

**ENDORSEMENT OF MADAM JUSTICE PEPALL
DECEMBER 10, 2009**

The Applicants move for a stay extension to and including February 26, 2010, an order authorizing the Applicants to execute an Asset Purchase Agreement (“APA”) with Brookfield Asset Management Inc. (“BAM”) or its designate for the sale of the Applicants’ specialty papers business. Business New Brunswick, a secured creditor, BAM and the directors all support the relief requested. Others are unopposed but reserve their rights to ultimately object to a final approval and vesting order. They include CIT, a secured creditor, the unions, namely CEP and the USW and the non-union employees and retirees who are represented by Davies Ward.

As was done in the Nortel sale to Nokia Siemens Networks B.V. decision, I am approving and accepting the proposed Asset Purchase Agreement with BAM for the purposes of conducting the stalking horse bidding process. With any subsequent approval of a transaction and request for a vesting order, the Applicants will have to satisfy the Court of the *RBC vs. Soundair* (1991) 7 C.B.R. (3rd) 1 (Ont. C.A.) principles and, although not strictly applicable, give consideration to the principals set forth in section 36 of the CCAA, as amended.

The forest products industry is significantly challenged and the Applicants are struggling industry players. The Applicants have determined that a sale of the specialty papers business on a stand-alone basis is the most effective and efficient means of maximizing value for their creditors. The APA provides a floor for the bidding process, gives some certainty to certain stakeholders, including customers and facilitates an exit for the core specialty papers business from creditor protection at the earliest possible time.

The details of the APA transaction are described in Section F of the Monitor’s Sixth Report and I do not propose to reproduce them. The APA is subject to some very significant conditions. Negotiations are ongoing with the unions, CIT and NB Power to mention a few. Mr. Thornton on behalf of the Applicants states that this is a “no stakeholder left behind” kind of plan. That said, the realities of the industry are well known. The stakeholders will have to work diligently in an attempt to achieve a maximized outcome. In this regard, I note that Mr. Thornton on behalf of the Applicants advised the Court that he would take up Mr. Swartz’s offer on behalf of the non-union employees and retirees to assist with the negotiations with the pension regulators. As Mr. Chernos for BAM stated, there is much work to be done.

I do have some concerns about the aggressive timeline for the bid process. Mr. Thornton submits, and I accept, that the timeline is the result of hard bargaining amongst BAM, the Applicants, the Applicants’ financiers and the Monitor. The Monitor supports approval of the APA and the bid process subject to the Monitor’s ability to report back to Court if facts and circumstances require any modification to the terms or timelines of the bid process. If it is perceived by the Monitor that there is a need and a consensus for the timeline to be extended for up to a two week period, that extension is granted without the necessity of a return to Court. I also expect that the Monitor will be involved in the assessment of any bids. Subject to these caveats, the bid process outlined in Schedule “A” to the Order is approved.

Lastly, the Monitor is of the view that the Applicants are acting in good faith and I accept that assessment. They certainly are proceeding with due diligence. The cash flow statements indicate that the Applicants have sufficient liquidity to sustain ordinary course operations throughout the proposed stay extension period which ends on February 26, 2010.

I have executed the amended Order.

Pepall, J.