

Court File No. CV-09-8241-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE) **WEDNESDAY, THE 24TH DAY**
)
JUSTICE PEPALL) **OF FEBRUARY, 2010**

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

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR
ARRANGEMENT WITH RESPECT TO **FRASER PAPERS INC.**, FPS
CANADA INC., FRASER PAPERS HOLDINGS INC., FRASER TIMBER
LTD., FRASER PAPERS LIMITED and FRASER N.H. LLC

Applicants

ORDER

THIS MOTION made by the Applicants for the relief sought in the Notice of Motion herein dated February 20, 2010, was heard this day at 330 University Avenue, in the City of Toronto, Ontario.

ON READING the affidavit of J. Peter Gordon sworn February 20, 2010 (the "February Gordon Affidavit"), the Affidavit of J. Peter Gordon sworn December 3, 2009, the Eighth and Ninth Reports of PricewaterhouseCoopers Inc., in its capacity as court-appointed Monitor, the Supplementary Report to the Monitor's Ninth Report;

ON HEARING submissions of counsel for the Applicants, the Monitor, CIT Business Credit Canada Inc., Brookfield Asset Management Inc. ("BAM"), The Province of New Brunswick ("NB"), Communications, Energy and Paperworkers Union of Canada ("CEP"), the

SNP ✓ Committee Representing Unrepresented Employees and Former Employees (the "Committee") *Tony Madawaska + the water district of Madawaska, Superintendent of*
and certain other counsel in attendance;
Financial Institutions, the USW; ✓
services of others

AND UPON BEING ADVISED that agreements in principle have been reached: (i) among the Applicants, CEP and NB (the "Global Agreement Term Sheet"); and (ii) between the Applicants and NB on behalf of Business New Brunswick with respect to certain outstanding letters of credit relating to the Applicants' cogeneration facility in Edmundston;

Service

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record herein is abridged so that this Motion is properly returnable today and the service of the Notice of Motion and the Motion Record be and is hereby validated in all respects;

Extension of Stay Period

2. **THIS COURT ORDERS** that the Stay Period as described in the Order of this Honourable Court dated June 18, 2009, as amended, be and is hereby extended to and including April 9, 2010.

Approval of Global Agreement Term Sheet

SNP 3. **THIS COURT ORDERS** that the Global Agreement Term Sheet entered into by the Applicants, CEP and NB and annexed as Schedule "A" to this Order be, and it is hereby approved. ✓ For greater certainty, approval of the Global Agreement Term Sheet shall not be taken as precluding the right of any person to subsequently raise issues with respect to the allocation or distribution of proceeds, or final approval of the APA (as defined herein). ✓

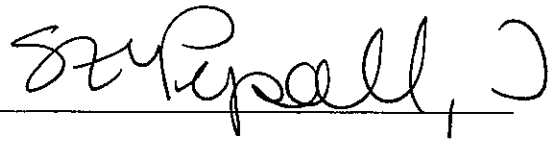
APA Transaction

4. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to execute and deliver such amendments to the asset purchase agreement dated as of December 22, 2009 between the Applicants and BAM or its designate (the "APA") as may be necessary or desirable to reflect, among other things, the Termination Date (as such term is defined in section 15.2(c)(v) of the APA), an increase in the Expense Cap (as defined in the APA and as described in section 16.3 thereof) from \$1 million to \$1.5 million, or any other terms of the APA as may be agreed to by the Applicants, ~~and~~ BAM, including as it relates to the provisions of the Global Agreement Term Sheet.
5. **THIS COURT ORDERS** that the Applicants are hereby authorized to negotiate, execute and deliver all definitive documentation to permit the closing of the APA transaction, including as it relates to the Global Agreement Term Sheet.
6. **THIS COURT ORDERS** that, notwithstanding anything else contained herein, the APA remains subject to final approval of this Honourable Court on a motion returnable prior to any closing of the sale transaction under the APA.
7. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to re-attend before this Honourable Court prior to March 31, 2010 to obtain final approval of the APA, a Vesting Order and related relief to permit the closing of the APA transaction on terms satisfactory to the parties.
8. **THIS COURT ORDERS** that, notwithstanding anything else contained herein, all rights of CIT and BAM be, and are hereby reserved.

✓ an extension of - *SWP*


✓ and the Monitor - *SWP*

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such Orders and to provide such assistance to the Applicants and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.
10. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

FEB 24 2010

PER / PAR:  Joanne Nicoara
Registrar, Superior Court of Justice

TERM SHEET FOR GLOBAL AGREEMENT

Each of the undersigned parties agree to the following:

Sale of Specialty Papers Business

1. The specialty papers business of Fraser Papers Inc. ("FP") and its affiliates under the CCAA proceeding (collectively, the "Applicants") will be sold to a new company or companies pursuant to the Asset Purchase Agreement ("APA") approved by the court on December 10, 2009.

2. Neither Brookfield Asset Management Inc. ("BAM") nor its designate under the APA ("Newco") will have any liability for any obligations or liabilities whatsoever in connection with the registered pension plan in New Brunswick for hourly employees (the "NB Hourly Plan) or for any termination, severance or related amounts which any current or former employee of the Applicants could assert against the Applicants.

3. FP will request that Newco: (i) allow the CEP national union to nominate one of the two independent directors to Newco's board of directors; (ii) allow the other unsecured creditors of FP to nominate the second independent director to Newco's board of directors; and (iii) ensure that the independent directors of Newco are approved by the majority of the three non-independent directors and have the same rights and responsibilities as the three non-independent directors of Newco.

4. On closing of the APA, FP will deliver an irrevocable Direction to Newco to direct that the following fixed payments be made to the Outside Trust Fund [as defined in paragraph 18(c)] on the following dates in consideration for the closing of the APA:

- | | | |
|-----|------------------|--------------|
| (a) | October 1, 2011: | CDN\$437,500 |
| (b) | March 31, 2012: | CDN\$437,500 |
| (c) | October 1, 2012: | CDN\$437,500 |
| (d) | March 31, 2013: | CDN\$437,500 |
| (e) | October 1, 2013: | CDN\$437,500 |
| (f) | March 31, 2014: | CDN\$437,500 |
| (g) | October 1, 2014: | CDN\$437,500 |
| (h) | March 31, 2015: | CDN\$437,500 |

- (i) October 1, 2015: CDN\$437,500
- (j) March 31, 2016: CDN\$437,500
- (k) October 1, 2016: CDN\$437,500
- (l) March 31, 2017: CDN\$437,500
- (m) October 1, 2017: CDN\$437,500
- (n) March 31, 2018: CDN\$437,500

Collective Agreements and Related Agreements

5. All existing collective agreements with the exception of Thurso will be amended through a signed Memorandum of Settlement with each union local to delete all references to the existing defined benefit pension plans.

6. The collective agreements between CEP and FP will be amended to reflect that FP agrees to discuss with CEP the possibility of replacing the defined contribution pension plan under the existing collective agreements in New Brunswick (the "DC Plan"), with a fixed contribution pension plan for future years of service. If FP and CEP reach such agreement, FP's obligation or liability in respect of such plan shall not exceed the contribution set out in the collective agreement for the DC Plan, and FP shall have no obligation in respect of any unfunded liability or deficit of any kind now or in future.

7. CEP and FP agree that bargaining unit members in New Brunswick who are in receipt of LTD benefits at the date of the sale to Newco will remain the responsibility of FP and their LTD benefits will be provided on the basis set out in the applicable collective agreement without considering the amendments to the LTD provision of the collective agreement that are part of the collective agreement amendments referred to above. LTD benefits will continue to be paid out of the health and welfare trust.

8. All CEP locals in New Brunswick will arrange for a ratification vote and provide a favourable recommendation to unionized employees by no later than March 10, 2010. The national office of the CEP will endorse the recommendation of the locals to support ratification of the new collective agreements in accordance with this term sheet.

Pension Plan and Claims

9. The parties share the goal of taking steps to minimize the impact of the restructuring of FP on pensioners and current and former employees. For this purpose, the parties agree to the following means of addressing the NB Plans.

10. FP will assign senior management to work diligently with the CEP and Davies Ward Phillips & Vineberg LLP, court-appointed representative counsel for the unrepresented employees and former employees ("Davies") to pursue coverage under the Ontario Pension Benefit Guarantee Fund ("PBGF") for salaried and unionized employees and former employees

who have earned service in Ontario (the "Ontario Members"), including of the former Thorold paper mill employees, in order to mitigate the impact of any pension deficiency on those members. If a commitment is received from the PBGF, the Ontario Members will be separated from the NB Hourly Plan and a wind up for the Ontario Members will be implemented.

11. FP will make any necessary application under the PBGF to seek such coverage.
12. FP will work diligently with the CEP and Davies to request the Province of Quebec to provide members of the defined benefit pension plans registered in the Province of Quebec (the "Quebec Plans") with the pension treatment contemplated by Section 230.0.0.1 to 230.0.11 of the Supplemental Pension Plans Act (the "SPPA") in Quebec so that members will have the option to transfer their assets out of the Quebec Plans to a vehicle administered by the Regie des rentes du Quebec (the "Regie") in accordance with the SPPA. FP and the CEP will also request the Province of Quebec to expand the availability and timeframe of this election beyond those members who are eligible for an immediate pension under the Quebec Plans upon termination of the plans.
13. FP will facilitate discussions between CEP and any purchaser of the Thurso facility.
14. The APA provides that Newco will establish a new defined contribution pension plan ("Newco DC Hourly Plan") for all future service of transferred unionized employees, which will contain the same defined contribution formula that currently exists under Appendix A of the existing NB Hourly Plan. No further credited service will accrue under the NB Hourly Plan following the closing of the APA, and there will no longer be any active members contributing to the NB Hourly Plan.
15. Newco will not have any liability (including any funding or pension benefit payment obligations) in respect of the existing NB Hourly Plan, and all liabilities will remain as unsecured obligations of FP with no recourse to Newco.
16. In accordance with paragraph 17(c), the NB Hourly Plan will receive, directly or indirectly, a *pro rata* share (based on the size of the NB Hourly Plan's claim relative to the aggregate claims of all unsecured creditors of the Applicants) of that portion of the consideration payable by Newco under the APA (49% equity in Newco and USD\$40 million promissory notes), which will be available to the Applicants' unsecured creditors in accordance with their respective priority. The *pro rata* share of the consideration held by the NB Hourly Plan is referred to herein as the "APA Consideration". The promissory notes comprising the APA Consideration shall have a term of eight (8) years, with all other promissory notes having a term of ten (10) years.
17. All parties request that the Province of New Brunswick (the "PNB") and the Superintendent of Pensions for New Brunswick (the "Superintendent") implement a structure and framework for addressing the existing deficit and claims under the NB Hourly Plan as follows:
 - (a) FP and CEP will jointly seek regulatory relief for the NB Hourly Plan by way of a Special Regulation that would:

- (i) exempt the NB Hourly Plan from certain funding obligations otherwise applicable on pension plan wind up under the NB Pension Benefits Act;
 - (ii) if necessary, expire on the Final Wind Up Date (defined below), at which time the wind up of the NB Hourly Plan would be completed and a distribution of the available pension assets would occur;
 - (iii) provide for a strict *pro rata* distribution of assets subject to each member receiving at least their own contributions with interest;
 - (iv) not involve any guarantee or assurance by PNB with respect to the funded status of the NB Hourly Plan;
 - (v) confirm that service and age are crystallized at the Original Wind Up Date and that earnings are frozen as at November 1, 2009;
- (b) the Superintendent will order a wind up of the NB Hourly Plan effective prior to the closing of the APA and in conjunction with the Vesting Order to be obtained in the CCAA proceeding, at which time an administrator (the "Administrator") would be appointed over the NB Hourly Plan (the "Original Wind Up Date"). The Administrator will ensure that, other than with respect to adjustments to pensions, the administration of the NB Hourly Plan is continuous and there is no interruption of benefit payments to plan members. The transfer of the NB Hourly Plan will be in accordance with the relevant New Brunswick legislation. Until an Administrator is appointed for the NB Hourly Plan, FP will retain responsibility for administering the NB Hourly Plan;
- (c) the APA Consideration will be deposited into a trust fund which will be settled by FP for the sole benefit of the NB Hourly Plan and will be separate and distinct from each of the NB Hourly Plan's pension funds (collectively, the "Outside Trust Fund");
- (d) other than ongoing pensions which will continue or commence to be paid to retirees or surviving spouses from the NB Hourly Plan, or death benefits for active members, the purchase of annuities and distribution of pension assets from the NB Hourly Plan will not occur until:
- (i) the proceeds from the APA Consideration can be contributed to the NB Hourly Plan or the trustee of the Outside Trust Fund determines and advises the Superintendent that the APA Consideration will not be distributed to the NB Hourly Plan in another manner; and
 - (ii) the Administrator of the NB Hourly Plan makes a decision to purchase annuities and distribute the pension assets;
- but in no event will the final wind up of the NB Hourly Plan be later than April 1, 2018 (the "Final Wind Up Date");
- (e) subject to the oversight of the Superintendent, the Administrator will determine the percentage by which pension benefits are to be reduced, having regard to the potential

value of the APA Consideration, with the opportunity for further adjustments subject to the financial position of the NB Hourly Plan;

(f) with respect to the Outside Trust Funds, the administration, appointment of trustee(s) and role and responsibilities of the trustees will be determined by the parties, subject to Court approval, and will include:

- (i) a provision to ensure that CEP has exclusive control in relation to the Outside Trust Fund for the NB Hourly Fund;
- (ii) the methodology for valuing the APA Consideration held in the Outside Trust Fund on a regular basis;
- (iii) the timing of redemption of the APA Consideration;
- (iv) voting of shares in Newco;
- (v) obligation to pay proceeds from the realization of the APA Consideration;
- (vi) reporting to unions, retirees and members; and
- (vii) the ability to retain experts and purchase fiduciary liability insurance, the funding for which will be addressed in the definitive documents.

(g) none of the PNB, the Superintendent, the Administrator of the NB Hourly Plan, the Applicants, CEP, BAM, Newco, or any trustees of the Outside Trust Fund will be liable for any decrease in the current value of the NB Hourly Plan assets at any time and for any reason other than fraud or gross negligence, and the beneficiaries of the NB Hourly Plan shall have no claim against any of those parties at any time.

Other Proceedings, Releases, Further Assurances

18. The labour board and grievance proceedings commenced by the CEP in Ontario, New Brunswick and Quebec as described in the tolling agreement dated January 8, 2010 will be withdrawn and terminated. No similar proceedings will be brought at any time relating in any way to the Applicants, the NB Hourly Plan, the defined benefit pension plan for salaried members in New Brunswick or the two defined benefit pension plans registered in the Province of Quebec (collectively, the four registered pension plans being referred to herein as the "Pension Plans") or any facts existing as at this date (whether known or unknown), and the withdrawal of the existing proceedings will operate as a complete bar to any further similar applications or proceedings.

19. CEP agrees that no arbitrator or any other decision maker or regulatory body will have jurisdiction to entertain any grievance or application or proceeding filed by the CEP, the pensioners or the employees against Newco or any affiliate of Newco with respect to the NB Hourly Plan, save and except for a claim for collection of an amount due and not paid pursuant to paragraph 4 of this Term Sheet.

20. Each of: (i) the Applicants' directors and officers; and (ii) BAM and its directors and officers shall be released from all claims relating to all facts and circumstances in respect of the Applicants existing as at this date (whether known or unknown) and the completion of the APA.

21. PNB, the Superintendent and the Administrator(s) of the NB Hourly Plan shall be released from all claims in respect of the NB Hourly Plan existing as at this date (whether known or unknown) and the implementation of the wind up of the NB Hourly Plan and any actions contemplated by this Term Sheet.

22. The CEP will not take a position adverse to FP or Newco with respect to any action of the pension regulators in Quebec, New Brunswick or Ontario or the Canada Revenue Agency or any other regulator or administrative body that is taken against FP or Newco as a consequence of FP and Newco fulfilling their obligations under this Term Sheet.

23. Provided the APA closes by no later than March 31, 2010, FP agrees to reimburse actual expenses incurred by CEP (including legal and actuarial fees) in connection with the negotiation of this term sheet and definitive documentation up to the maximum amount of CDN\$50,000.

24. The parties will negotiate a definitive agreement to provide for the establishment of such other trust(s) or arrangements as may be appropriate for purposes of holding and distributing the balance of any consideration that may become payable by Newco under the APA to the Applicants' unsecured creditors.

25. The parties will execute a definitive global agreement and ancillary documents for the purpose of giving effect to the terms contained herein and to more fully reflect the agreement in principle embodied in this Term Sheet, but not for the purpose of introducing any other term or substantive matter not otherwise addressed herein.

26. If any dispute arises in connection with the negotiation, execution and delivery of a definitive global agreement that cannot be resolved by the parties with the assistance of the Monitor, the parties agree that such issue can only be determined by motion brought within the CCAA proceeding.

27. This term sheet may be executed in counterparts. Each part, when taken together shall constitute one and the same agreement.

Dated at Toronto this 24th day of February, 2010.

**FRASER PAPERS INC., FPS CANADA INC., FRASER PAPERS HOLDINGS INC.,
FRASER TIMBER LIMITED., FRASER PAPERS LIMITED, FRASER N.H. LLC**

Per: Peter Gordon
(I have authority to bind these parties)

**THE MINISTER OF JUSTICE AND CONSUMER AFFAIRS
FOR THE PROVINCE OF NEW BRUNSWICK**

Per: Suzanne Bonnell-Burley, Q.C.
(I have authority to bind this party)

**THE SUPERINTENDENT OF PENSIONS FOR THE PROVINCE OF NEW
BRUNSWICK**

Per: Angela Mazerolle Stephens
(I have authority to bind this party)

COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF CANADA

Per: Fred Wilson
(I have authority to bind this party)

**COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF CANADA,
LOCAL 29 (Cleaning Staff)**

Per: Doris Lavoie
(I have authority to bind this party)

**COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF CANADA,
LOCAL 29 (Office Workers)**

Per: Doris Lavoie
(I have authority to bind this party)

**COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF CANADA,
LOCAL 6N**

Per: Pierre Picard
(I have authority to bind this party)

**COMMUNICATIONS, ENERGY AND PAPERWORKERS UNION OF CANADA,
LOCAL 4N**

Per: Raymond Martin
(I have authority to bind this party)

**LE SYNDICATE CANADIEN DES COMMUNICATIONS, DE L'ENERGIE ET DU
PAPIER, SECTION LOCAL 894 (Thurso)**

Per: Christian Pilon
(I have authority to bind this party)

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

AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO FRASER PAPERS INC., FPS CANADA INC., FRASER PAPERS HOLDINGS INC., FRASER TIMBER LTD., FRASER PAPERS LIMITED and FRASER N.H. LLC (collectively, the "Applicants")

Court File No.: CV-09-8241-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceedings commenced at Toronto

ORDER

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