

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	THURSDAY, THE 27 th
)	
JUSTICE PEPALL)	DAY OF MAY, 2010

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

AND IN THE MATTER OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF SMURFIT-STONE
CONTAINER CANADA INC. AND THE OTHER
APPLICANTS LISTED ON SCHEDULE "A"

Applicants



VESTING ORDER

(ACQUIRED ASSETS OUTSIDE OF QUEBEC AND ONTARIO)

THIS MOTION made by the Applicants listed on Schedule "A" (other than Stone Container Finance Company of Canada II) and the Partnerships listed on Schedule "B" (the "Partnerships") for an order vesting the title and interest of Smurfit-Stone Container Canada Inc., MBI Limited/Limitée, Smurfit-MBI LP, Francobec Company and B.C. Shipper Supplies Ltd. (together, the "Sellers") in and to the Acquired Assets (as defined in the Asset Purchase Agreement attached in draft as Exhibit 6 to the Joint Plan of Reorganization for Smurfit-Stone Container Corporation and its Debtor Subsidiaries and Plan of Compromise and Arrangement for Smurfit-Stone Container Canada Inc. and Affiliated Canadian Debtors sanctioned by Order of this Honourable Court dated May 13, 2010 (the "**Plan**") as

may be altered, amended, modified or supplemented from time to time in accordance with the Plan (the "**Asset Purchase Agreement**") located, or relating to operations or businesses, outside of Quebec and Ontario in Smurfit-Stone Container Canada, L.P., a limited partnership existing under the laws of the Province of Ontario (the "**Purchaser**"), or its general partner was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Thirteenth, Fifteenth and Sixteenth Reports of the Monitor and the draft vesting orders relating to Acquired Assets located, or relating to operations or businesses, within Quebec and Ontario and on hearing the submissions of counsel for the Applicants and Partnerships and the Monitor,

DEFINITIONS

1. **THIS COURT ORDERS** that capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Plan or the Asset Purchase Agreement.

SERVICE

2. **THIS COURT ORDERS AND DECLARES** that there has been good and sufficient service of notice of this motion, and this motion is properly made returnable today and any further service of the Notice of Motion and the Motion Record upon any interested party is unnecessary and is hereby dispensed with.

TRANSFER OF THE ACQUIRED ASSETS

3. **THIS COURT ORDERS** that 3242795 Nova Scotia Limited, the general partner of the Purchaser ("**3242795**"), may hold registered title to certain of the Acquired Assets pursuant to one or more nominee agreement(s), in which

case references to the Purchaser in this Order shall mean 3242795, as applicable, and the Land Titles Office or the Registrar of Land Titles, as the case may be, is hereby directed to comply with the terms of this Order on that basis.

4. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Exhibit "1" hereto (the "**Monitor's Certificate**"), all of the Sellers' right, title and interest in and to the Acquired Assets described in the Asset Purchase Agreement located, or relating to operations or businesses, outside of Quebec and Ontario, including, without limitation, the owned real property and leased property described in Schedules 2.01(1)(a) and 2.01(1)(b) and the Assumed Contracts described in Section 2.01(h) thereto, shall vest absolutely and exclusively in the Purchaser free and clear of all Liens, Claims, interests and encumbrances, including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the CCAA Initial Order; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed in Schedules "C" to "F" under the headings "Alberta Discharged Encumbrances", "British Columbia Discharged Encumbrances", "Manitoba Discharged Encumbrances" and "Saskatchewan Discharged Encumbrances" (all of which are collectively referred to as the "**Discharged Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed in Schedules "C" and "F" under the headings "Alberta Assumed Encumbrances" and "Saskatchewan Assumed Encumbrances" nor the encumbrances listed in Schedule 3.01(d) of the Asset Purchase Agreement, which are collectively referred to as the "**Assumed Encumbrances**") and, for greater certainty, this Court orders that all of the Discharged Encumbrances

affecting or relating to the Acquired Assets located, or relating to operations or businesses, outside of Quebec and Ontario are hereby expunged and discharged as against the Acquired Assets.

5. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof.
6. **THIS COURT ORDERS** that the Purchaser and/or its directors, officers and agents shall be and are hereby authorized to take any and all actions necessary or appropriate, including on behalf of the Applicants and Partnerships other than Stone Container Finance Company of Canada II and 605681 N.B. Inc. (the "**Approving Debtors**"), to cause the conveyance, transfer and assignment of good and marketable title to the Acquired Assets to the Purchaser, including by executing such documents or making such filings or exercising such remedies as may be necessary or desirable.
7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicants and Partnerships are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the their records pertaining to the past and current employees of the Applicants and Partnerships. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicants and Partnerships.
8. **THIS COURT ORDERS** that, notwithstanding:
 - (a) the pendency of these proceedings;
 - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of

any of the Applicants and Partnerships and any bankruptcy order issued pursuant to any such applications; and

- (c) any assignment in bankruptcy made in respect of the Applicants and Partnerships;

the vesting of the Acquired Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and Partnerships and shall not be void or voidable by creditors of the Applicants and Partnerships, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT ORDERS** that, except as otherwise provided in the Plan, as of the Effective Date, each of the Approving Debtors shall be deemed to have ratified each executory contract and unexpired lease to which it is a party and such contracts and leases shall be in full force and effect, unless such contract or lease: (a) was previously repudiated or terminated by such Approving Debtor, (b) previously expired or terminated pursuant to its own terms, or (c) was amended as evidenced by a written agreement with the Approving Debtor and in such case the amended contract or lease shall be deemed ratified. No Person who is a party to an obligation or agreement with the Approving Debtors shall, following the Effective Date, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of such obligation or agreement by reason of:

- (a) any event(s) which occurred on or prior to the Effective Date that would have entitled any other Person party thereto to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of the Applicants and Partnerships);
 - (b) the fact that the Applicants and Partnerships have sought or obtained relief under the CCAA or that the reorganization, including the sale, conveyance, transfer and assignment of the Acquired Assets, has been implemented by the Applicants and Partnerships;
 - (c) the effect on the Applicants and Partnerships of the completion of any of the transactions contemplated by the Plan; or
 - (d) any compromises or arrangements effected pursuant to the Plan.
10. **THIS COURT ORDERS THAT**, from and after the Effective Date, all Persons shall be deemed to have waived any and all defaults of the Approving Debtors (except defaults under the contracts, instruments, releases and other documents delivered under the Plan or entered into in connection therewith or pursuant thereto) then existing or previously committed by the Approving Debtors or caused by the Approving Debtors, directly or indirectly, or non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, express or implied, in any contract, credit document, agreement for sale, lease or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Approving Debtors arising from the financial condition or insolvency of any of the Applicants or Partnerships or the other Debtors, the filing by the Applicants and Partnerships under the CCAA or the transactions contemplated by the Plan, including the sale, conveyance, transfer and assignment of the Acquired Assets and the failure by any of the Approving Debtors or the Purchaser to receive any consent from such Person to the sale, conveyance, transfer and assignment of the Acquired Assets, and any and all notices of default and demands for payment under any instrument, including

any guarantee arising from such default, shall be deemed to have been rescinded.

DIRECTIONS RELATING TO REAL PROPERTY

ALBERTA

11. **THIS COURT ORDERS** that, subject to the Alberta Assumed Encumbrances described in Schedule "C", upon being presented with an original letter from counsel to the Applicants and Partnerships directed to the Alberta Land Titles Office confirming receipt of all of the cash balance of the Purchase Price contemplated in section 2.03 of the Asset Purchase Agreement, an Affidavit of Value as prescribed by the *Land Titles Act* (Alberta), and a certified copy of this Order, the Alberta Land Titles Office be and is hereby authorized and directed to cancel the existing certificate of title to the real property identified in Schedule "C" (the "**Alberta Real Property**"), and to issue a new certificate of title in the name of 3242795 Nova Scotia Limited, located at 1035 Hodge Street, Suite A, Montreal, Quebec, H4N 2B4, as specifically set out in the said letter, free and clear of all encumbrances, whether registered before or after the date of this Order, subject only to the Alberta Assumed Encumbrances listed in Schedule "C".
12. **THIS COURT ORDERS** that the cancellation of title and issuance of a new title and discharge of instruments, including the Alberta Discharged Encumbrances listed in Schedule "C", as set out paragraph 11 shall be registered notwithstanding the requirements of Section 191(1) of the *Land Titles Act* (Alberta), R.S.A. 2000, c.L-4.

BRITISH COLUMBIA

13. **THIS COURT ORDERS** that upon the registration in the Land Title Office for the applicable Land Title District identified in Schedule "D" of a certified

copy of this Order, the Registrar of Land Titles for such Land Title District (the "**Registrar**") is hereby directed to convey to and vest in the Purchaser, as the registered owner in fee simple of the real property and real property interests referred to as 351 Gifford Street, New Westminster, British Columbia and legally described in Schedule "D" (the "**British Columbia Real Property**"), together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licences, rights, covenants, restrictive covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, without further instrument of transfer or discharge, free and clear of the charges to be discharged in accordance with paragraph 14 of this Order.

14. **THIS COURT ORDERS** that the Registrar is hereby directed to discharge, cancel and release from title to the British Columbia Real Property all of the Claims, including the British Columbia Discharged Encumbrances listed on Schedule "D".

MANITOBA

15. **THIS COURT ORDERS** that upon the registration in the Land Titles Office for the applicable Land Title District identified in Schedule "E" of a certified copy of this Order, the Registrar of Land Titles is hereby directed to enter 3242795 Nova Scotia Limited, whose name and address for service is 3242795 Nova Scotia Limited, 1035 Hodge Street, Suite A, Montreal, Quebec, H4N 2B4, as the registered owner on title of the real property and real property interests referred to as 1360 Inkster Boulevard, Winnipeg, Manitoba, described in Schedule "E" (the "**Manitoba Real Property**"), together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licences, rights, covenants, restrictive

covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of owned Manitoba Real Property, and is hereby directed to discharge, release, delete and expunge from title to the Manitoba Real Property the Manitoba Discharged Encumbrances listed in Schedule "E".

SASKATCHEWAN

16. **THIS COURT ORDERS** that upon the registration in the Land Title Office for the applicable Land Title District identified in Schedule "F" of a certified copy of this Order, and upon payment of any applicable registration fees, the Registrar of Land Titles is hereby directed to cancel the existing title to the real property referred to as 1400 1st Avenue, Regina, Saskatchewan, described in Schedule "F" (the "**Saskatchewan Real Property**"), and to issue a new title to the Saskatchewan Real Property in the name of 3242795 Nova Scotia Limited, located at 1035 Hodge Street, Suite A, Montreal, Quebec, H4N 2B4, free and clear of all encumbrances, whether registered before or after the date of this Order, save and except for the Saskatchewan Assumed Encumbrances listed in Schedule "F".

ADDITIONAL PROVISIONS

17. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada (including, without limitation, the assistance of any court in Canada pursuant to section 17 of the CCAA) or in the United States to give effect to this Order and to assist the Applicants and Partnerships and the Monitor and their 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

Partnerships and to 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 Partnerships and the Monitor and their agents in carrying out the terms of this Order.

sc Repall J.

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

MAY 27 2010

PER / PAR:



SCHEDULE "A"

Smurfit-Stone Container Canada Inc.

3083527 Nova Scotia Company

MBI Limited/Limitée

639647 British Columbia Ltd.

B.C. Shipper Supplies Ltd.

Specialty Containers Inc.

605681 N. B. Inc.

Francobec Company

Stone Container Finance Company of Canada II

SCHEDULE "B"

Smurfit-MBI LP

SLP Finance General Partnership

SCHEDULE "C" - ALBERTA REAL PROPERTY

1115 24th Avenue S.E., Calgary, Alberta

Legal Description:

1. Plan 981 1 817
Lot 8
Excepting Thereout All Mines and Minerals

Alberta Discharged Encumbrances:

2. Instrument number 041 410 757, being a mortgage registered October 28, 2004.
3. Instrument number 041 418 921, being a caveat regarding assignment of rents registered November 3, 2004.

Alberta Assumed Encumbrances:

4. Instrument number 135 IO, being a utility right of way.
5. Instrument number 771 147 064, being the Calgary International Airport Zoning Regulations.

SCHEDULE "D" - BRITISH COLUMBIA

351 Gifford Street, New Westminster, British Columbia

Legal Description:

1. PID: 027-465-829, Lot A, District Lot 758, Group 1, New Westminster, District Plan BCP 35830

Applicable Land Title District:

2. New Westminster Land Title District

British Columbia Discharged Encumbrances:

3. Claim of builders lien in favour of Vriezen Construction Ltd., registered on February 10, 2009 under number BB921631.

SCHEDULE "E" - MANITOBA REAL PROPERTY

1360 Inkster Boulevard, Winnipeg, Manitoba

Legal Description:

1. Lot 1, Plan 18757 WLTO, in OTM Lots 1 to 3, Parish of Kildonan, as described on Title No. 1731611.

Applicable Land Title District:

2. Winnipeg

Manitoba Discharged Encumbrances:

3. Mortgage in favour of Deutsche Bank Trust Company Americas in the amount of \$1,500,000,000.00 registered on November 9, 2004 under number 3062027
4. Personal Property Security Notice (PPSN No. 200419267103, Expires October 26, 2014) in favour of Deutsche Bank Trust Company Americas, registered on November 9, 2004 under number 3062028.
5. Builders lien in favour of Concrete Restoration Services Ltd. in the amount of \$2,517.50 registered on February 5, 2009 under number 3732976.

SCHEDULE "F" - SASKATCHEWAN REAL PROPERTY

1400 1st Avenue, Regina, Saskatchewan

Legal Description:

1. Lot 12, Plan No. FN 5273 Extension 0, as described on Certificate of Title 84R25309 (Surface Parcel No. 111966914).

Applicable Land Title District:

2. Province of Saskatchewan Land Titles Registry

Saskatchewan Discharged Encumbrances:

3. Mortgage in favour of Deutsche Bank Trust Company Americas in the amount of \$1,500,000,000.00 registered on November 1, 2004 under Interest Register #109376736.
4. Assignment of Rents in favour of Deutsche Bank Trust Company Americas, registered on November 4, 2004 under Interest Register #109376736.

Saskatchewan Assumed Encumbrances:

5. CNV Easement in favour of Saskatchewan Power Corporation and Saskatchewan Telecommunications registered on March 3, 1986 under Interst Register #101629908.

Exhibit 1 - Form of Monitor's Certificate

Court File No. CV-09-7966-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

**AND IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C.
1985, C. B-3, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
SMURFIT-STONE CONTAINER CANADA INC. AND THE OTHER APPLICANTS
LISTED ON SCHEDULE "A"**

MONITOR'S CERTIFICATE

RECITALS

(A) Pursuant to an Order of the Honourable Mme. Justice Pepall of the Ontario Superior Court of Justice (the "Court") dated January 26, 2009, as amended and restated, Deloitte and Touche Inc. was appointed as the Monitor of the Applicants and Partnerships listed on Schedules "A" and "B" hereto.

(B) Pursuant to an Order of the Court dated May 13, 2010 (the "Sanction Order") the Court sanctioned and approved the Joint Plan of Reorganization for Smurfit-Stone Container Corporation and its Debtor Subsidiaries and Plan of Compromise and Arrangement for Smurfit-Stone Container Canada Inc. and Affiliated Canadian Debtors, as may be altered, amended, modified or supplemented from time to time in accordance with its terms (the "Plan"), and authorized and directed the Approving Debtors and the Monitor to take all actions necessary or appropriate to implement the Plan, including by executing the Asset Purchase Agreement and seeking a vesting order with respect to the transfer of the Acquired Assets (the "Transaction").

(C) Pursuant to an Order of the Court dated May 27, 2010, the right, title and interest in and to the Acquired Assets of Smurfit-Stone Container Canada Inc., MBI Limited/Limitée, Smurfit-MBI LP, Francobec Company and B.C. Shipper Supplies Ltd., is to vest in the Purchaser, which is to be effective with respect to the Acquired Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming receipt of an officer's certificate from the Sellers that (a) the Asset Purchase Agreement has been executed and delivered; (b) the Purchaser has paid and the Sellers have received the Purchase Price for the Acquired Assets payable on the Effective Date pursuant to the Asset Purchase Agreement, including the SSC Canada Distribution Pool and the Smurfit-MBI Distribution Pool; (c) the Sellers have advised the Monitor that all conditions to the Effective Date have been satisfied or waived, save and except for the registration of the Vesting Order with the Land Registries; and (d) the Sellers have advised the Monitor that the Transaction has been completed to their satisfaction.

(D) Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Plan or the Asset Purchase Agreement.

THE MONITOR CERTIFIES the following:

- (a) The Sellers have advised the Monitor that the Asset Purchase Agreement has been executed and delivered;
- (b) The Sellers have advised the Monitor that the Purchaser has paid and the Sellers have received the Purchase Price for the Acquired Assets payable on the Effective Date pursuant to the Asset Purchase Agreement, including the SSC Canada Distribution Pool and the Smurfit-MBI Distribution Pool;
- (c) The Sellers have advised the Monitor that all conditions to the Effective Date have been satisfied or waived, save and except for the registration of the Vesting Order with the Land Registries; and
- (d) The Sellers have advised the Monitor that the Transaction has been completed to their satisfaction.

This Certificate was delivered by the Monitor at ____ [TIME] on ____ [DATE].

DELOITTE AND TOUCHE INC.
solely in its capacity as monitor of the
Applicants and Partnerships listed on
Schedule "A" and "B" hereto and not in
its personal capacity.

By: _____

Name:

Title:

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, C. C-36, AS AMENDED AND IN THE MATTER OF THE BANKRUPTCY
AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED AND IN THE MATTER
OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SMURFIT-STONE
CONTAINER CANADA INC. AND THE OTHER APPLICANTS LISTED ON
SCHEDULE "A"

Court File No: CV-09-7966-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

VESTING ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Sean Dunphy LSUC#: 24941J
Tel: (416) 869-5662
Alexander Rose LSUC#: 49415P
Tel: (416) 869-5261
Fax: (416) 947-0866

Lawyers for the Applicant