BETWEEN:

**CATALYST PAPER CORPORATION and THE PETITIONERS
IN SUPREME COURT OF BRITISH COLUMBIA ACTION NO. S-120712**

("The Petitioners")

- and -

**CATALYST SALARIED EMPLOYEES
AND PENSIONERS STEERING COMMITTEE**

("CSE&P Steering Committee")

WHEREAS the CSE&P Steering Committee has filed a Notice of Application for Leave to Appeal on March 6, 2012 ("Notice of Application for Leave to Appeal") in respect to certain orders made by the Court in the ongoing CCAA proceedings;

AND WHEREAS the parties wish to resolve matters concerning certain of the issues raised in the Notice Application for Leave to Appeal the Parties agree as follows:

1. Koskie Minsky LLP and Blake, Cassels & Graydon LLP, as counsel for the Parties, will jointly draft language which makes clear that the Amended and Restated Initial Order of February 3, 2012 as subsequently amended ("Amended and Restated Initial Order") does not provide a priority for the 2016 Notes Security over any of the three potential employees/pensioner claims referenced in paragraph 55 of said order (i.e. past and future breaches of fiduciary duty, statutory deemed trusts, and BIA ss. 81.5 and 81.6).
2. The Order of March 8, 2012, as drafted by Koskie Minsky LLP and Blakes, will be issued by the CCAA Court.
3. Employee/pensioner claims under 81.5 and 81.6 of the BIA, for unpaid normal cost payments, will not be primed by the DIP Lenders' Charge. Language will be drafted to be inserted to the Amended and Restated Initial Order.
4. \$25,000 of the legal costs incurred by the CSE&P Steering Committee to date, in relation to general CCAA advice and not the application related to the representation of the salaried employees and pensioners (the "Representation Application"), will be paid by the Petitioners.
5. Up to \$30,000 plus reasonable disbursements will be paid each month for the legal costs of the CSE&P Steering Committee, starting in March 2012, with such an amount to be a rolling amount such that if less than the \$30,000 amount is billed in any given month the shortfall can be credited as against another month. Such amounts to be paid by the Petitioner Parties in accordance with normal practice in this proceeding.

6. The CSE&P Steering Committee and their lawyers shall amend the Notice of Application for Leave to Appeal to clarify that the leave to appeal does not advance any claim, make any argument or advance any appeal which could provide for a pension claim priority over the DIP Lenders' Charge or the Administration Charge. The CSE&P Steering Committee shall serve an amended Notice of Application for Leave to Appeal to the service list of the CCAA proceeding forthwith and use best efforts to file such amended Notice of Application for Leave to Appeal with the Court of Appeal by the end of the day on March 9, 2012 and no later than the end of the day on March 12, 2012.

7. Subject to paragraph 8 below, the CSE&P Steering Committee may proceed with its leave to appeal in respect to the matters referred to in the amended Notice of Application for Leave to Appeal including: leave to appeal application in relation to the D&O Charge and the Critical Suppliers' Charge priming claims under the BIA and for past and future breaches of fiduciary duty and its leave to appeal application in relation to the denial of their Representation Application brought on February 23, 2012.

8. With the exception of claims under ss. 81.5 and 81.6 of the BIA, for unpaid normal cost payments the CSE&P Steering Committee (including any person it represents) and their lawyers will not bring any claim, make any argument, or advance any appeal which would serve to give any pension claim priority over the DIP Lenders' Charge in respect of DIP Lenders' First Lien Collateral.

9. The CSE&P Steering Committee will make all reasonable efforts to expedite their leave to appeal application in relation to the matters that they are still permitted to appeal as referenced above.


10. CSE&P Steering Committee (including any person it represents) and their lawyers will not bring any claim, make any argument, or advance any appeal which would serve to give any pension claim priority over the Administrative Charge.

11. CSE&P Steering Committee (including any person it represents) and their lawyers acknowledge and agree that notwithstanding the granting of any order to give effect to this agreement that amends the Amended and Restated Initial Order, the provisions of the Amended and Restated Initial Order that relate to the DIP Documents and the DIP Lenders' Charge remain a final order as at February 14, 2012 as ordered pursuant to paragraph 7 of the Order issued on February 14, 2012 confirming that paragraph 80 (comeback clause) of the Amended and Restated Initial Order shall not be operative in favour of any Served Party to seek to vary the provisions of the Amended and Restated Initial Order relating to the DIP Facility or the DIP Lenders' Charge, without prior consent of the DIP Agent.


12. Parties to this Agreement confirm and acknowledge that the terms and conditions of this Agreement and orders contemplated to be issued by the court in this Agreement are relied upon by the DIP Lenders in respect to the administration of the DIP Credit Agreement.

DATED at _____ this 7th day of MARCH, 2012.

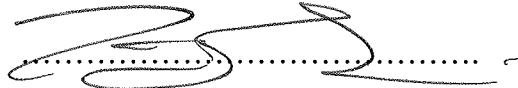
THE PETITIONERS

By: 
Name: _____
Title: David L. Adderley
Vice President and General Counsel

CSE&P STEERING COMMITTEE

per 
By: _____
Name: Anthony Guindon
Title: Koskie Minusky LLP

This is **Exhibit "B"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, appearing to be 'B. J. Hatnay', written over a horizontal dotted line.

A Commissioner for taking affidavits, etc.

RECEIVED

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No. S-120712

Vancouver Registry

VANCOUVER

SUPREME COURT SCHEDULE 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

TO: ATTACHED SERVICE LIST

WRITTEN ARGUMENT

(April 13, 2012 Application for Deemed Trust)

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PART I – OVERVIEW

1. The Catalyst Salaried Employees & Pensioners Group (“CSEP”) brings this application for, *inter alia*, a declaration:

- (a) that the amount of \$115 million representing the wind up deficiency owing to the Catalyst Paper Corporation Retirement Plan for Salaried Employees (Reg. No. 85400-1) (the “Salaried Plan”) by Catalyst is subject to a deemed trust for the benefit of all the beneficiaries of the Salaried Plan pursuant to section 43.1 of the *Pension Benefits Standards Act*, R.S.B.C. 1996, c. 352 (the “PBSA”);
- (b) that this amount is not distributable to other creditors of the Petitioners; and
- (c) if the sale proceeds under the Sales Investment Solicitation Procedure (“SISP”) and the Stalking Horse Purchase Agreement (“SHPA”) that this amount is to be paid into the Salaried Plan fund in accordance with the PBSA.

2. CSEP is comprised of current and former salaried employees of Catalyst, the vast majority of whom are entitled to defined benefits from the Salaried Plan. There are no active employee members of the Salaried Plan accruing defined benefits. Current salaried employees of Catalyst earn defined contribution pensions within the Salaried Plan. The defined benefit part of the Salaried Plan, at issue on this application, includes obligations to current pensioners (including spousal and beneficiary payments), deferred pensioners, and active employees with “frozen” (i.e. non-accruing) defined benefits payable in the future. CSEP represents pension plan members in each of these categories.

Affidavit #1 of Brian Baarda sworn January 31, 2012, para. 72.

3. The Salaried Plan is underfunded. In the ongoing CCAA proceeding, the continued payment of the pension benefits earned by CSEP members and other beneficiaries of the

Salaried Plan are at great risk. The SISP and SHPA exclude the Salaried Plan from the obligations required to be assumed by the stalking horse purchaser. Under the SISP and SHPA, it is a virtual certainty that the Salaried Plan will be wound up in its underfunded state.

4. Accordingly, under the SISP and SHPA, the Salaried Plan members are facing certain and significant cuts to their pension benefits. The current valuation of the Salaried Plan discloses a solvency deficit ratio of 68%, which would see benefits cut by approximately 32%.

PART II – THE FACTS

5. The Salaried Plan members have earned entitlements to pension benefits, payable upon retirement, arising from their years of employment service with the company.

6. The pension benefits are a key part of Catalyst's compensation system for its employees. Catalyst has a legal responsibility to ensure that this promise is met. Catalyst told its employees that pension benefits are part of their compensation, stating that "[y]our total compensation consists of your annual salary *and the contributions the Company makes on your behalf* towards the cost of providing your income security programme" (emphasis added).

Affidavit of William Sharkey sworn June 1, 2012 ("Sharkey Affidavit"), para 6.

7. As of December 31, 2010, there were 1,477 members of the defined benefit portion of the Salaried Plan.

Sharkey Affidavit, para. 18

8. The Salaried Pension Plan is significantly underfunded. The latest estimate from the company places the solvency deficiency at approximately \$115 million.

Affidavit #3 of Gary McCaig sworn April 13, 2012, para. 5. ["McCaig Affidavit"]

17th Report of the Monitor, para. 5

9. The Salaried Pension Plan has been in significant deficit for many years. As of December 31, 2003, the amount of the solvency deficiency was \$48,012,516. As of December 31, 2006, the solvency deficiency was \$39,326,277, but had worsened to \$44,651,428 as of December 31, 2007 and had reached \$87,759,000 by December 31, 2007. When the company obtained CCAA protection in January, 2012, the solvency deficiency reported by the company was \$73,482,585 against assets worth \$284,321,345. A few months later, the company reported that the actual figure was estimated to be \$105.7 million. The company has now reported that the solvency deficiency is approximately \$115 million.

Sharkey Affidavit, paras. 30 to 40.

10. Based on the current information available, the Salaried Plan is approximately 32% underfunded.

Sharkey Affidavit, para. 40.

Catalyst's CCAA Proceedings

11. On January 31, 2012, after an unsuccessful out-of-court restructuring under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, Catalyst obtained protection from its creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("CCAA").

McCaig Affidavit, para. 6.

12. In late March 2012, Catalyst proposed a Plan of Compromise and Arrangement to its creditors, which contemplated the restructuring of a significant portion of Catalyst's debt and would have seen the company emerge from CCAA protection as a going-concern and continue with the administration of the Salaried Plan without a wind-up.

Sharkey Affidavit, para. 43.

13. Pension claims were classified as unaffected under the Plan of Compromise. Despite a request by the members of the Salaried Plan that they be entitled to vote on the Plan, they were not allowed to do so.

Sharkey Affidavit, para. 44.

14. The original Plan of Compromise was amended (the "Amended Plan"), but the requirement for the company to continue administering the Salaried Plan was maintained. On May 23, 2012, at a meeting of creditors, the Amended Plan failed to gain approval of a sufficient majority of Catalyst's creditors.

Sharkey Affidavit, para. 46.

The sale of Catalyst's assets under the SISP and the Wind-Up of the Salaried Plan

15. With the Amended Plan having failed, the SISP Order provides that the terms of the SHPA will proceed.

16. In the event that the SHPA is implemented, the Salaried Plan members will be prejudiced as the purchaser will not assume liability for any deficiency in the Salaried Plan, nor any pension or other post-retirement liability of the Salaried Plan members. In particular:

- (a) the definition of "Excluded Liabilities" under the Agreement includes any pension or other post-retirement liability of the Sellers to any current or former employee, except with respect to any transferred employees;
- (b) the Agreement expressly exempts the Salaried Plan from the definition of "Transferred Employee Plan" under the Agreement, meaning that the purchaser of the assets of the Petitioners will not assume liability for any deficiencies in the Salaried Plan; and,
- (c) the Agreement includes a condition that, on closing, the Canadian Court granting a Final Order shall discharge the Purchaser from any liabilities or obligations of the Sellers under any of the Seller's Employee Plans other than Transferred Employee Plans.

McCaig Affidavit, para. 16.

17. This effectively means that on the sale of Catalyst, the Salaried Plan will be abandoned and by necessity will need to be wound up. However, in contrast, under the SISP and SHPA, the administration of the pension plans of Catalyst's unionized employees will be assumed by the purchaser, and as such, the unionized Catalyst employees will not experience any losses to their monthly pension benefits

McCaig Affidavit, para. 17.

18. As a result of the SISP and the SHPA, if the relief requested in this Application is not granted, the funding amounts owing to the Salaried Plan will not be paid, and the Salaried Plan will be wound up in its underfunded state. This in turn will result in a reduction to the monthly benefits being paid to the Salaried Plan's members.

19. On June 14, 2012, after discussions with the various stakeholders, including the representatives of the Members of the Salaried Plan, the company proposed a Second Amended Plan of Compromise (the "Second Amended Plan"). On June 18, 2012, this court authorized the Second Amended Plan to proceed to a vote with creditors on June 25, 2012. If it passes, the Salaried Plan should not be wound up and it will not be necessary for the amount that is subject to the deemed trust to be paid into the Salaried Plan at this time.

20. However, if the Second Amended Plan is defeated, the amount subject to the deemed trust needs to be paid into the Salaried Plan prior to any distribution to any other creditors of Catalyst, with the exception of certain priority charges identified in paragraph 55 of the Amended and Restated Initial Order and claims ranking in priority to those charges.¹

PART III – THE ISSUE

21. The issue on this Application is:

¹ The specific claims that are being referenced here are certain Crown deemed trusts under the *Bankruptcy and Insolvency Act*, *Income Tax Act*, the *Employment Insurance Act* and the *Canada Pension Plan*.

- (a) Does the deemed trust in section 43.1 of the PBSA apply to the \$115 million that is owed by Catalyst to the fund of the Salaried Plan, such that this amount forms no part of the estate of Catalyst and is not distributable to other creditors, and if the SISP and SHPA proceed this amount should be paid into the fund of the Salaried Plan ahead of any other payment to Catalyst's other creditors?

Answer: Yes.

PART IV – THE LAW

A. The Concept of a Deemed Trust

22. This Application concerns the interpretation of a statute. Other parties may try to raise arguments about economics, or equity, or commercial realities, but those arguments obfuscate the actual issue. This is a legal issue, which turns on the interpretation of key words in British Columbia's pension statute.

23. What is at stake in this Application is whether section 43.1 of the PBSA requires Catalyst to satisfy its obligations to current and former employees, or whether it is in fact a toothless statutory provision that provides no meaningful protection to employees.

24. A deemed trust is a statutory device whose purpose is to secure a payment of an amount to persons, funds or other entity that Parliament or a provincial Legislature has determined is in need of protection and should receive a priority payment.

25. Deemed trusts exist in a plethora of federal and provincial statutes across Canada and have been specifically enacted to protect employees and members of pension plans. For example, deemed trusts exist under all pension legislation across Canada. Another example is the deemed trust in Ontario's *Employment Standards Act, 2000*, S.O. 2000, c. 41, for vacation pay that is owing to employees.

Kevin McElcheran, *Commercial Insolvency in Canada* (Toronto: LexisNexis/Butterworths, 2005), at 110-112.

Employment Standards Act, 2000, S.O. 2000, c. 41 [ESA], s. 40.

26. Pension deemed trusts have been found to apply in both CCAA and receivership proceedings.

27. In the recent case of *Re Indalex*, a unanimous Ontario Court of Appeal held that in the CCAA proceedings of *Indalex*, Ontario's pension deemed trust applied to direct and require a payment toward eliminating all of the Indalex pension plan's solvency deficiency ahead of a secured claim of Indalex's parent company based on a guarantee of the DIP loan. The DIP lender had been repaid in full. In that decision, Madam Justice Gillese (for the Court) stated:

[107] The CCAA judge concluded that because Indalex had made the going-concern and special payments to the Salaried Plan at the date of closing, there were no amounts due to the Salaried Plan. Therefore, there could be no deemed trust. Respectfully, I disagree. As I have explained, the deemed trust in s. 57(4) is not limited to the payment of amounts contemplated by s. 75(1)(a). It applies to all payments required by s. 75(1), including payments mandated by s. 75(1)(b).

[108] Accordingly, the deficiency in the Salaried Plan had accrued as of the date of wind up (December 31, 2006) and, pursuant to s. 57(4) of the PBA, was subject to a deemed trust. The CCAA judge erred in holding that no deemed trust existed with respect to that deficiency as at July 20, 2009.

Re Indalex Ltd., 2011 ONCA 265, at para. 107-108.

28. In the same decision, the Court of Appeal also noted that "[t]he CCAA was not designed to allow a company to avoid its pension obligations."

Re Indalex Ltd., *ibid.*, at para. 199.

29. In *Re Usarco Ltd.*, (a receivership) Mr. Justice Farley gave effect to the deemed trust in section 57 of Ontario's *Pension Benefits Act* and ordered the receiver to pay an amount of money equal to the regular and special payments required to have been made but not yet paid into the pension plan:

13 Therefore, since the bankruptcy petition has not been dealt with, we are presently dealing with a claim by the administrator for certain trust funds held by the receiver. The security interest of the bank is subordinate to the interest of the beneficiaries of the deemed trust. [emphasis added]

Re Usarco Limited (1991) 42 E.T.R. 235 (Ont. Gen. Div.), at para. 29 ("Usarco").

B. *The PBSA Deemed Trust*

30. The applicable section of the PBSA states:

Deemed trust

43.1 (1) An employer must, with respect to a pension plan to which the employer is required to make contributions, keep separate and apart from the employer's own assets

(a) all contributions that are due or owing to the pension plan by the employer,

(b) all amounts that have been deducted by the employer from a member's remuneration and not yet remitted to the fund holder, and

(c) all contributions that have been received by the employer with respect to a member and not yet remitted to the fund holder.

(2) The amounts referred to in subsection (1) are deemed to be held in trust for members of the pension plan, former members, and any other persons entitled to pension benefits, refunds or other payments under the plan in accordance with their interests under the plan.

(3) If there is, in respect of an employer, a proceeding

(a) under the *Companies' Creditors Arrangement Act* (Canada),

(b) under the *Winding-up and Restructuring Act* (Canada) or similar provincial legislation,

(c) in relation to liquidation, receivership or secured creditor enforcement, or

(d) in relation to insolvency other than under the *Bankruptcy and Insolvency Act* (Canada),

an amount equal to the amounts deemed to be held in trust under subsection (2) is deemed to be separate and apart and form no part of the estate of the

employer, whether or not that amount has in fact been kept separate and apart from the employer's own assets or from the assets of the estate. [Emphasis added].

31. Pension deemed trusts appear in all pension benefits standards statutes in every jurisdiction in Canada. The PBSA's deemed trust provides significantly more protection than that of other jurisdictions – including the pension deemed trust in Ontario's PBA which was given effect in *Indalex* – to employees of companies under CCAA protection.

32. The three types of contributions that are subject to the deemed trust in section 43.1 are:

(a) all contributions that are due or owing to the pension plan by the employer,

(b) all amounts that have been deducted by the employer from a member's remuneration and not yet remitted to the fund holder, and

(c) all contributions that have been received by the employer with respect to a member and not yet remitted to the fund holder.

33. The principal issue in this case is the meaning to be given to the words "all contributions that are due or owing to the pension plan by the employer". CSEP concedes that subsection 43.1(1)(b) and 43.1(1)(c) are not applicable in this Application.

34. Section 43.1 contains three separate mechanisms for protecting pension plan beneficiaries:

a) First, it requires that the employer keep separate and apart all amounts due or owing to a pension plan;

b) Second, it creates a deemed trust over the amounts that *should have* been kept separate and apart, but were not; and

- c) Third, if there is a CCAA proceeding, the amounts owing to a pension plan are deemed to be held separate and apart.

35. Section 43.1 should be interpreted to mean that a deemed trust exists over the assets of Catalyst to the extent of the solvency deficiency in the Salaried Plan, that these amounts do not form part of the estate of Catalyst, and that an amount representing the solvency deficiency is to be paid into the Salaried Plan before any payment or consideration to the 2016 Noteholders or any other purchaser takes control of the company under the SISP or SHPA.

36. The leading Canadian case on statutory interpretation is *Re Rizzo & Rizzo Shoes Ltd.*, which relies on Dreidger's "modern principle of statutory interpretation". This principle was affirmed by the Supreme Court of Canada in *Bell ExpressVu Ltd. Partnership v. Rex*, and was subsequently applied by that Court in *Monsanto v. Superintendent of Financial Services* to cover the interpretation of pension standards legislation. The principle is described as follows:

Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament.

Re Rizzo & Rizzo Shoes Ltd. [1998] 1 S.C.R. 27

Bell ExpressVu Ltd. Partnership v. Rex, [2002] 2 S.C.R. 559, 2002 SCC 42, at para 26

Monsanto v. Superintendent of Financial Services, [2004] 3 S.C.R. 152, 2004 SCC 54, at para. 19

37. Further, legislation in British Columbia must be read in conjunction with the *Interpretation Act*, section 8 which provides that "[e]very enactment must be construed as being remedial, and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects."

Interpretation Act, R.S.B.C. 1996, c. 238, s. 8

C. The grammatical and ordinary sense of section 43.1 means that the deemed trust extends over the entire solvency deficiency that is owing to the Salaried Plan

38. The deemed trust applies to “all contributions that are due or owing to the pension plan by the employer”. A plain reading of section 43.1 militates in favour of the deemed trust extending over the entire solvency deficiency.

39. In this Application, the meaning of “contributions” encapsulates money that an employer is required to pay or remit into the pension fund under the PBSA or pursuant to the Salaried Plan text. This amount includes special payments to rectify a solvency deficiency. This interpretation is not controversial. That “contributions” includes amounts that must be paid to fund a solvency deficiency is clear from the context of how it is used in the legislation, and in the way that it is used in the Salaried Plan text. In fact, the Salaried Plan text states that the employer will “contribute to the Fund each Plan Year such amounts, if any, which when added to the which have been accumulated in the Fund, are estimated by the Actuary to be adequate to fund, in Accordance with Applicable Pension Laws, any unfunded liability which may exist under the Plan”.

Salaried Plan text, section 1.9.1

40. Under the PBSA when an actuarial valuation of a pension plan discloses a solvency deficiency, the employer must make quarterly contributions over a period of five years to amortize that deficiency. A schedule of contributions is created, and the employer must pay the amounts as per the schedule.

PBSA, section 41; PBSA Regulations, B.C. Reg. 433/93, s. 35(3) and (3.1)

41. With respect to the phrase “due or owing”, the Canadian Oxford English Dictionary states that the word “due” means “owing or payable as a debt or an obligation, whether immediately or at some future date”.

Canadian Oxford Dictionary, 2nd. edition, Katherine Barber ed., Oxford University Press, Don Mills, Ontario, 2004

42. This is exactly the sense in which the word “due” is used in section 43.1 of the PBSA: it comports with the notion of solvency payments that are “owing...at some future date”.

43. The Canadian Oxford English Dictionary also defines “owing” as meaning “owed; yet to be paid”. Again, the plain meaning of the word “owing” in its grammatical and ordinary sense would clearly apply to all of the solvency payments that must be paid to the Salaried Plan.

Canadian Oxford Dictionary, *ibid.*

44. To hold that the PBSA deemed trust only applies to a solvency payment as of the date a particular payment becomes due and which has passed but which have not yet been made would be to read words into the statute which are not there.

45. Such a reading would also run contrary to the express direction in the *Interpretation Act* that “[e]very enactment must be construed as being remedial, and must be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.”

D. The Purpose of the PBSA is to protect pension plan members

46. The object of pension benefits legislation such as the PBSA is to protect members of pension plans. The Supreme Court of Canada recently confirmed this purpose, noting that pension legislation “is clearly public policy legislation” that is “intended to benefit and protect the interests of members and former members of pension plans”.

Kerry (Canada) Inc. v. Ontario (Superintendent of Financial Services), 2009 SCC 39, at para. 28.

47. The Ontario Court of Appeal has also confirmed that the purpose of pension legislation is to protect members and pensioners of pension plans:

I start with this observation: pension plans are for the benefit of the employees, not the companies which create them. They are a particularly important component of the compensation employees receive in return for their labour. They are not a gift from the employer; they are earned by the employees.

Huus v. Ontario (Superintendent of Pensions), 2002 CanLII 23593 (Ont. C.A.) 58 O.R. (3d) 380, at para 25.

48. In *Re Indalex*, the Ontario Court of Appeal also confirmed the purpose of pension benefits legislation, noting that:

...the overall purpose of [pension legislation] is to establish minimum standards, safeguard the rights of pension plan beneficiaries, and ensure the solvency of pension plans *so that pension promises will be fulfilled*. [Emphasis added].

Re Indalex, supra, at para. 104.

49. Further, the Supreme Court of Canada has recognized that pension entitlements are not a gratuitous benefit offered by the employer to employees, but instead are a form of deferred compensation. The Supreme Court stated that employees "almost invariably agree to accept lower wages and fewer employment benefits in exchange for the employer's agreeing to set up the pension trust in their favour."

Schmidt v. Air Products Canada Ltd., [1994] 2 S.C.R. 611 at 646.

50. The purpose of pension legislation is to ensure that pension plan members are not deprived of the benefit to which they are entitled as a result of a timing issue, for example, the deferral of payment of their wages. Section 43.1 of the PBSA serves to ensure that this promise will be delivered, and that pension entitlements are not reduced.

E. The scheme of the PBSA provides distinct and express protections for employees both of solvent and insolvent companies

51. The PBSA comprehensively regulates registered pension plans in British Columbia, including their wind up. The PBSA provides a scheme setting out what is required to wind up a pension plan including the provision of notice to plan members, benefit entitlements and funding requirements.

52. The wind up of a pension plan is a process and not a single event. It is commenced by an event that triggers the commencement of the wind up and continues until the last dollar is liquidated from the pension fund.

Ari N. Kaplan, *Pension Law* (2006: Irwin Law, Toronto) at p. 503.

53. Definitions of "termination" and "winding up" are provided in the PBSA:

"termination" means, when used in relation to a pension plan, an event constituting a termination of the plan under section 48, 49 or 58 (3) to the extent that the event affects members and former members;

"winding up" means, in relation to a pension plan that has been terminated, the process of distributing the assets of the plan;

PBSA, s. 1(1)

54. Under the PBSA, there are two ways a pension plan may be terminated and wound up. First, the employer who is sponsoring the plan (and who is also the administrator) may terminate the plan, and after the plan is terminated, it must be wound up unless the Superintendent consents to delay the wind up. Second, the B.C. Superintendent of Pensions in prescribed circumstances may terminate the plan and order that it be wound up.

PBSA, s. 49, 50, 52, and 54

55. Where an employer ceases to make contributions to the pension plan, that failure constitutes a termination of the pension plan, and a wind-up becomes inevitable. Also, if the employer discontinues all or part of its business, the Superintendent can declare the plan terminated.

PBSA, s. 48 and 49

56. In the case of Catalyst, if the Second Amended Plan is rejected by Catalyst's creditors at the creditors meeting on June 25, 2012, and the SISP and/or SHPA goes forward, it is a certainty that the Salaried Plan will be abandoned and will be wound up.

57. The PBSA creates two types of protections for employees when a plan is terminated or an employer ceases to make contributions to the pension plan. One protection applies when the employer is solvent, and the other applies when the employer is insolvent.

58. Section 51(2) describes what is done when a pension plan is terminated with a solvency deficiency and the employer is solvent:

(2) If a pension plan, other than a negotiated cost plan, is terminated with a solvency deficiency and the employer is not insolvent,

(a) the employer must fund the remaining solvency deficiency as prescribed...

PBSA, section 43.1 and 51(2)

59. However, if this were the only provision protecting employees and pensioners, this would be a hollow right as one of the central reasons that a pension plan is terminated is that the employer has become insolvent and is no longer making contributions.

60. Rather than leave employees without any recourse where a company becomes insolvent, the B.C. legislature chose to expressly protect pension plan members in the insolvency proceeding of their employer through the deemed trust provision in s. 43.1.

61. Section 43.1 expressly states that where there is a proceeding under the CCAA, an amount representing the amount "due and owing" to the pension plan is deemed to be held separate and apart and make up no part of the estate of the employer.

62. If an amount equal to the wind-up deficiency is held separate and apart and forms no part of the estate of the employer, that amount cannot be distributed to other creditors.

63. The British Columbia legislature chose to protect pension plan members whose companies are subject to creditor protection under the CCAA by legislating express protection, and mandating that amounts owing to a pension plan are deemed to be held in trust so that such members will have the retirement security and income that they are entitled to.

64. In short, Section 51(2) of the PBSA provides the protection that pensioners have when the employer is solvent, and section 43.1 provides the protection that the pensioners are entitled to when the employer is insolvent. That is the scheme of the Act.

PBSA, section 43.1 and 51(2)

F. Section 43.1 of the PBSA in context

65. Dreidger's modern principle of statutory interpretation calls for a contextual reading of the provision at issue. The context has already been partially discussed above, but there are three additional contextual points which militate in favour of interpreting section 43.1 as applying to the entire solvency deficiency owing to the Salaried Plan.

66. First, the Salaried Plan text buttresses such an interpretation. Section 1.9.1. calls for the company to make "contributions" to the Plan which are "adequate to provide" the benefits which are owed under the Plan:

...each Participating Company will contribute to the Fund each Plan Year such amounts, if any, which when added to the which have been accumulated in the Fund, are estimated by the Actuary to be adequate to fund, in Accordance with Applicable Pension Laws, any unfunded liability which may exist under the Plan.

Section 1.9.1, Salaried Plan Text

67. In addition to section 43.1 of the PBSA, section 1.9.2. of the Plan text also deems amounts owing to the Salaried Plan to be separate and apart and form no part of the estate of the company is subject to CCAA proceedings:

The Company and every other Participating Company must keep separate and apart from its own assets all contributions due or owing to the Plan. These contributions are deemed to be held in trust for Members and any other person entitled to pension benefits, refunds, or other payments under the Plan. **Where a proceeding exists in respect of the Companies' Creditors Arrangement Act (Canada), Winding Up and Restructuring Act (Canada) or similar provincial legislation or in relation to liquidation, receivership or secured creditor enforcement, or insolvency other than under the Bankruptcy and Insolvency Act (Canada), these amounts are deemed to be separate and apart and form no part of the estate of the Company or other Participating Company. [Emphasis added]**

Section 1.9.2., Salaried Plan Text

68. Second, it is settled law that a plan administrator owes a fiduciary duty to pension plan members and pensioners in respect of all activities administering a pension plan under both section 8 of the PBSA and the common law.

PBSA, Section 8

Pension Law, supra, at pp. 330-345.

Indalex, supra, para. 117

69. The administrator's fiduciary duty continues through the wind up of a pension plan and extends to any discretionary decisions made by an administrator during the wind up process. The exercise of discretion by an administrator during the wind up process must be discharged in a manner that avoids any conflicts of interest in respect of its role as both administrator and employer.

Pension Law, supra, at pp. 522-523.

70. In *Usarco*, Mr. Justice Farley held that the deemed trust provisions in Ontario's pension legislation themselves imply a fiduciary obligation on the company.

Usarco, supra, at para. 16.

71. Catalyst is required to act in the best interests of the Salaried Plan members. It is acting on that duty by supporting this Application. This is another reason why the CSEP's interpretation should be accepted by this Honourable Court.

72. The third contextual point concerns the B.C. Superintendent's position when an amount becomes "owing". In *Butler Brothers v. Superintendent of Pensions*, the Superintendent submitted that it is the actuarial valuation report and the creation of an amortization payment schedule which creates the obligation to pay into the pension fund.

Butler Brothers v. B.C. Supt. of Pensions et al, 2004 BCSC 1004, affirmed by Butler Brothers Supplies v. BC Superintendent of Pensions, 2005 BCCA 344 ("Butler Brothers")

73. The Court noted that in that case the Superintendent wrote a letter to the employer stating the following:

[10] The second letter, dated 5 November 2003 reads, in part:

We agree that the letter would obligate the bank to pay to the Plan upon the happening of certain events stipulated in the letter. However, the event that obligates the employer to make payments to the Plan has already occurred, namely amortization of the solvency deficiency that exists in the Plan as at December 31, 2002. [Emphasis added].

Butler Brothers, ibid.

74. The Court found that the Superintendent's position in this case was correct, and this holding was upheld by the Court of Appeal. Therefore, the notion that the amounts required to fund the solvency deficiency are "owing" to the Plan and thus subject to the deemed trust has already been commented on by the Superintendent and this analysis was not disputed by either level of court in that case.

Butler Brothers, ibid.

PART V - ORDERS REQUESTED

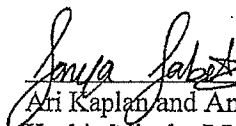
75. The Pensioners request:

- a) A Declaration that the amount of \$115 million representing the solvency or wind up deficiency owing by the Petitioners and/or any related party of the Petitioners (collectively "Catalyst") to the Salaried Plan, or such other amount as may be determined as the solvency or wind up deficiency, of the assets of Catalyst is subject to a deemed trust for the benefit of the beneficiaries of the Salaried Plan pursuant to section 43.1 of the *PBSA*.
- b) If the SISP and/or the SHPA or other sale which abandons the Salaried Plan proceeds, an order directing that the amount of the wind up liability be paid to the fund of the Salaried Plan by Catalyst or from the assets of Catalyst, as the case may be, in priority to the claims of any other creditor

of Catalyst, subject only to the charges in paragraph 55 of the Amended and Restated Initial Order and any claims ranking in priority to those charges under sections 81.3 and 81.4 of the *Bankruptcy and Insolvency Act*, sections 227(4) and 227(4.1) of the *Income Tax Act*, section 23(3) and 23(4) of the Canada Pension Plan, and sections 86(2) and 86(2.1) of the *Employment Insurance Act*;

- c) A declaration that the amount of the wind up deficiency that is subject to the deemed trust is not distributable to other creditors of Catalyst, subject only to the charges in paragraph 55 of the Amended and Restated Initial Order and any claims ranking in priority to those charges under sections 81.3 and 81.4 of the *Bankruptcy and Insolvency Act*, sections 227(4) and 227(4.1) of the *Income Tax Act*, section 23(3) and 23(4) of the Canada Pension Plan, and sections 86(2) and 86(2.1) of the *Employment Insurance Act*, and that such declaration survive any bankruptcy or receivership of Catalyst;
- d) If necessary, an Order amending the Amended and Restated Initial Order dated February 3, 2012, to implement the relief in the paragraphs above; and,
- e) Such further and other relief as counsel may advise and this Honourable Court may deem just.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 20th day of June, 2012.

 for
Ari Kaplan and Andrew Hatnay,
Koskie Minsky LLP

Action No. S120712
Vancouver Registry
SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

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:

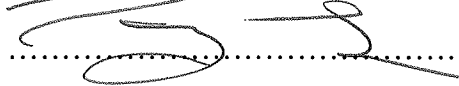
IN THE MATTER OF THE CATALYST PAPER CORPORATION AND THE
PETITIONERS LISTED IN SCHEDULE "A"

WRITTEN ARGUMENT

McGRADY & COMPANY
Lawyers
Box 12101 - Nelson Square
Suite 1105 - 808 Nelson Street
Vancouver, British Columbia
V6Z 2H2
Tel: (604) 734-7003
Fax: (604) 734-7009
ATTENTION: SONYA SABET-RASEKH

KOSKIE MINSKY LLP
Barristers and Solicitors
20 Queens Street West
Suite 900, Box 52
Toronto, Ontario
M5H 3R3
Tel: (416) 542-6285
Fax: (416) 204-2819
ATTENTION: JAMES HARNUM

This is **Exhibit "C"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, appearing to be "B. J. Hatnay", is written over a horizontal dotted line.

A Commissioner for taking affidavits, etc.



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

APPLICATION RESPONSE

Application response of: The Petitioners (the "Application Respondents").

THIS IS A RESPONSE TO the Notice of Application of Ronald Gary McCaig, Jeff Whittaker, Janice Young, Peter Flynn, Patricia Dwornik, and Francesca Pomeroy, acting on their own behalf and on behalf of the Catalyst Salaried Employees & Pensioners Group (the "Applicant") filed April 13, 2012.

Part 1: ORDERS CONSENTED TO

As plan sponsor and plan administrator, the applicable Petitioner entity has a fiduciary duty to the pension beneficiaries. In that capacity, the applicable Petitioner entity supports the position of the Applicant.

Part 2: ORDERS OPPOSED

Not Applicable.

Part 3: ORDERS ON WHICH NO POSITION IS TAKEN

Not Applicable.

Part 4: FACTUAL BASIS

As set out in the Pleadings and Affidavits as filed herein.

Part 5: LEGAL BASIS

See Part 3 – Legal Basis of the Notice of Application.

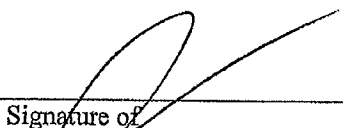
Part 6: MATERIAL TO BE RELIED ON

1. The Pleadings and Affidavits filed herein; and
2. Such further and other material as counsel may advise and this Honourable Court accept.

The Application Respondents estimate that the application will take 3 days.

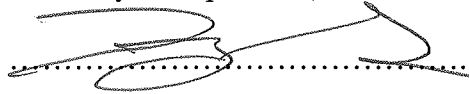
The Application Respondents have filed in this proceeding a document that contains the Application Respondents' address for service.

Date: June 15, 2012



Signature of
☐ Application Respondents
☒ lawyer for Application Respondents
Bill Kaplan, Q.C./Peter Rubin

This is **Exhibit "D"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, consisting of a large, stylized 'S' or 'Z' shape with a horizontal line extending to the right, positioned over a dotted line.

A Commissioner for taking affidavits, etc.

Catalyst Paper Corporation Retirement Plan for Salaried Employees (the "Plan")

Proposal for Regulatory Assistance

To: The Government of British Columbia

From: Catalyst Paper Corporation

The Proposal in Brief

Catalyst seeks regulatory assistance from the Government of British Columbia in order to preserve the ability of the Plan to pay full pensions to the actively employed, terminated and retired defined benefit members of the Plan (the "Pensioners") following the court ordered sale of Catalyst's assets. Without assistance, the rules contained in BC's *Pension Benefits Standards Act* ("PBSA") will result in significant cuts to the Pensioners' retirement incomes. The assistance sought would reverse the PBSA's perverse result at no cost to taxpayers and no additional risk to the Pensioners.

Although this request is made in the context of sale of Catalyst's assets, Catalyst requests that the flexibility and funding relief be applied also under the terms of a revived plan of arrangement should that circumstance arise.

Background

Catalyst Paper Corporation is a Richmond BC based company that operates three pulp and paper operations in British Columbia, in Powell River, Port Alberni and Crofton, as well as one in Arizona. Until very recently, there was a fourth operation in British Columbia, located at Elk Falls (Campbell River). Catalyst's pulp and paper operations are successors to a number of storied names in BC's industrial history, including BC Forest Products, Crown Zellerbach, Crown Forest Industries, MacMillan Bloedel, Pacifica Papers, Fletcher Challenge Canada and NorskeCanada. Catalyst currently provides jobs for 1,518 British Columbians while hundreds of additional individuals and their family members derive a retirement income as former employees of the company. The importance of the company to local communities should not be minimized. Catalyst's operations spin-off 5,400 additional jobs in B.C. and annual spending by the company has a \$2 billion impact on the B.C. economy, roughly twice that of the film industry.

The pulp and paper industry is suffering through a severe depression worldwide. This has resulted in a great deal of restructuring of the industry. Less efficient pulp and paper operations have been closed or had capacity reduced. Employment levels have fallen. Many companies in this industry have been forced into insolvency related restructurings, and Catalyst is now no exception. Catalyst filed for protection under the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA") on January 31, 2012.

At the same time, these are very difficult times for defined benefit pension plans. Pension liabilities consist primarily of future streams of monthly payments to Pensioners. To assign a present value to these liabilities one must make assumptions regarding life expectancy and interest rates. Life expectancy is increasing, which increases pension liabilities. Even more significantly, interest rates are at historic lows, which substantially increase pension liabilities. Combined, these factors have led to solvency deficiencies in many pension plans, with this Plan representing no exception.

Catalyst's Pension Plans

This document deals only with the defined benefit provisions of the Plan, as defined on page 1, which provides pensions to certain long-service non-union employees and almost all non-union retirees. The Plan also provides defined contribution pensions to certain active non-union employees. These DC entitlements are not at risk under Catalyst's current financial position and so are not discussed in this proposal. The bulk of Catalyst's unionized employees and retirees participate in an industry multi-employer pension plan that is unaffected by Catalyst's current financial situation.

The table below shows the membership levels in the Plan.

Plan Membership Data				
	<u>Dec. 31, 2010</u>	<u>Dec. 31, 2011</u>	<u>Average Age</u>	<u>Average Annual Pension</u>
Active Members (DC)	572	453	-	-
Active Members (DB)	79	61	55.2	-
Terminated	203	199	59.8	\$3,545
Retired and Surviving Spouses	<u>1,195</u>	<u>1,187</u>	74.0	\$18,807
Total	2,049	1,900	-	-

Pension Funding Challenges Prior to CCAA Filing

The PBSA requires private sector pension plans to be funded on both a going concern basis and a solvency basis. This is in contrast to BC's public sector pension plans, which are only required to be funded on a going concern basis. It is the solvency basis that poses most of the problems for Catalyst's and other companies' pension plans. The solvency valuation rules in the PBSA require plan sponsors to determine the assets and liabilities of their plans on the assumption that the plan is terminated immediately and the assets used to purchase annuity contracts from Canadian life insurance companies in place of the pensions provided from the plans. To the extent that there is a shortfall between the amount of the liabilities and the amount of the assets, the shortfall, called a solvency deficiency, must be paid off by "special payments" from the employer over 5 years.

The Superintendent of Pensions has discretion to extend time limits under the PBSA, and on occasion extends the 5 year limit for companies having difficulty affording the special payments.

In 2011, Catalyst sought such an extension, and was granted a modest extension to 7 years, with conditions. While the extension was appreciated, and did help Catalyst's financial position, it was a modest help and was insufficient to prevent the company from having to seek protection from its creditors under the CCAA in January 2012.

The CCAA Filing – Impact on Pensions from the Plan

Following Catalyst's CCAA filing, a plan of arrangement was proposed to creditors under which creditors would have given up much in order to allow the company to carry on, with all pension plans intact. However, this plan of arrangement was not approved by the creditors. Catalyst's assets are now for sale by court order. Catalyst will remain the operator of the business until the sale. After the sale of the business completes to a third party, there will then be an orderly wind down of the assets and liabilities that are left behind.

Under the sales terms approved by the court, the purchaser will assume Catalyst's pension obligations to unionized employees and unionized retirees. However, Catalyst's pension plan for salaried employees and retirees, the "Plan" as defined above, will be left behind under the sales process. BC's PBSA will require the Plan to be terminated and wound up, and since Catalyst has and will have no money to pay into the Plan after the sale, pensions will have to be cut. Based on the current funded ratio in the Plan it is estimated that pensions will be cut by 35%. For the average Pensioner under the Plan, this represents a drop from \$18,807 per year to \$12,224 per year.

Catalyst is of the view that the PBSA rules create a perverse result in current circumstances. In Catalyst's view, all stakeholders in the Plan should be working together to find a better outcome.

There are those who might say that the solution to the problem is for the BC Government to force any purchaser of Catalyst's assets to assume the Plan. The table below shows why this is impractical so long as the current pension funding rules in the PBSA apply to the Plan. If the purchaser were to assume the Plan, the PBSA would cause the purchaser to assume over \$100 million in debt on its balance sheet plus make sufficient annual cash requirements to eliminate the solvency deficiency in the Plan over 5 years. This would render the business non-viable to the purchaser. Even if the modest solvency relief granted by the Superintendent of Pensions to Catalyst in February 2012 were extended to a purchaser of Catalyst's assets, the purchaser would not be acquiring a viable business.

<u>Year</u>	<u>Purchaser Contributions if Purchaser Does Not Assume Plan</u>	<u>Purchaser Contributions if Purchaser Does Assume Plan (Feb 2012 Relief Extended)</u>
2012	0	\$11,161,439
2013	0	\$10,114,569
2014	0	\$21,822,712
2015	0	\$21,822,712
2016	0	\$21,822,712
2017	0	\$16,993,042
2018	0	\$ 9,362,962
Total (2012-2018)	0	\$113,100,148

Clearly, based on the data above, there is no solution to be found in forcing the purchaser to take on responsibility for the Plan without providing assistance that will only be available through order in council.

As was noted earlier in this document, there is a possibility that the previously rejected plan of arrangement could be revived in modified form. If so, instead of the purchaser needing to balance the cost of the Plan with the ability to run a viable business, it would be Catalyst. The proposal operates the same way in either case.

The Role of Interest Rates in the Pension Question – the Source of the Problem and the Key to the Solution

It is widely recognized that low interest rates are bad for those who must fund pension plans. Low interest rates mean low discount rates for translating future financial obligations into present value terms. It is the steady decline in interest rates over the last 10 years, much more so than any other factor, that is responsible to the low funded ratios in defined benefit pension plans today. In this environment, liability amounts have grown steadily and at a more rapid rate than special payments into those plans can offset them.

Most market watchers expect that interest rates will rise, at least modestly and perhaps more sharply, over the medium or longer term (5 to 15 years). Consequently, a reasonable person can conclude that funded ratios in pension plans will improve over these longer periods even in the absence of any solvency special payments. Indeed, Catalyst understands that a 3% to 4% increase in long term interest rates would eliminate the solvency deficiency in the Plan without the need for any solvency funding at all.

In order to the Plan to benefit from future rises in interest rates, the only thing that must be done is maintain the Plan. Terminating a pension plan in the current interest rate environment is the worst approach, since it would crystalize liabilities and the funding shortfalls associated with them at their highest levels.

It remains possible, although arguably much less likely, that interest rates will not rise over the coming years, and will instead fall further. This risk can either be accepted or can be mitigated through pension fund investment strategies.

A prudent course of action for any defined benefit pension plan with a funding shortfall today involves maintaining the plan until interest rates rise somewhat, while in the meantime, employing pension fund investment strategies that reduce downside (lower interest rates) risk. To the extent that an employer can afford to make solvency special payments, the plan's return to full funding on a solvency basis will be accelerated, even with modest or no interest rate improvements, but even an inability to pay any solvency special payments will result in an improvement in funded levels if there is even a modest increase in interest rates.

In considering options for the Plan, Catalyst has looked closely at economic forecasts of future interest rate paths. There are no guarantees. However, Catalyst considers it likely that interest rates will rise, at least modestly, over the next 15 years. Consequently, Catalyst has focussed on finding a means of keeping the Plan in operation for 15 years to benefit from these interest rate improvements, while at the same time providing more time during which money can be paid into the Plan from business operations.

Options Considered

If one accepts that preserving the ability of the Plan to pay promised pensions is a worthwhile goal, then in lieu of reducing pensions by 35%, what options are available? Below are seven possible scenarios ranging between two extremes – with Option 1 representing a scenario where the BC Government does nothing and Option 7 involves the BC Government solving the problem with public money.

Catalyst has discussed most of the issues and options described below with Pensioner representatives and the key potential purchaser of the business in general terms only. These stakeholders are not in a position to commit to any particular positions in the absence of indications from the BC Government as to what it is prepared to do to assist the Plan. However, with the benefit of this general consultation and with the point about the stakeholders' withholding of hard positions noted, Catalyst is prepared to speculate on which options are more or less likely to attract support from them, and sets these out below.

Option 1: Do Nothing. Applying the PBSA as it reads will result in an approximately 35% cut in pensions to the Pensioners. This is the worst case scenario, but it is the one that will emerge unless the BC Government takes action in favour of a more equitable solution. Neither Catalyst nor the Pensioners would view this as a reasonable option.

Option 2: Do nothing to prevent the termination of the Plan, but by Superintendent direction, delay the windup of the pension plan. This would result in an immediate cut in pensions. However, over time, if interest rates improved, it is likely that a portion or all of the cuts would be made up. This option would cost taxpayers nothing, but also would not protect Pensioners from the 35% cut in their pensions. Pensioners would retain only a chance of getting some of their reduced pensions back in a later year. As the average age of Pensioners is currently 74, Option 2 is only marginally preferable to Option 1 and even then only for younger and healthier retirees; thus the key stakeholders cannot support it.

Option 3: Encourage the purchaser to assume the Plan by providing it with the same solvency relief that was provided to Catalyst in February 2012. This modest relief would still burden the purchaser with over \$100 million in balance sheet debts (the solvency deficiency) and substantial annual special payments. Combined, the business would be non-viable. Keeping in mind that the purchaser does not need to take the Plan, this option provides no reason for the purchaser to consider it. Since the business must be viable in order for the Plan to pay pensions, no party can support this option.

Option 4: Encourage the purchaser to assume the Plan by providing it with more substantial relief than what was provided to Catalyst in February 2012. The key to this option is finding the "sweet spot" whereby the liabilities and obligations that would be assumed by the purchaser would not be injurious to the viability of the business. This 'spot' would almost certainly contain a long term deferral (assume for this purpose, 15 years) of most of the solvency deficiency in the Plan, with a substantial portion of it at the end of this period in order to preserve operating capital for the business to restructure and rebuild in the nearer term. If this point can be found, the purchaser may be willing to accept responsibility for the Plan, and since the outcome would allow the Plan to continue to pay pensions without cuts, the Pensioners would be supportive as well. BC Government action would be required in the form of regulations under the PBSA, but no expenditure of public funds would be required.

Option 5: Encourage the purchaser to assume the Plan by exempting the Plan from solvency funding obligations. This option would make the Plan's funding rules the same as those that the BC government applies to its own public service, college, municipal and health sector employees' and teachers' plans. The purchaser would have to fully fund the Plan on a going concern basis only. Given that the Plan is currently approximately 85% funded on a going concern basis and the PBSA permits going concern unfunded liabilities to be paid over 15 years (instead of 5 years for solvency deficiencies), this seems doable. The outcome of this option would be that pensions can be paid without cuts. This option would therefore likely be acceptable to both the purchaser and the Pensioners. Like Option 4 above, BC Government action would be required in the form of regulations under the PBSA, but no expenditure of public funds would be required.

Option 6: Encourage the purchaser to assume the Plan by having the government provide a Loan. Under this option, the BC Government would lend the business sufficient funds to cover the Plan's solvency deficiency. Such a loan would probably have to be an interest and repayment free subordinated loan to the purchaser, but on condition that these funds would be used to fully fund the Plan on a solvency basis and on condition that any surpluses that arise in the pension fund in the future (for example, as interest rates rise) would be repaid to the BC Government. This would put over \$100 million of taxpayer money at risk, although there is a good chance that all or most of it would be recovered in time. It would ensure that pensions are paid as promised. A purchaser would likely agree to take on the Plan on these terms and Pensioners would be supportive.

Option 7: Rather than encouraging the purchaser to assume the Plan, grant the Plan funds to fully fund the solvency deficiency. A BC Government subsidy of sufficient size would allow the Plan to be wound up and have all pensions annuitized at full value. This, obviously, would cost taxpayers over \$100 million that they would not receive back, other than indirectly in the form of some tax paid by Pensioners. Pensioners would be supportive of this option. The purchaser would not be a stakeholder under this scenario.

Special Portability Election Option: Catalyst has also considered whether, under any of the above options whereby the Plan remains in place but is not immediately funded on a solvency basis (Options 3, 4 and 5 above) Pensioners could be given an election to take a reduced commuted value of their pension entitlement that is tied to the maximum amount that would not impair the solvency position of the Plan (currently, this would be 65% of the usual transfer value) in full satisfaction of their entitlement from the Plan. They would be giving up a full pension for the lump sum, but it is clear from Catalyst's discussions with Pensioners that there are many who would be willing to make this choice. To make this transaction more attractive, Catalyst considered whether the reduced lump sum could be augmented by a partial top up amount in cash, outside of the Plan. The payment of the cash amount is problematic,

given that neither Catalyst at present, nor a purchaser following the sale will have much free cash. However, the more cash is saved through reductions in special payments to the Plan under Options 3, 4 and 5 the more money will be available for the top-ups. A Special Portability Election Option overlaid on Option 3 or 4 would assist the purchaser by reducing the size of the balance sheet liability it assumes by taking on the Plan. By reducing its debts in this way, the purchaser's access to credit to restructure and build the business would be enhanced. A Special Portability Option would not provide the same benefit to the purchaser under Option 5 because under that scenario the purchaser would not have to record solvency deficiencies on its balance sheet in the first place.

Analysis of Options

The only one of the above scenarios that is available in the absence of government assistance is Option 1. This represents the worst case scenario for Pensioners and is the outcome we are trying to avoid. Option 2 may be preferable to Option 1 but is still a poor alternative.

Catalyst would welcome any government financial assistance in attaining the desired outcome, and encourages the BC Government to consider assisting in this way. However, other than noting this options for comparison purposes, the document will focus on those options that do not involve public funds. Likewise, Catalyst is certain that Option 3, which involves having the government extend only modest solvency relief to the purchaser of Catalyst's assets would not generate a willingness on the part of the purchaser to take on the Plan, and therefore will not be discussed further.

Options 4 and 5 are reasonable middle grounds that achieve the objectives of all parties.

As between Options 4 and 5, and Option 5 is simpler to implement. Cabinet would exempt the Plan from solvency funding obligations by regulation pursuant to the PBSA, just as it has done for BC public sector pension plans. As attractive as Option 5 is, it would leave the Plan without any solvency special payments going into the Plan each year, and less margin for adverse deviations in actuarial factors such as demographic factors or investment return factors. The absence of solvency special payments will slow the recovery of the Plan's funded position as compared to an option whereby at least some solvency special payments are made each year and thus would provide slightly less funding security for Pensioners. For these reasons, Catalyst expects there will be less support for Option 5 (no solvency funding) than for Option 4 (deferred solvency funding) among Pensioners.

Catalyst's Proposal

Catalyst's proposal is based on Option 4 above augmented by its proposed Special Portability Option.

Catalyst requests that the BC Government relax its solvency funding rules for the benefit of the Plan, so as to free up cash flow that will benefit the business' long term viability post-restructuring, following either a purchaser's acquisition of Catalyst's assets or the implementation of an amended plan of arrangement, should this materialize. Catalyst proposes that some of the cash flow freed up in this way be used for top-up lump sum settlements under a Special Portability Election Option.

The following is the proposed funding schedule, showing comparisons to several of the alternatives.

Proposed Funding Schedule				
Year	Funding Schedule Based on Option 3 (February 2012 Relief)	Proposed Funding Schedule	Funding Schedule under Option 5 (Exempt from Insolvency)	Funding Schedule under Option 1 (Purchaser does not assume Plan)
2012	\$11,161,439	\$8,632,796	\$8,632,796	0
2013	\$10,114,569	\$4,035,601	\$3,026,701	0
2014	\$21,822,712	\$4,035,601	\$3,026,701	0
2015	\$21,822,712	\$4,035,601	\$3,026,701	0
2016	\$21,822,712	\$4,035,601	\$3,026,701	0
2017	\$16,993,042	\$4,035,601	\$3,026,701	0
2018	\$9,362,962	\$4,035,601	\$3,026,701	0
2019	0	\$4,035,601	\$3,026,701	0
2020	0	\$4,035,601	\$3,026,701	0
2021	0	\$4,035,601	\$3,026,701	0
2022	0	\$4,035,601	\$3,026,701	0
2023	0	\$4,035,601	\$3,026,701	0
2024	0	\$4,035,601	\$3,026,701	0
2025	0	\$4,035,601	\$3,026,701	0
2026	0	\$4,035,601	\$3,026,701	0
2027	0	\$4,035,601	\$3,026,701	0
2028	0	\$31,405,251	\$0	0
Total	\$113,100,148	\$100,572,062	\$54,033,311	0

The above table provides a schedule for returning the Plan to full funding over 15 years. In doing so, substantial sums of money go into the Plan each year to reduce the solvency deficiency, but the annual amounts are limited so as not to imperil the viability of the business. The amount in 2012 is based on the amounts payable under schedule approved by the Superintendent of Pensions in February 2012 and due in calendar year 2012. In the years 2013 to 2016, in addition to the payments on the table, additional partial top up payments would be paid to certain Pensioners who elected under the proposed Special Portability Election (see more details below). In the years following these partial top up payments, the proposal calls for the special payments into the Plan to continue at levels that would not imperil the viability of the business.

If, following the Plan's next scheduled actuarial valuation report, new funding deficiencies are identified, the proposal contemplates that normal amortization rules would apply, and additional special

payments, over and above those in the above table, would have to be paid. Depending of course on how substantial such further deficiencies might be, the base payments in the table above should still leave the business with sufficient financial manoeuvring room. The final balloon payment in 2028 would be a budgeted amount, but it is anticipated that over the 15 years between now and then, changes in interest rates and exercise of Special Portability Elections would result in a reduction or elimination of this large sum. It is also anticipated that should the Plan reach fully funded status prior to the expiry of 15 years, the Plan would be terminated and annuitized without any pension cuts.

Because Catalyst's proposal provides for an affordable level of solvency special payments in each year, the proposed funding schedule would slowly but steadily improve the funded status of the Plan even in the absence of interest rate improvements.

Estimated Funding Ratios at End of Calendar Year Based on Proposed Funding Schedule		
Year	Going Concern Ratio	Solvency Ratio
2011	0.837	0.653
2012	0.880	0.689
2013	0.886	0.698
2014	0.893	0.708
2015	0.900	0.719
2016	0.909	0.730

Table assumes pension fund will earn investment income of 6.0% per year and no other gains or losses as a result of membership experience or changes in the solvency valuation assumptions. Also assumes no change in discount rate.

Also part of Catalyst's proposal is the adoption of a Special Portability Election Option. To institute this feature, certain rules in the PBSA would be waived (by order in council) so that Pensioners can elect to take a commuted value in final settlement of their benefit entitlements from the Plan, even while the Plan is ongoing under the administration of the purchaser. A pensioner making this election will be entitled to his or her allocation based on the Plan's solvency ratio at the time the settlements occur (currently around 65% of the usual transfer value) plus a top up payment from Catalyst over and above these allocations as described below.

Catalyst proposes that the top-ups be equal to 8% of the Pensioner's lump sum amount, payable in equal installments over 16 quarters (4 years) starting the quarter following the date the lump sum is paid from the Plan.

The going concern ratio at December 31, 2012 for members of the plan is projected to be 88%. For members who elect the lump sum option, adding the top ups to the allocations from the Plan would be equivalent to moving up to 95%, assuming the use of the same actuarial methods and assumptions that are used for the Plan's actuarial valuation reports.

The table below indicates a calculation of the cash distributions that the purchaser would make for the "top-up" to 95% based on 5%, 25% or 50% of plan membership electing to take-up this option and assuming the 16 quarterly distributions occurred starting in Q1 2013 and concluding in Q4 2016:

Year	Top-up Distributions (\$)		
	5% take-up	25% take-up	50% take-up
2013	200,077	1,000,385	2,000,770
2014	200,077	1,000,385	2,000,770
2015	200,077	1,000,385	2,000,770
2016	200,077	1,000,385	2,000,770

The Special Portability Election Option would be available to every defined benefit member of the Plan including active employees. Active employees would have to elect to terminate their defined benefit membership as a pre-condition of making the portability election.

The Plan would continue to pay pensions to any Pensioners who stayed in the Plan. Pensioners would accordingly have choices, and both choices would be better than the result that would ensue if the Plan were wound up.

Implementation Measures

The proposal described in this document requires regulations under the PBSA. This is because the PBSA does not permit either the solvency funding provisions in the proposal nor the Special Portability Election. That being said, regulations exempting pension plans from the usual rules in the PBSA are fairly common. Indeed no fewer than 15 BC pension plans are named in the regulations to the PBSA as benefiting from special exemptions, 4 of which are exempted from solvency funding requirements and one of which is exempted from the Act entirely. Section 74(2)(k) of the PBSA authorizes the making of such exemption regulations.

Appendix 1 to this document outlines the regulations that Catalyst believes are required in order to allow the proposal to be implemented.

Appendix 2 to this document is a draft of the Special Portability Election rules that would be added to the Plan by amendment.

Appendix 3 to this document sets out the procedures Catalyst anticipates would be adopted for payment of the partial top ups that would be paid to Pensioners who elect the Special Portability Election option.

Appendix 4 to the document sets out proposed timelines for the Special Portability Election and partial top ups.

APPENDIX 1

DRAFT REGULATION PURSUANT TO SECTION 74(2)(k) OF THE PBSA

The Catalyst Paper Corporation Retirement Plan for Salaried Employees is exempt from the following provisions of the Act:

- (a) in respect of the unfunded liability and statutory solvency deficiency identified in an actuarial valuation report dated as of December 31, 2012, section 41(1.1), (2) and (3) of the Act and corresponding regulations, and the employer shall instead be required to:
 - (i) make current service contributions recommended in such report as required under the Act and the regulations;
 - (ii) make special payments in relation to the going concern unfunded liability identified in such report as required under the Act and the regulations, except the payments will be 133 1/3% of what the Act and the regulations would otherwise require; and
 - (iii) make a single special payment no later than June 30, 2028 in relation to the statutory solvency deficiency identified in such report instead of the quarterly payments payable over a period of 5 years, to the extent that the statutory solvency deficiency has not been reduced or eliminated by experience factors.
- (b) in respect of commuted values paid from the plan pursuant to the plan's "special portability election" rules under the defined benefit provisions of the plan,
 - (i) section 1(1), definition of "commuted value", paragraphs (a) and (b) and corresponding regulations, to the extent that with a person's written consent, the commuted value of his or her benefits may be limited to the maximum amount that does not impair the solvency of the plan;
 - (ii) section 33(1) of the Act, to the extent that a person may exercise portability of his or her benefits under the defined benefit provisions of the plan despite continuing to participate in another provision of the plan;
 - (iii) section 59(1)(b) of the Act, to the extent that with a person's written consent, his or her benefits under the plan when expressed as a single commuted value transfer amount may be reduced to an amount the transfer from the plan of which is the maximum amount that would not impair the solvency of the plan; and
 - (iv) section 63 of the Act, to the extent that if a person entitled to benefits under the plan elects in writing to receive a single commuted value transfer from the plan in an amount equal to the maximum amount that does not impair the solvency of the plan in full satisfaction of his or her entitlements under the plan, such shall not be considered an assignment, charge, alienation, anticipation or surrender of any portion of the person's entitlements.

APPENDIX 2

PLAN TEXT AMENDMENT

SPECIAL PORTABILITY ELECTION

G.1 Special Portability Election

- (1) Each DB Member who is not an Employee of the Company or a Participating Company or who is an Employee and has become eligible by making the election under Section G.2 may elect on a form designated by the Company to make a transfer of a lump sum amount determined in respect of his benefits under the Plan but limited to the maximum amount that does not impair the solvency of the Plan, as determined by an actuarial valuation report on the Plan as of **[December 31, 2012]**.
- (2) A transfer referred to in Section G.1(1) shall mean, at the DB Member's option, a transfer to a plan or fund registered with the Minister of National Revenue, which may include a life income fund, a registered retirement savings plan or a registered pension plan, subject to the eligibility rules of such transferee registered plan, or the purchase of a life annuity. A transfer shall be locked in to the extent required by Applicable Pension Legislation. Where locking-in is not required, a transfer may be made in the form of a payment in cash to the DB Member.
- (3) A Special Portability Option election under Section G.1(1) will become effective on **[December 31, 2012]** only if the form designated by the Company pursuant to Section G.1(1) is completed, submitted to and accepted by the Company pursuant to this Section G.1.
- (4) Prior to the election period specified by the Company, the Company shall provide written materials to each DB Member describing the terms and conditions of the Special Portability Option election.
- (5) Prior to the election period specified by the Company, the Company shall provide personalized information to each DB Member in writing estimating that DB Member's portability amount under the Special Portability Option and explaining that the final figure will be determined following the completion of an actuarial valuation report on the Plan as at **[December 31, 2012]**
- (6) The form designated by the Company pursuant to Section G.1(1) shall require the DB Member to confirm that he understands that:
 - (a) he is taking the transfer described in Section G.1(1) in full satisfaction of his entitlements under the Plan;
 - (b) he will no longer receive any retirement income and his Spouse and estate will receive no future benefit from the Plan;
 - (c) he does not have to make the election, and that if he does not make the election, his retirement income entitlement under the Plan will not be reduced;

- (d) as a condition of receiving the transfer, he must release and waive any present or future claim against the Company, its officers, directors, Pension Administration Committee members and agents arising out of the Plan (including this Appendix G in particular), his contract of employment, Applicable Pension Laws and any other source;
 - (e) he has received the written materials describing the Special Probability Option provided by the Company, he has reviewed them, asked and had answered to his satisfaction any questions he had in respect of them, and understood them;
 - (f) the Company has paid for the retention of an independent actuary, responsible to the Plan's DB Members and surviving Spouses through the representing organizations of such persons, to provide such advice and commentary on the Special Portability Option and the actuarial status of the Plan as they may request; and
 - (g) he has been encouraged to obtain independent advice relating to the Special Portability Option
- (7) If the DB Member has a Spouse who has not previously waived the spousal survivor pension benefit under the Plan, the form designated by the Company pursuant to Section G.1(1) shall be accompanied by a completed spousal waiver form.
 - (8) The form designated by the Company pursuant to Section G.1(1) shall require a signature of the DB Member, his Spouse (if any) and a witness.
 - (9) The form designated by the Company pursuant to Section G.1(1) shall set out instructions for the completion and remittance of the form, and specify that an incomplete form, or one that, if the DB Member has a Spouse who has not previously waived the spousal survivor pension entitlement under the Plan, is not accompanied by a completed spousal waiver form will not be accepted.

G.2 Termination of DB Membership Election

- (1) A DB Member who is an Employee of the Company or a Participating Company may elect on a form designated by the Company to cease to be a Norske DB Member or Pacifica DB Member, as the case may be, while remaining an Employee and while remaining a DC Member of the Plan.
- (2) Prior to the election period specified by the Company, the Company shall provide written materials to each DB Member who is an Employee of the Company or a Participating Company describing the terms and conditions of the termination of DB membership election.
- (3) The form designated by the Company pursuant to Section G.2(1) shall require the DB Member to confirm that he understands that by making the election under Section G.2(1) he is discontinuing any future growth in his defined benefits that would otherwise accrue through future salary increases or progress towards early retirement eligibility thresholds.

- (4) The form designated by the Company pursuant to Section G.2(1) shall require a signature of the DB Member, his Spouse (if any) and a witness.
- (5) The form designated by the Company pursuant to Section G.2(1) shall set out instructions for the completion and remittance of the form, and specify that an incomplete form will not be accepted.
- (6) An election under this Section G.2 will become effective on **[December 31, 2012]** only if the DB Member also makes the election under Section G.1, and only if accepted by the Company.
- (7) Until the effective date of the election under this Section G.2, a DB member making such election shall remain a participant in Part 2 or Part 4 of the Plan, as the case may be.

G.3 One Time Election

The elections contemplated by Sections G.1 and G.2 are one-time elections. DB Members wishing to make such elections may do so only within the timelines provided and the rules set out by the Company for the elections.

G.4 Government Regulation

The elections contemplated by Sections G.1 and G.2 are subject to regulations made by the Lieutenant Governor in Council of British Columbia pursuant to Applicable Pension Laws, and any repeal or alteration of such regulations prior to the date the elections are made and funds distributed may result in the suspension, termination or alteration of the Special Portability Option, at the discretion of the Company.

G.5 Process of Elections

- (1) Following receipt and verification of an election made by a DB Member who is an Employee under Section G.2, the Company shall advise such DB Member in writing that he may make an election under Section G.1.
- (2) Following receipt and verification of an election made by a DB Member under Section G.1 the Company shall advise the DB Member in writing that the election has been confirmed.
- (3) Once the period for making elections under Section G.1 is closed, the Company will declare a partial termination of the Plan covering a class of Plan Members consisting of those DB Members who made the election, and the Company shall direct that a partial windup report be prepared in the respect of that portion of the Plan.
- (4) The Company shall within 30 days of the approval of the partial windup report by the Superintendent of Pensions make the transfer described in Section G.1(1).
- (5) Following the transfer under Section G.5(4), a DB Member who had received such a transfer shall cease to be a Member of the Plan and shall have no further rights or entitlements under Part 2 or Part 4 of the Plan.

- (6) If a Member dies after making an election under Section G.1 but before all funds have been transferred or paid, the transfer will be made to the Spouse, beneficiary or estate of the Member, and if made to a beneficiary or estate shall not be locked in.
- (7) If a DB Member who makes an election under Section G.1 is a non-resident of Canada, the transfer referred to in Section G.1 need not be locked-in.

G.6 Surviving Spouse

Each reference to a DB Member in this Appendix G shall, in the case of a DB Member who is deceased and in whose case a survivor pension is in pay or is eligible to be paid starting at a future date to the DB Member's surviving Spouse, include such surviving Spouse.

G.7 Jurisdiction Other than British Columbia

Despite the foregoing provisions of this Appendix G, the Special Portability Election provisions of this Appendix G shall only apply to DB Members whose service with the Company or a Participating Company ended in British Columbia or another jurisdiction which the Superintendent of Pensions is satisfied has legislation that permits such provisions to be implemented.

APPENDIX 3

PARTIAL TOP-UP TERMS

If implemented the proposal will require the purchaser of Catalyst's assets (or Catalyst if an amended plan of arrangement should materialize) to do the following:

- (a) At approximately the same time as notices describing the Special Portability Option are provided to Pensioners, provide notice to Pensioners that the purchaser will provide a series of partial top-up payments to any Pensioner who elects under the Special Portability Election rules in the Plan.
- (b) The notice will describe the top-up amount that will be provided to the Pensioners. Such amount will be equal to 8% of the Pensioner's lump sum under the Special Portability Option from the Plan, payable in 16 equal quarterly payments starting with the quarter following the quarter in which the Special Portability Election lump sum is paid from the Plan.
- (c) The notice will provide that the top-up amounts are to be collected on a pre-tax basis, and that withholding taxes will be applied.
- (d) The notice will provide that completion and delivery of the form provided under Section G.1(6) of the Plan shall constitute the Pensioner's acceptance of the terms associated with the top-up payment, and that top-up payments will be commenced automatically if the Company, as defined in the Plan, accepts such form.
- (e) The Pensioner may enforce a contractual right to the top-up payments against the purchaser.
- (f) The purchaser will have no financial obligation to the Pensioner over and above the right to top-up payments as described herein.

APPENDIX 4

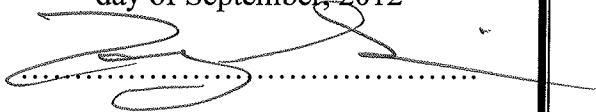
PROPOSED TIMELINE FOR SPECIAL PORTABILITY ELECTIONS AND PARTIAL TOP UPS

Assuming that a regulation is made substantially along the lines proposed in Appendix 1 before the end of June 2012, the following target dates are proposed:

1. Plan Amendment - August 2012, following completion of Catalyst's Sales and Investor Solicitation Process
2. Communication Process with Pensioners in respect of the Special Portability Election and the Partial Top Up Proposal, including distribution of written disclosure materials, forms and organization and conducting of meetings with Pensioners – August - October 2012
3. Election Period – November / December 2012
4. Effective Date of Elections – December 31, 2012
5. Preparation of Actuarial Valuation Report as at December 31, 2012 – Q1 2013
6. Distribution of Transfers under Special Portability Election – Q2 2013
7. First Partial Top Up Payments – Q3 2013
8. Last Partial Top Up Payments – Q2 2017

All target dates are subject to revision

This is **Exhibit "E"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a dotted line.

.....
A Commissioner for taking affidavits, etc.

Anthony Guindon

From: Ari N. Kaplan
Sent: May-10-12 3:44 PM
To: 'Randal Kaardal'; 'Ken Burns'
Cc: 'Bill Sharkey'; 'Nancy L. Holland'; 'mccaigs@shaw.ca'; James Harnum; Andrew J. Hatnay
Subject: RE: Catalyst Salaried Pension Plan Amendment

Ken,

Our concern with your revisions is that it only becomes effective if the vote fails. Our and our clients' understanding of Catalyst's undertaking is that this amendment would be made notwithstanding the vote. We previously relayed this to you, and expressed our clients' concern that even if the vote succeeds, there is a risk to plan members going forward. As it reads now, if the plan is wound up in the future, members will not get this portability option.

We ask that you please revise the resolution accordingly.

Thanks.

Ari N. Kaplan

Koskie Minsky LLP | Barristers and Solicitors
20 Queen Street West | Suite 900 | Box 52
Toronto | Ontario | M5H 3R3

Direct Tel. 416.595.2087 | Direct Fax. 416.204.2875
akaplan@kmlaw.ca | www.kmlaw.ca

From: Randal Kaardal [mailto:rkaardal@litigationchambers.com]
Sent: May-10-12 3:21 PM
To: Ken Burns; Ari N. Kaplan
Cc: Bill Sharkey; Nancy L. Holland
Subject: RE: Catalyst Salaried Pension Plan Amendment

Ken,

On behalf of RSEA we are in agreement with the proposed amendment language and look forward to the proposal being filed with the Supt. of Pensions as soon as possible.

Regards
Randy Kaardal

From: Ken Burns [mailto:kburns@lawsonlundell.com]
Sent: May-09-12 11:02 AM
To: Randal Kaardal; Ari N. Kaplan (akaplan@kmlaw.ca)
Subject: Catalyst Salaried Pension Plan Amendment

Randy, Ari

Please see attached the amendment to the Salaried Pension Plan that the Catalyst board will approve at its meeting tomorrow, May 10th. Please note that a few minor changes have been made as compared to the version you viewed

earlier – please see the blackline. I trust you will view these changes as inconsequential, but please let me know as soon as possible if you have any concerns.

Best regards

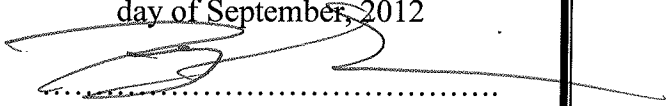
Ken

Kenneth E. Burns | 604 631 9286 Vancouver Direct | 403 218 7521 Calgary Direct | kburns@lawsonlundell.com Email |
LAWSON LUNDELL LLP | 1600 Cathedral Place | 925 West Georgia Street | Vancouver BC | Canada | V6C 3L2 |

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This is **Exhibit "F"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012



.....
A Commissioner for taking affidavits, etc.

Anthony Guindon

From: Ari N. Kaplan
Sent: May-31-12 11:25 PM
To: 'kburns@lawsonlundell.com'; 'David.Adderley@catalystpaper.com'
Cc: 'brian.baarda@catalystpaper.com'
Subject: Re: Questions re. Pension Proposal

All,

We will have our letter to Mr Hansen tomorrow morning. This is a complex pension proposal which we received late yesterday. My understanding from our client was that Mr Baarda was fine with this timeline. Thank you for your continuing patience.

Ari

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From: Ari N. Kaplan
Sent: Thursday, May 31, 2012 08:46 PM
To: 'kburns@lawsonlundell.com' <kburns@lawsonlundell.com>; 'David.Adderley@catalystpaper.com' <David.Adderley@catalystpaper.com>
Subject: Re: Questions re. Pension Proposal

Dave- see my email to Ken below. We'll be in touch.
Ari

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From: Ari N. Kaplan
Sent: Thursday, May 31, 2012 08:43 PM
To: 'kburns@lawsonlundell.com' <kburns@lawsonlundell.com>
Subject: Re: Questions re. Pension Proposal

I'm just working on wording Ken and finalizing instructions with a wider committee- we'll deliver an email later this evening. I'm expecting instructions along the lines of the CSEP group consenting to the pension proposal provided that and subject to the company filing or agreeing to the filing of an amended restructuring plan and vote per our recent discussions.

Ari

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From: Ken Burns [mailto:kburns@lawsonlundell.com]

Sent: Thursday, May 31, 2012 07:17 PM

To: Ari N. Kaplan

Subject: Questions re. Pension Proposal

Hi Ari

Further to my voicemail message, the Catalyst guys are really anxious to hear from you and your group on the pension proposal and the extended health compromise claim. If you have any questions with respect to the proposal, can you please let me know as soon as possible? I'm going to be leaving the office at 5pm my time (8pm yours) to catch a flight and will be unavailable much of tomorrow.

Best regards

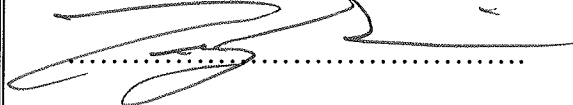
Ken

Kenneth E. Burns | 604 631 9286 Vancouver Direct | 403 218 7521 Calgary Direct | kburns@lawsonlundell.com Email |
LAWSON LUNDELL LLP | 1600 Cathedral Place | 925 West Georgia Street | Vancouver BC | Canada | V6C 3L2 |

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Thank you.

This is **Exhibit "G"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above a dotted line.

.....
A Commissioner for taking affidavits, etc.

June 1, 2012

Ari N. Kaplan
Direct Dial: 416.595.2087
Direct Fax: 416.204.2875
akaplan@kmlaw.ca

Via E-Mail

Mr. Colin Hansen, MLA
Legislative Office
Eat Annex, Parliament Buildings
Victoria, BC
V8V 1X4

Mr. David Adderley
Vice-President and General Counsel
Catalyst Paper Corporation
3600 Lysander Land, 2nd Floor
Richmond, BC
V7B 1C3

Dear Sirs:

Re: Catalyst Pension Proposal for Regulatory Assistance

We are counsel to approximately 200 pensioners, employees, beneficiaries and survivors who are entitled to pension benefits from the Catalyst Salaried Pension Plan (the "Salaried Plan"). The Salaried Plan is recently reported by the company to be underfunded by \$115 million. If wound up in its underfunded state, the members of the Salaried Plan will have their pension benefits reduced by approximately 35%. This is of great concern to our clients, the majority of who survive on moderate fixed incomes in their senior years.

After Catalyst obtained protection from its creditors under the *Companies' Creditors' Arrangement Act* ("CCAA" in January, 2012, our clients formed an association called the Catalyst Salaried Employees & Pensioners group ("CSEP"), to protect the pension benefits and health benefits earned through their many years of loyal employment with Catalyst Paper. CSEP has been an active participant in the BC Superior Court proceedings. CSEP has also engaged in several discussions with Catalyst and its stakeholders over the past several weeks aimed at assisting Catalyst successfully restructure and continue as going concern. As you are aware, the company's proposed Plan of Compromise was not approved by the requisite majority of creditors and the company is proceeding to sell itself. Under a sale, the Salaried Plan will be

wound up. We have therefore been encouraging the company to prepare and submit an Amended Plan of Compromise and hold a second creditors meeting. This occurred successfully, for example, in the CCAA proceedings of Fraser Papers, a pulp and paper company in New Brunswick last year.

On May 30, 2012, the company provided us with the document entitled "Catalyst Paper Corporation Retirement Plan for Salaried Employees Proposal for Regulatory Assistance" (the "Pension Proposal"), addressed to the Government of British Columbia. We understand that the company has submitted the Pension Proposal to the B.C. government.

We have the following comments:

- The CSEP believes that a successful CCAA plan of Compromise provides the optimum result for all stakeholders, including bondholders, suppliers, employees, pensioners and the local communities in which the company operates. As noted in the Pension Proposal (pp. 3-4), absent a revived plan of Compromise, the pension plan will be wound up with a significant deficit (\$115M) resulting in an immediate 35% cut to the 1200 members of the Salaried Plan. . There is no realistic possibility under the present sales process that a purchaser would take over the administration of the Salaried Plan pension plan. *As such, the only way Catalyst's Pension Proposal can succeed in the manner intended is if the company files or supports the filing of an amended Plan of Compromise leading to a successful re-vote of Catalyst's creditors.* To this end, CSEP continues to encourage Catalyst to commit to the preparation and filing of an amended plan of Compromise.
- CSEP has stated to Catalyst and its stakeholders that pensioners are prepared to make meaningful concessions offering financial relief to Catalyst that will ensure an Amended Plan's success. Specifically, CSEP has agreed to consider financial concessions to compromise certain post-retirement health benefits and other non-pension related employee benefits ("OPEBs") in order to facilitate a successful second vote. CSEP and their legal, financial and actuarial advisors are in direct contact with Catalyst to include a compromise of the OPEBs in an amended plan of arrangement.
- Catalyst's Pension Proposal seeks further compromise from pensioners to increase the viability of the Salaried Plan if it to be assumed by a purchaser. Catalyst seeks support for a regulatory change to relax the solvency funding schedule under the B.C. *Pension Benefits Standards Act*. The status quo would require Catalyst make \$113M of special payments between 2012 and 2018, in annual amounts ranging from \$9.3M to \$21.8M. The Pension Proposal (p. 8) would extend the schedule to 2028 and lower the annual payments during this period to \$4M per year starting in 2013. The hope is that long-term interest rates increase before the end of this period, which would lower the cost of the accrued pension liabilities and eliminate most or all of the deficit. Catalyst notes (p.1) that the Proposal bears "no additional risk to the Pensioners". This would be true, provided that the pension plan continues in operation. However, lower deficit payments,

while giving needed cash-flow relief to Catalyst, materially increases the risk of loss to pensioners in the event Catalyst becomes insolvent in the near-to-medium term resulting in a wind up of the pension plan, potentially at a greater loss than if the revised funding schedule was not implemented at all.

CSEP has considered the Pension Proposal with its legal, financial and actuarial advisors. It is a complex document that requires further engagement with Catalyst's professionals. That being said, given the current circumstances we advise that, on the condition that the company will proceed with an amended CCAA plan of compromise which, among other things, allows pensioners to vote at a meeting of creditors, CSEP supports Catalyst's request for pension funding relief as outlined in Pension Proposal. Our client will support the Pension Proposal in conjunction with an amended plan of compromise being prepared and filed.

We forward to working closely with the company, government officials, the Superintendent's office and other stakeholders to conclude this common objective.

We look would be pleased to meet with you to discuss that matter further at your convenience.

Yours truly,

KOSKIE MINSKY LLP



Ari N. Kaplan
ANK:sa

c. K. Boessenkool, Premier's Office
c. Ken Burns, Lawson Lundell LLP
c. Andrew J. Hatnay, Koskie Minsky LLP
c. Gary McCaig, Jeff Whitaker CSEP

This is **Exhibit "H"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, appearing to be 'B. J. ...', written over a horizontal dotted line.

A Commissioner for taking affidavits, etc.

Anthony Guindon

From: RUBIN, PETER <PETER.RUBIN@blakes.com>
Sent: June-15-12 2:39 PM
To: Andrew J. Hatnay
Cc: Randal Kaardal; Ari N. Kaplan; Gus.Tertigas@ca.ey.com
Subject: RE: In the Matter of Catalyst Paper Corporation et al. ("Catalyst") - June 18 Hearing

We are likely to get push back on Monday morning in respect of our motion from the 2014s and perhaps even some of the critical suppliers who voted no last time. It is critical that the Company is allowed to proceed and that we proceed on the timelines we have suggested. They are tight but fair. We will need the support from both you and Randy on Monday. I think that the more support we can garner the better. I know the Court realizes the impact of what we are doing but the fact that some 1200 to 1400 retirees are strongly behind the company and the amended plan says a lot. The more people in the court room supporting us the better.

Peter Rubin
Partner
peter.rubin@blakes.com
604-631-3315

From: Andrew J. Hatnay [mailto:ahatnay@kmlaw.ca]
Sent: Friday, June 15, 2012 7:31 AM
To: RUBIN, PETER
Cc: Randal Kaardal; Ari N. Kaplan; Gus.Tertigas@ca.ey.com
Subject: FW: In the Matter of Catalyst Paper Corporation et al. ("Catalyst") - June 18 Hearing

Peter let us know how we can assist pushing back on the rogue 2014s if necessary. Our position would be that the timeline is fair, the rogue 2014s are intimately familiar with Catalyst and its CCAA process (having already gone through a vote once) and that there is time sensitivity to get an Amended Plan in place so that the company can emerge from CCAA and get on with its business (with the Salaried Plan of course).

Let us know what we can do.

AJH

From: Ken Lenz [mailto:LenzK@bennettjones.com]
Sent: June-14-12 11:54 PM
To: 'PURGAS, ANTHONY'; van.durrer@skadden.com; kimberly.jaimez@skadden.com; annie.li@skadden.com; jgrieve@fasken.com; kjackson@fasken.com; vtickle@fasken.com; svolkow@fasken.com; llewis@fasken.com; michael.j.vermette@ca.pwc.com; chris.a.stocco@ca.pwc.com; neil.p.bunker@ca.pwc.com; patricia.marshall@ca.pwc.com; blair.w.linnen@ca.pwc.com; mica.arlette@ca.pwc.com; jamie.m.cartwright@ca.pwc.com; peter.reardon@mcmillan.ca; wael.rostom@mcmillan.ca; john.sandrelli@fmc-law.com; shayne.kukulowicz@fmc-law.com; ryan.jacobs@fmc-law.com; tevia.jeffries@fmc-law.com; robin.peardon@fmc-law.com; kelly.tsang@fmc-law.com; christopher.ramsay@fmc-law.com; jordan.schultz@fmc-law.com; mstamer@akingump.com; skuhn@akingump.com; mlahaie@akingump.com; dgruber@farris.com; rchadwick@goodmans.ca; mwagner@goodmans.ca; llivingston@hsblawfirm.com; tnauful@hsblawfirm.com; dbobert@rogerslaw.ca; drogers@rogerslaw.ca; kandersen@blg.com; doverholt@blg.com; kesaw@stikeman.com; sandra.wilkinson@gov.bc.ca; wharton@bernardpartners.com; jones@bernardpartners.com; sanderson@vslo.ca; squelch@vslo.bc.ca; harvey@chaitons.com; george@chaitons.com; wskelly@heenan.ca; blaborie@heenan.ca; arose@stikeman.com; sdd@bht.com; ejm@bht.com; marilyn.mauritz@interfor.com; richard.butler@gov.bc.ca; david.hatter@gov.bc.ca; aaron.welch@gov.bc.ca; gthompson@blg.com; hferris@lawsonlundell.com; mwasserman@osler.com; jfraser@osler.com; priesterer@osler.com; lpillon@stikeman.com; jim.fergusson@ge.com; natasha.decicco@ge.com;

mweinczok@dickinsonwright.com; mschein@vedderprice.com; mbuttery@davis.ca; lwilliams@davis.ca; Andrew J. Hatnay; Ari N. Kaplan; Demetrios Yiokaris; Anthony Guindon; akelley@dilworthlaw.com; sfreedman@dilworthlaw.com; cgordon@fgglawyers.com; mliben@stikeman.com; gg@gdlaw.ca; Sean Zweig; David McKinnon; Raj Sahni; S. Richard Orzy; Chris Simard; bjohnston@litigationchambers.com; rkaardal@litigationchambers.com; aglen@litigationchambers.com; ssweatman@spectrumhrlaw.com; cgalinski@spectrumhrlaw.com; neva.beckie@justice.gc.ca; lramdass@ercoworldwide.com; tdewar@ercoworldwide.com; dalem@sdmrealty.com; vasuda.sinha@nortonrose.com; orestes.pasparakis@nortonrose.com; evan.cobb@nortonrose.com; donnaree.nygard@justice.gc.ca; melissa.nicolls@justice.gc.ca; mmartindale@blg.com; krowan@ogilvielaw.com; swanke@ogilvielaw.com; kmcelcheran@mccarthy.ca; bsachdeva@pallettvalo.com; peter.seddon@worksafebc.com; sross@millerthomson.com; czikovsky@stikeman.com; glenn.reisman@ge.com; deborah.zink@andritz.com
Cc: KAPLAN, BILL; RUBIN, PETER; LANGLOIS, JEFF; KALBFLEISCH, PETER
Subject: RE: In the Matter of Catalyst Paper Corporation et al. ("Catalyst") - June 18 Hearing

Catalyst Representatives and Monitor,

On behalf of the Ad Hoc 2014 Unsecured Noteholder Committee, we have serious concerns about the process, timing and substance of this application.

First, could a blackline of the proposed amended Plan of Arrangement to the prior Plan of Arrangement be circulated, so that those of us not privy to the discussions can assess what has changed?

Second, the materials do not disclose sufficient detail on the alleged new claims or the substance and impact of the amendments on the claims of our clients. There are other issues as well.

Third, the shortness of the timeline in which the application is to be heard and the abbreviated process proposed to be implemented is unnecessary and seriously diminishes the due process and fairness our clients and all creditors are entitled to expect. There is no urgency present in these circumstances that justifies expediting the process to this extent at this cost.

We anticipate seeking an adjournment of Monday's application to examine on the Affidavit, and the direction of the Court to put in place a reasonable timeline in which to address these issues.

Regards,

From: PURGAS, ANTHONY [mailto:ANTHONY.PURGAS@blakes.com]

Sent: 14 June 2012 6:17 PM

To: van.durrer@skadden.com; kimberly.jaimez@skadden.com; annie.li@skadden.com; jgrieve@fasken.com; kjackson@fasken.com; vtickle@fasken.com; svolkow@fasken.com; llewis@fasken.com; michael.j.vermette@ca.pwc.com; chris.a.stocco@ca.pwc.com; neil.p.bunker@ca.pwc.com; patricia.marshall@ca.pwc.com; blair.w.linnen@ca.pwc.com; mica.arlette@ca.pwc.com; jamie.m.cartwright@ca.pwc.com; peter.reardon@mcmillan.ca; wael.rostom@mcmillan.ca; john.sandrelli@fmc-law.com; shayne.kukulowicz@fmc-law.com; ryan.jacobs@fmc-law.com; tevia.jeffries@fmc-law.com; robin.pearson@fmc-law.com; kelly.tsang@fmc-law.com; christopher.ramsay@fmc-law.com; jordan.schultz@fmc-law.com; mstamer@akingump.com; skuhn@akingump.com; mlahae@akingump.com; dgruber@farris.com; rchadwick@goodmans.ca; mwagner@goodmans.ca; llivingston@hsblawfirm.com; tnauful@hsblawfirm.com; dbobert@rogerslaw.ca; drogers@rogerslaw.ca; kandersen@blg.com; doverholt@blg.com; kesaw@stikeman.com; sandra.wilkinson@gov.bc.ca; wharton@bernardpartners.com; jones@bernardpartners.com; sanderson@vslo.ca; squelch@vslo.bc.ca; harvey@chaitons.com; george@chaitons.com; wskelly@heenanc.ca; blaborie@heenanc.ca; arose@stikeman.com; sdd@bht.com; ejm@bht.com; marilyn.mauritz@interfor.com; richard.butler@gov.bc.ca; david.hatter@gov.bc.ca; aaron.welch@gov.bc.ca; gthompson@blg.com; hferris@lawsonlundell.com; mwasserman@osler.com; jfraser@osler.com; priesterer@osler.com; lpillon@stikeman.com; jim.fergusson@ge.com; natasha.decicco@ge.com; mweinczok@dickinsonwright.com; mschein@vedderprice.com; mbuttery@davis.ca; lwilliams@davis.ca; ahatnay@kmlaw.ca; akaplan@kmlaw.ca; dyiokaris@kmlaw.ca; aguindon@kmlaw.ca; akelley@dilworthlaw.com; sfreedman@dilworthlaw.com; cgordon@fgglawyers.com; mliben@stikeman.com; gg@gdlaw.ca; Sean Zweig; David McKinnon; Raj Sahni; S. Richard Orzy; Ken Lenz; Chris Simard; bjohnston@litigationchambers.com; rkaardal@litigationchambers.com; aglen@litigationchambers.com;

ssweatman@spectrumhrlaw.com; cgalinski@spectrumhrlaw.com; neva.beckie@justice.gc.ca;
lramdass@ercoworldwide.com; tdewar@ercoworldwide.com; dalem@sdmrealty.com; vasuda.sinha@nortonrose.com;
orestes.pasparakis@nortonrose.com; evan.cobb@nortonrose.com; donnaree.nygard@justice.gc.ca;
melissa.nicolls@justice.gc.ca; mmartindale@blg.com; krowan@ogilvielaw.com; swanke@ogilvielaw.com;
kmcclcheran@mccarthy.ca; bsachdeva@pallettvalo.com; peter.seddon@worksafebc.com; sross@millerthomson.com;
czikovsky@stikeman.com; glenn.reisman@ge.com; deborah.zink@andritz.com

Cc: KAPLAN, BILL; RUBIN, PETER; LANGLOIS, JEFF; KALBFLEISCH, PETER

Subject: In the Matter of Catalyst Paper Corporation et al. ("Catalyst") - June 18 Hearing

All,

Further to my earlier email today, please find attached unfiled copies of Catalyst's Notice of Application dated June 14, 2012 and Affidavit #10 of Brian Baarda made June 14, 2012.

Filed copies will follow in due course.

Yours truly,

Anthony Purgas
Associate
anthony.purgas@blakes.com
Dir. 604-631-4280



Blake, Cassels & Graydon LLP | Vancouver
Tel: 604-631-3300 Fax: 604-631-3309
blakes.com | [Twitter](#)

Blake, Cassels & Graydon LLP | Barristers & Solicitors | Patent & Trade-mark Agents

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This is **Exhibit "I"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, appearing to be 'R. J. Hatnay', is written over a horizontal dotted line.

A Commissioner for taking affidavits, etc.

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, AS AMENDED**

AND

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

AND

**IN THE MATTER OF CATALYST PAPER CORPORATION AND THE
PETITIONERS INCLUDED IN APPENDIX "A"**

MONITOR'S SEVENTEENTH REPORT TO COURT

June 17, 2012



**CATALYST PAPER CORPORATION, ET AL
MONITOR'S SEVENTEENTH REPORT TO COURT**

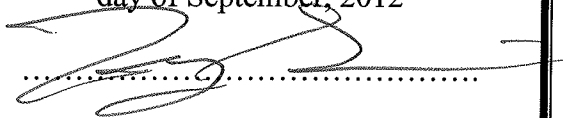
June 17, 2012

- 3.17 The inclusion of the Extended Health Benefits Claims will increase the total amount of Unsecured Claims. As the amount of consideration being offered pursuant to the Second Amended Plan is the same as under the Amended Plan, the anticipated distribution to the Unsecured Class will, accordingly, be less. A comparison of the estimated recoveries by Unsecured Creditors under the SISP, the Amended Plan and the Second Amended Plan is presented in the table below:

(\$ millions)	Amended Plan	Second Amended Plan	SISP
Estimated Proceeds for Distribution			
Cash	-	-	- (1)
Sale of PREI	15.8	15.8	- (2)
Unencumbered Assets Acquired	-	-	19.9 (3)
Unencumbered Assets Not Acquired	-	-	31.6 (2)
Total	15.8	15.8	51.5
Creditor Group			
2014 Noteholders	263.6	263.6	263.6
2016 Noteholders Shortfall	-	-	155.0
Trade Creditor claims	30.8	30.8	34.8 (1)
Employee / Union Claims	102.1	102.1	102.1 (4)
Restructuring Claims	17.5	17.5	17.5
Environmental Claims	-	-	- (5)
Pension & PRB Claims	-	22.4	150.0 (6)
Total	414.0	436.4	723.0
Value per \$ of Claim	\$ 0.038	\$ 0.036	\$ 0.071
<p>(1) The \$2.5m cash offered in the Plan is used to pay the Convenience Creditors (\$900k) and Cash Election Creditors (\$3.1m). The cash and these creditors have been excluded from the Plan recoveries.</p> <p>(2) The net proceeds from the sale of PREI is the midpoint value contained in the Monitor's 9th Report - 50% for the Amended Plan, 100% for the SISP.</p> <p>(3) Includes the Surrey Distribution Centre and Barges, fibre supply agreements, and mobile equipment at the midpoint value noted in the Monitor's 9th Report.</p> <p>(4) Claims are disputed.</p> <p>(5) Claims are contingent and unliquidated, so cannot be valued.</p> <p>(6) Value is based on actuarial funding estimate as at December 31, 2011.</p>			

- 3.18 The Monitor estimates that the inclusion of the Extended Health Benefits Claims as Affected Claims under the Second Amended Plan will reduce the recovery by members of the Unsecured Claim Class by \$0.002 per dollar of claim as compared to their anticipated recovery under the Amended Plan. The Monitor does not consider this amount to be material and, accordingly, the inclusion of the Extended Health Benefits Claims as an Affected Claim under the Second Amended Plan does not

This is **Exhibit "J"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, appearing to be "J. J. [unclear]", is written over a horizontal dotted line.

A Commissioner for taking affidavits, etc.

Anthony Guindon

Subject: FW: Koskie Minsky Fees

From: Baarda, Brian (Richmond)
Sent: Friday, July 27, 2012 7:33 AM
To: Garry McCaig
Subject: RE: Koskie Minsky Fees

Gary

We are of course pleased that we are moving on with the second amended plan. Many stakeholders were involved in getting us to this point. Your perception of Koskie Minsky's level of contribution in the process differs from ours.

We intend to live up to our commitments and expect others to do the same. We agreed to pay K&M up to \$30,000 per month plus reasonable disbursements. That did not include the unauthorized hiring of a financial advisor plus business class airfares to and from Toronto for that advisor. We do not view the hiring of E&Y as a reasonable expense. We have been requiring advisors to exercise restraint in their expenses. We have paid K&M's April bill. We have also paid K&M's May and June fees but have withheld reimbursement of disbursements pending clarification that we have requested from K&M.

Surely you expect your counsel to live up to its commitments and to exercise appropriate discretion in their billing practices. I note our previous discussions around the many lawyers that were in court, at times doing activities such as gaming on their phones. We have been working with many of the advisors involved in this process in an effort to keep our advisor expenses to reasonable levels. It has been a difficult process but we are having some success.

If there are any aspects of K&M's billing that upon your personal review that you feel we have unreasonably withheld please contact me personally with the details and I will review them with you.

Brian

From: Garry McCaig [mailto:mccaigs@shaw.ca]
Sent: July-23-12 12:36 PM
To: Baarda, Brian (Richmond)
Cc: Meredith, Doug
Subject: Koskie Minsky Fees

Brian

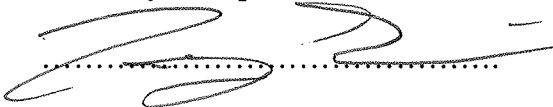
I hope you will be able to review the attached at your earliest convenience.

As you know I have had some problems with emails to Catalyst addresses apparently being blocked, so I am asking Doug Meredith to forward this to you as backup.

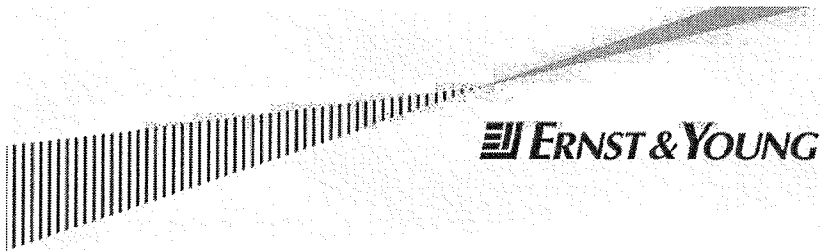
regards

Garry McCaig

This is **Exhibit "K"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a dotted line.

A Commissioner for taking affidavits, etc.



Ernst & Young Inc.
200 King St. West, Suite 1100
Toronto, Ontario
M5H 3T4
Tel: 416 932 8000
Fax: 416-932-6200
www.ey.com

Ari Kaplan
Koskie Minsky LLP
20 Queen Street West, Suite 900
Toronto, ON M5H 3R3

30 August 2012

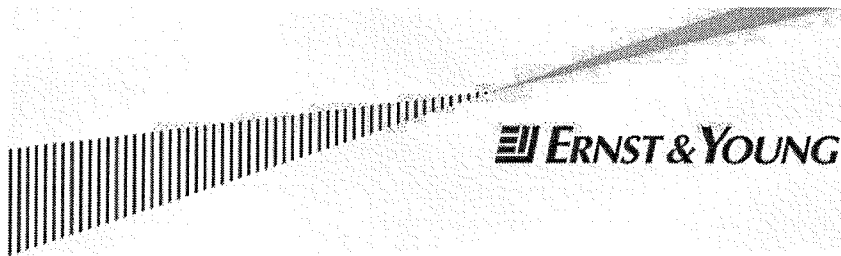
Catalyst Paper Corporation ("Catalyst" or the "Company")

Dear Mr. Kaplan:

1. Background

Ernst & Young Inc. ("EYI") was engaged by Koskie Minsky LLP ("KM") to provide financial advisory services to The Catalyst Salaried Employees and Pensioners Group ("CSEP"). Our engagement was precipitated by Catalyst's failed attempt to restructure under the Canada Business Corporations Act and its subsequent filing for protection under the Companies' Creditors Arrangement Act ("CCAA"). KM requested that EYI provide assistance with respect to the following:

- Conducting an analysis of Catalyst's debt obligations including secured, preferred and unsecured debt.
- Reviewing and analyzing Catalyst's short term cash flow and liquidity projections, as prepared by Catalyst and PricewaterhouseCoopers Inc. ("PWC"), the Monitor under the CCAA proceedings.
- Reviewing and analyzing Catalyst's restructuring plan.
- Reviewing the proposed sale process and procedures that Catalyst proposed to use for the divestiture of its assets and commenting on the reasonableness of the process.
- Advising on any proposed allocation of assets amongst creditors groups.
- Reviewing any other strategic alternatives presented by Catalyst or PWC related to the progress of the CCAA.
- Analyzing any other financial information presented by Catalyst or PWC as it related to the CCAA.
- Assisting in filing a claim in the CCAA or other insolvency proceedings of Catalyst.
- Participating in discussions with other stakeholders, as required.



As you are aware, we have over 20 years of experience in providing financial advisory services to stakeholders in insolvency proceedings. More specifically, we have provided financial advice to employee and pensioner groups in some of Canada's largest insolvencies, including, The T. Eaton Company Limited, Stelco, Air Canada, Timminco, Nortel and Fraser Paper. In particular, working with KM, we were instrumental in reviving the failed CCAA plan of Fraser Paper.

Based on our experience, it is customary for stakeholder groups to engage financial advisors during restructuring proceedings. This allows stakeholders to independently verify financial information provided by the debtor, assess the information and communicate back to the debtor in a unified and concise manner. Consequently, the restructuring process moves forward effectively and efficiently. As a result of the benefits provided to the stakeholders and the restructuring process over all, it is also commonplace for the debtor company to fund the costs of financial advisors. In the Catalyst CCAA proceeding, the Company and various bondholder groups engaged financial advisors to assist in the restructuring and in negotiations amongst the parties. Accordingly, it was critical for the CSEP to request that KM engage a financial advisor.

It is our understanding that the Company has raised the following issues with respect to our engagement:

- The necessity for our retainer.
- The fact that the Company was not advised of our retainer.
- Our out of pocket disbursements.

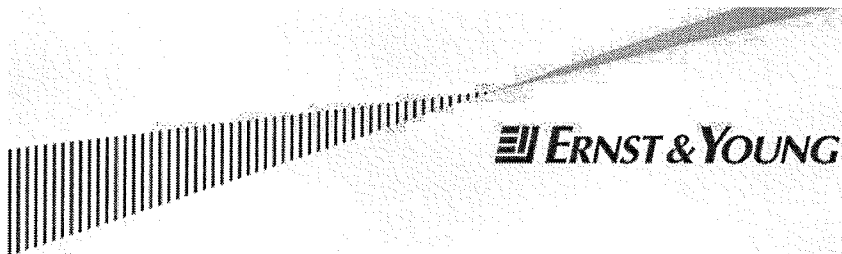
We will attempt to address each of these concerns.

2. Necessity for EYI's retainer

The CSEP represents employees and retirees of Catalyst. Employees and retirees had, and continue to have, a major financial interest in the outcome of the Company's CCAA. The Company's pension plan was in a deficit position in excess of \$110 million. Furthermore, the Company was committed to provide post employment benefits ("OPEB") with a present value in excess of \$23 million. A failure of the CCAA would result in a complete loss of OPEB and an inability to recover the pension deficit.

At the commencement of the CCAA process the Company asserted that, if the restructuring was successful, the CCAA process would not impact pensions or OPEBs. The CSEP had the foresight to question this assertion in the circumstances and engaged legal and financial advisors to protect their interests and develop contingency plans in the event that the CCAA plan failed or proposals were later made (which turned out to be the case) to compromise their benefits. This foresight and contingency planning was a major component of the ultimate success of the second CCAA plan. Despite the company's prior statements to the contrary, the company subsequently put together a plan whereby the failure of its Plan of Compromise would immediately result in a sale of the company with the Salaried Plan being wound up in its underfunded state and with the retirees losing a significant portion (approximately 35%) of their monthly pension benefits.

It is our understanding that no other financial advisors were engaged to assist employees and pensioners with respect to the financial implication of the CCAA on the pension plan deficit and OPEB. It is also our understanding that an actuary was engaged by RSEA. Actuaries provide advice and guidance on pension matters including projected interest rates, longevity assumptions and future economic indicators. They do not have the skills to assess and provide guidance on financial restructuring matters.



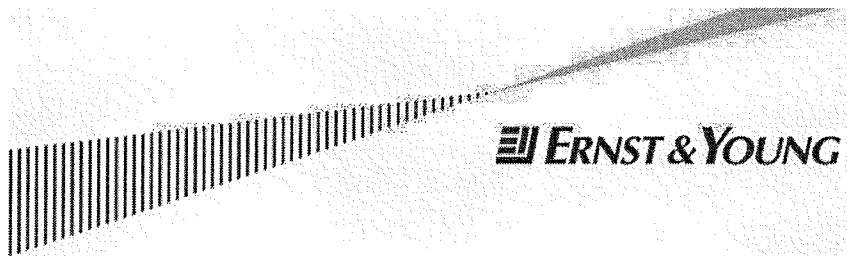
CSEP, with the assistance and involvement of EYI and its legal counsel KM, was absolutely instrumental to the company's second Plan of Compromise achieving a successful vote and avoiding the wind up of the Salaried Plan and OPEBS with the resulting losses to the retirees.

The successful outcome was achieved through:

- The development of the concept of classifying employees as affected creditors in order to allow them to vote on the CCAA plan, through the compromise of pension and/or other benefits. EYI developed various financial scenarios which would have provided employees with sufficient claims to allow the initial CCAA vote to succeed. These concepts were discussed extensively with the Company and the Monitor's legal counsel.
- Immediately following the failure of the first CCAA vote, EYI and KM began discussing the concept of a new CCAA plan, that included compromising employee benefits, and proceeding with a new vote on an expedited basis so as not to interfere with the Company's sale's process. EYI and KM were instrumental in convincing various bondholder groups to support a new CCAA plan. These efforts ultimately resulted in the success of the restructuring.

Our invoices, copies of which are attached herewith, provide details of the services provided to KM and the CSEP. In summary, EYI:

- Reviewed and advised the CSEP on the company overall financial position.
- Reviewed and provided comments on the financial aspects of the initial CCAA plan, meeting procedures and Sale and Interest Solicitation Process, including the implications of classifying the pension and OPEB claims as unaffected claims.
- Held preliminary discussions with various bondholder groups, the Company and the Monitor with respect to the CCAA plan and creditors' positions with respect to accepting or rejecting the CCAA plan.
- Calculated and determined early on that the failure of the CCAA plan was a virtual certainty and worked to identify options to salvage the CCAA plan, including participating in discussions with the Monitor's and the Company's counsel as well as the 2016 Bondholders.
- Calculated the quantum of the affected employee claims that would be required to secure plan success (incorporating the variability of various disputed claims).
- Provided financial advice on the possible structure of an amended CCAA plan subsequent to the failure of the first vote.
- Along with legal counsel, participated in a number of discussions with bondholder representatives to understand the reasons for voting against the CCAA plan and to secure their support for an amended plan.
- Along with legal counsel, worked to ascertain the financial incentive required by the 2014 Bondholders to get their support for the amended plan (notwithstanding that the company insisted that the dissident 2014s were not financially motivated).



- Reviewed the valuation of the OPEB claim as well as the amount required to secure success of the amended CCAA plan.

3. Communicating Retainer of EYI

The retainer of a financial advisor by employee and pensioner groups is commonplace in insolvency proceedings and such cost are generally paid by the employer. EYI's retainer, in this matter, was transparent and known to all parties who engaged and communicated with EYI on many occasions including the company and the other retiree association (RSEA). Counsel to the company also engaged EYI on many telephone conferences and during court attendances

Commencing in March, 2012, EYI was included in a number of email communications between KM and Blakes LLP (Mr. Peter Rubin), the Company's legal counsel.

In April, 2012, EYI participated in a number of conference calls with Fasken Martineau LLP (Mr. John Grieve and Mr. Kibben Jackson) to discuss the CCAA plan and the potential impact on employee pensions and OPEBS. During those calls EYI was introduced at the CSEP's financial advisor.

In May, 2012, EYI participated in a number of conference calls with Mr. Rubin to discuss the classification of employees as unaffected creditors. During those calls EYI was introduced as the CSEP's financial advisor.

On May 23, 2012, EYI attended the CCAA creditor's meeting. During this meeting EYI participated in discussions with the Company, the Monitor, various creditors and their legal counsel and was introduced as the CSEP's financial advisor.

Following the failed May 23, 2012 CCAA plan, EYI engaged in discussion, attended court appearances and participated in negotiations where all parties were aware of EYI's roll as financial advisor to the CSEP.

Based on the above, it is not credible for the Company to now claim that it was not aware of EYI retainer.

4. Out-of-Pocket Disbursements

We have been advised that the Company has taken objection to certain EYI out of pocket disbursements, and specifically, that it is of the view that EYI charged for business class airfare from Toronto to Vancouver. This view is completely erroneous.

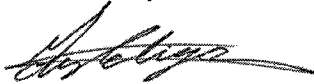
After representing employees and pensioners for over 15 years in major insolvency proceedings across Canada, EYI is well aware of the financial hardship suffered by these people as a result of their employers' financial difficulties. Accordingly, we are extremely sensitive to the costs of representing them and exercise cost restraint at all times.

EYI attended in Vancouver on only five separate occasions to meet with the CSEP and attend various meetings and court appearances, all the request of the CSEP and KM.

The total out of pocket disbursements for these trips was under \$2,500. Two trips were scheduled to coincide with other business in Vancouver in order to mitigate the costs to the file. All airfare was based on the lowest available rates at the time. No business class or upgrade costs were charged to the file. When upgrades were obtained, they were absorbed personally.

Should the Company wish to discuss the matter further or require additional information, we would be pleased to oblige.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gus Tertigas', with a long, sweeping horizontal stroke extending to the right.

Gus Tertigas
Senior Vice President

Attachment

Copy to: Andrew Hatnay
Gary McCaig



Ernst & Young Inc.
Toronto, Ontario

Invoice

Andrew Hatnay
The Catalyst Salaried Employees and Retirees Group
20 Queen street West
Suite 900
Box 52
Toronto, ON M5H 3R3
Canada

Client Reference: 16446536

Invoice Number: CA0189705313

Date: June 11, 2012

Remit To:

P.O. Box 57104, Postal Station A
Toronto, Ontario M5W 5M5

A/R Queries : 416-943-3851
1-800-311-1104

CAD

For services rendered in connection with our appointment as financial advisor to the CSEP, during the period of February 13, 2012 to February 29, 2012, including:

- Reviewing background material regarding the Company's restructuring efforts and proceedings.
- Reviewing Monitor's third report to Court and discussing same with Koskie Minsky LLP ("KM") on February 13, 2012.
- Meeting with KM, on February 14, 2012, to discuss various issues related to the CCAA and attending Court hearing via conference call.
- Attending conference call with KM and CSEP on February 15, 2012.
- Reviewing and providing comments on report to CSEP membership dated February 16, 2012.
- Reviewing and providing comments on February 21, 2012 CSEP town-hall presentation.
- Attending February 21, 2012 CSEP town-hall meeting.
- Attending February 23, 2012 Court motion.

All other meetings and communications with CSEP, KM and the Company not specifically mentioned above.

12,110.00

Subtotal:	12,110.00
HST 13% Ontario:	1,574.30
TOTAL DUE:	\$ 13,684.30

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GST/HST: R123425522 **QST:** 1006354498

Time Summary
Re: Catalyst Paper Corporation
For the Period February 1, 2012 to February 29, 2012

Personnel	Hours	Rate/Hour (\$)	Amount (\$)
Kevin Brennan,	7	625	4,375.00
Gus Tertigas	13	595	7,735.00
Total			12,110.00



Ernst & Young Inc.
Toronto, Ontario

Invoice

Andrew Hatnay
The Catalyst Salaried Employees and Retirees Group
20 Queen street West
Suite 900
Box 52
Toronto, ON M5H 3R3
Canada

Client Reference: 16446536

Invoice Number: CA0189705328

Date: June 11, 2012

Remit To:

P.O. Box 57104, Postal Station A
Toronto, Ontario M5W 5M5

A/R Queries : 416-943-3851
1-800-311-1104

CAD

For services rendered in connection with our appointment as financial advisor to the CSEP, during the period of March 1, 2012 to March 31, 2012, including:

- Meeting with Koskie Minsky LLP ("KM") on March 6, 2012 to review and discuss application material provided by the Company regarding its March 8, 2012 Court attendance.
- Reviewing and providing comments on the Company cash flow projections.
- Discussing potential settlement terms with KM and reviewing draft settlement agreement.
- Reviewing restructuring and support agreement, drafting detailed assessment of agreement, and discussing same with KM and CSEP.
- Reviewing Monitor's fifth report to Court and discussing same with KM.
- Extensive discussions with KM, the Company and the Monitor regarding the definitions of "unaffected creditors" and the potential impact on pension claims.
- Reviewing the Company's proposed sale process and discussing same with KM.
- Attending the March 21, 2012 Court proceedings via conference call.

12,615.00

Subtotal:

12,615.00

HST 13% Ontario:

1,639.95

TOTAL DUE:

\$ 14,254.95

Time Summary
Re: Catalyst Paper Corporation
For the Period March 1, 2012 to March 31, 2012

Personnel	Hours	Rate/Hour (\$)	Amount (\$)
Mike Dean,	4	625	2,500.00
Gus Tertigas	17	595	10,115.00
Total			12,615.00



Ernst & Young Inc.
Toronto, Ontario

Invoice

Andrew Hatnay
The Catalyst Salaried Employees and Retirees Group
20 Queen street West
Suite 900
Box 52
Toronto, ON M5H 3R3
Canada

Client Reference: 16446536

Invoice Number: CA0189705330

Date: June 11, 2012

Remit To:

P.O. Box 57104, Postal Station A
Toronto, Ontario M5W 5M5

A/R Queries : 416-943-3851
1-800-311-1104

CAD

For services rendered in connection with our appointment as financial advisor to the CSEP, during the period of April 1, 2012 to April 30, 2012 including:

6,545.00

- Reviewing assets excluded from sale process and discussing implications and possible realizations with Koskie Monsky LLP ("KM") and CSEP.
 - Extensive analysis and discussions with KM regarding exercising a possible vote at the Company's CCAA meeting of creditors.
 - Assisting with the drafting and filing of a proof of claim on behalf of the CSEP.
 - Reviewing other options available to the CSEP in the event of a CCAA plan failure.
 - Reviewing the Monitor's Notice of Disallowance of the CSEP claim and assisting in drafting an appeal of the disallowance.
 - Participating in extensive discussions with Company and Monitor's counsel regarding the CSEP claim.
 - Preparing projections regarding the possible outcome of the CCAA vote and discussing alternatives with KM.
- All other meetings and communications with CSEP, KM and the Company not specifically mentioned above.

Subtotal:	6,545.00
HST 13% Ontario:	850.85
TOTAL DUE:	\$ 7,395.85

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GST/HST: R123425522 **QST:** 1006354498

Time Summary
Re: Catalyst Paper Corporation
For the Period April 1, 2012 to April 30, 2012

Personnel	Hours	Rate/Hour (\$)	Amount (\$)
Gus Tertigas	11	595	6,545.00
Total			6,545.00



EY Advisory Services Inc.
Toronto, Ontario

Invoice

Andrew Hatnay
The Catalyst Salaried Employees and Retirees Group
20 Queen street West
Suite 900
Box 52
Toronto, ON M5H 3R3
Canada

Client Reference: 16446536

Invoice Number: CA0189705332

Date: June 11, 2012

Remit To:

P.O. Box 57104, Postal Station A
Toronto, Ontario M5W 5M5

A/R Queries : 416-943-3851
1-800-311-1104

CAD

For services rendered in connection with our appointment as financial advisor to the CSEP, during the period of May 1, 2012 to May 31, 2012, including:

- Assessing value of CCAA court ordered charges and impact on net realizations.
- Discussing possible amendments to the Company's CCAA in order to allow the CSEP to file a claim and vote at the meeting of creditors.
- Attending various calls with Company and Monitor's counsel to discuss proposed amendments.
- Attending various calls with legal counsel to certain bondholders groups to discuss CCAA plan and possible voting outcomes.
- Reviewing the Monitor's thirteenth and fourteenth reports to court and discussing same with Koskie Minsky LLP ("KM").
- Reviewing amended CCAA plan and discussing same with CSEP and KM.
- Attending meeting of CCAA creditors' meeting on May 23, 2012.
- Attending court hearing in Vancouver on March 25, 2012 followed by meeting with CSEP, Fraser Milner Casgrain, Goodmans and Randy Kaardal.

17,551.93

Subtotal:	17,551.93
HST 13% Ontario:	2,281.75
TOTAL DUE:	\$ 19,833.68

Time Summary
Re: Catalyst Paper Corporation
For the Period May 1, 2012 to May 31, 2012

Personnel	Hours	Rate/Hour (\$)	Amount (\$)
Gus Tertigas	29.5	595	17,552.50
Total			17,552.50



Ernst & Young Inc.
Toronto, Ontario

Invoice

Andrew Hatnay
Koskie Minsky LLP
P.O. Box 52
20 Queen Street West, Suite 900
Toronto, ON M5H 3R3

Invoice Number: CA0189712043

Date: July 6, 2012

Remit To:

P.O. Box 57104, Postal Station A
Toronto, Ontario M5W 5M5

A/R Queries:

416-943-3851
1-800-311-1104

Client Reference: 16446536

For services rendered in connection with our appointment as financial advisor to The Catalyst Salaried Employees and Retirees Group ("CSEP") during the period June 1, 2012 to June 30, 2012, including:

- ▶ Attending various calls on June 1, 2012 to deal with the Company's pension proposal including calls with Koskie Minsky ("KM"), Segal & Co. ("Segal"), and CSEP.
- ▶ Communications and discussions with CSEP and KM regarding the nature and value of the compromise of post employment benefits ("OPEB").
- ▶ Estimating potential vote outcomes and discussing various CCAA options with KM, including attending various calls on June 4, 2012.
- ▶ Attend conference call with KM and Segal regarding the quantification of the OPEB claim including the review of the underlying assumptions, followed by detailed conference call with CSEP on June 5, 2012.
- ▶ Attending various calls with legal counsel to certain bondholders groups to discuss CCAA plan and possible voting outcomes.
- ▶ Attending numerous calls regarding amended CCAA plan.
- ▶ Attending meetings and calls with KM and CSEP to discuss mechanics for soliciting input from CSEP members regarding the OPEB compromise, voting on the amended CCAA plan and supporting the overall plan as part of the court approval process.
- ▶ Attending court hearing in Vancouver on June 18, 2012 regarding the filing of an amended CCAA plan, followed by meeting with CSEP and Randy Kaardal.
- ▶ Attending conference call with various parties to review possible trading activity of 2014 bonds.
- ▶ Attending creditor's meeting on June 25, 2012.
- ▶ Attending sanction hearing on June 28, 2012, followed by meeting with CSEP to discuss replacement of the compromised OPEB and tax implications of pension changes.
- ▶ All other meetings and communications with CSEP, KM and the Company not specifically mentioned above.

	CAD
Our Fee (per attached time summary)	27,370.00
Out-of-pocket expenses	<u>2,275.60</u>
Subtotal	<u>29,645.60</u>
HST 13% Ontario:	<u>3,853.93</u>
TOTAL DUE:	<u>\$33,499.53</u>

A member of Ernst & Young Global

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GST/HST: R895296663 **QST:** 1021541717

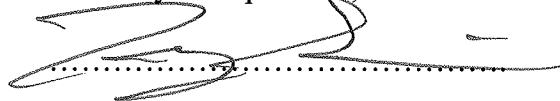
Wire transfer instructions:

Send direct and pay to: Bank of Montreal, International Banking, H.O. Montreal, SWIFT BIC Address BOFMCAM2, Ernst & Young LLP, Transit #2411 Account #24111000237, 6 King Street West, Toronto, Ontario, Canada, M5H 1C3; Reference the name & address of remitter, invoice number & engagement number

Time Summary
Re: Catalyst Paper Corporation
For the Period June 1, 2012 to June 30, 2012

Personnel	Hours	Rate/Hour (\$)	Amount (\$)
Gus Tertigas	46	595	27,370.00
Total			27,370.00

This is **Exhibit "L"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, appearing to be 'B. J. Hatnay', is written over a horizontal dotted line.

A Commissioner for taking affidavits, etc.

Catalyst



August 29, 2012

Catalyst Paper Corporation
2nd Floor, 3600 Lysander Lane
Richmond, British Columbia
Canada V7B 1C3

Tel: 604 247 4400
Fax: 604 247 0512

VIA EMAIL

Catalyst Salaried Employees
and Pensioners Steering Committee
c/o Koskie Minsky LLP

and

Koskie Minsky LLP
Suite 900, 20 Queen Street West
Toronto, ON M5H 3R3

Attention: Ari Kaplan

Re: Memorandum of Agreement between Catalyst Paper Corporation and the Catalyst Salaried Employees and Pensioners Steering Committee dated March 9, 2012 and Supreme Court of British Columbia Order, dated March 8, 2012

Dear Mr. Kaplan:

As you know, the plan of arrangement of Catalyst Paper Corporation and its subsidiaries under the *Companies' Creditors Arrangement Act* is expected to become effective on or about September 12, 2012

When the plan of arrangement becomes effective, the appointment of Koskie Minsky as an Assistant under paragraph 8(c) of the Amended and Restated Initial Order and the above memorandum of agreement will cease to have any application.

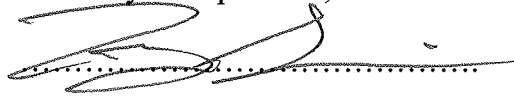
Accordingly please note that the fee arrangement referred to in paragraph 5 of the memorandum of agreement will terminate effective the date the plan of arrangement becomes effective. No further fees or disbursements will be paid to Koskie Minsky for any period after that date.

Yours truly,

David Adderley
Vice President and General Counsel

CC: Bill Kaplan, Q.C.

This is **Exhibit "M"** referred to in the
affidavit of **Andrew J. Hatnay**
sworn before me, this 20th
day of September, 2012

A handwritten signature in black ink, appearing to be 'B. J. Hatnay', written over a horizontal dotted line.

A Commissioner for taking affidavits, etc.

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 AS AMENDED**

AND

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

AND

**IN THE MATTER OF CATALYST PAPER CORPORATION AND THE
PETITIONERS INCLUDED IN APPENDIX "A"**

MONITOR'S EIGHTEENTH REPORT TO COURT

June 23, 2012



APPENDIX B

Statement of Actual Cash Flows for the period January 31 to May 31, 2012



Catalyst Paper Corporation
Statement of Cash Flows - Actual vs. Forecast
For the period of January 31, 2012 to May 31, 2012

	January 31 to April 30		May 1 to May 31		January 31 to May 31
	Actual ¹	Actual	Forecast ²	Variance	Actual
CAD\$ millions	\$	\$	\$	\$	\$
Receipts					
Collection of Trade Accounts Receivable	300.0	112.9	105.4	7.5	412.9
Collection of Other Accounts Receivable	16.8	19.4	9.6	9.8	36.2
Total Receipts	316.8	132.3	115.0	17.3	449.1
Disbursements - Operating					
Total Raw Material and Freight	(133.1)	(49.2)	(59.1)	9.9	(182.3)
Total Production and Operating Costs	(120.7)	(56.5)	(50.1)	(6.4)	(177.2)
Total Employee Costs	(54.1)	(20.0)	(19.9)	(0.1)	(74.1)
Total Property Tax/Insurance/Other Taxes	(2.7)	(1.8)	(0.6)	(1.2)	(4.5)
Total Disbursements - Operating	(310.6)	(127.5)	(129.7)	2.2	(438.1)
Disbursements - Non Operating					
Restructuring Professional Fees	(7.5)	(3.6)	(4.2)	0.6	(11.1)
CCAA Restructuring Costs	(9.2)	(0.9)	(2.9)	2.0	(10.1)
DIP/Revolver Interest and Commitment Fees	(2.3)	0.0	(0.4)	0.4	(2.3)
Total Non Operating Disbursements	(19.0)	(4.5)	(7.5)	3.0	(23.6)
Total Disbursements	(329.6)	(132.0)	(137.2)	5.2	(461.6)
Net Cash Flow	(12.8)	0.3	(22.2)	22.5	(12.5)
Ending Cash	29.2	26.7	29.2	(2.5)	26.7
Less: Cash Collateral held for LCs	(12.8)	(12.8)	(12.8)	0.0	(12.8)
Available Cash	16.4	13.9	16.4	(2.5)	13.9
DIP Revolver Balance End of the Period	82.7	79.3	93.5	(14.2)	79.3
Available Liquidity ³	29.1	35.1	5.3	29.8	35.1

¹ The actual receipts and disbursements from January 31, 2012 to April 30, 2012 have been restated to account for reclassified transactions, backdated transactions and amounts not previously identified in the Statement of Cash Flows, as was presented in the Monitor's 13th Report dated May 9, 2012. The amount totalled approximately \$0.6 million.

² Forecast per the Restated Revised Forecast as included in the Monitor's as included in the Monitor's 13th Report dated May 9, 2012.

³ Available Liquidity is equal to Borrowing Base Availability >\$26.3 million plus Available Cash less DIP Revolver Balance End of Period.