

JAN 27 2017

SUPREME COURT OF NOVA SCOTIA

IN THE MATTER OF:

Application by Hefler Forest Products Limited (the “**Applicant**”) for relief under the *Companies’ Creditors Arrangement Act*

AFFIDAVIT

I, Floyd Gaetz. of Halifax, in the Province of Nova Scotia, make oath and say as follows:

1. I am the President of Hefler Forest Products Limited (“**HFPL**”), the applicant herein.
2. I have personal knowledge of the evidence sworn in this affidavit except where otherwise stated to be based on information or belief.
3. I state, in this affidavit, the source of any information that is not based on my own personal knowledge, and I state my belief of the source.
4. This affidavit is provided in support of an application by HFPL for an order extending the stay of proceedings to March 31, 2017 and to direct and empower the Monitor to receive, hold and deal with the net closing proceeds from a sale of assets of HFPL pursuant to a sale agreement approved by the Court and other funds of HFPL which may be on hand after such a closing.

Background

5. Hefler Forest Products Limited carried on an integrated saw mill and biomass power generating business on approximately 15 acres of land at Beaverbank Nova Scotia. It has 59 employees.
6. Hefler Forest Products Limited had carried on business at the same site as a sawmill for approximately 150 years until it was purchased by the current owners in December 2013. At the time of purchase it was producing approximately 14,000 board feet per day of finished product.

7. The new owners set out to make improvements to the sawmill by investing in, upgrading, rebuilding, or replacing most of the sawmill's components to the point where it was producing 60-65,000 board feet a day prior to a recent seasonal shutdown. The Applicants plan had been to further increase production to 70-75,000 board feet a day resulting in a lower cost per thousand board feet produced. As to obtain the increased production a capital investment was required of an additional \$750,000 – 900,000 these plans were put on hold.
8. The new owners also set out to construct on its property a biomass power generator. The power generator to be fueled by waste biomass created in the sawmill operation, (approximately 80%) the balance of required biomass to be purchased from third parties. The Applicant entered into a 20 year "Power Purchase Agreement for Renewable Energy" with Nova Scotia Power Inc. ("NSPI") under the COMFIT (Community Feed-In Tariff) Program at rates as approved for such projects by the Nova Scotia Utility and Review Board.
9. The Power Generator was commissioned on July 1, 2015 (it had been intended to be commissioned on April 1). Since its commissioning HFPL has been selling power to NSPI pursuant to the terms of the Power Purchase Agreement.
10. The Applicant believed that with some improvements the power generator could generate and sell even more power to NSPI but cash flow restraints limited its ability to make the required improvements.
11. The sawmill and power plant had become fully operational prior to June 30, 2016 notwithstanding delays and the need to deal with the approximately \$3,000,000 of uninsured losses from a fire and roof collapse.
12. As of June 30th, 2016 a total of \$30,064,544 had been loaned to or invested in the Applicant, by the Royal Bank ("RBC"), the Business Development Bank ("BDC"), and by the Applicant's current shareholders.
13. Balances of amounts lent or invested as at June 30, 2016 were approximately:
 - (a) RBC - \$11,315,344
 - (b) BDC - \$ 3,000,000
 - (c) Applicant's Shareholders - \$15,608,131
14. The funds lent or invested in the Applicant had been largely used as follows:

Construction – new 3.7 MW biomass power	\$18,221,294.00
Sawmill investment and refurbishment	\$ 7,028,366.00
Accumulated losses since December 2013	<u>\$ 4,911,894.00</u>

	<u>\$30,161,544.00</u>
Difference – from unsecured creditors	<u>\$ (97,010.00)</u>
	\$30,064,544.00

15. On August 2, 2016, this Honourable Court saw fit to issue an Order providing for a stay of proceeding against HFPL up to and including September 22, 2016 and approving DIP Financing in the amount of \$1,000,000.00.
16. On September 22, 2016 the applicant appeared before this Honourable Court to request an order extending the stay of proceedings and for a “Claims Procedure Order”.
17. The hearing was adjourned to September 27, 2016 with an extension of the stay until the conclusion of the adjourned hearing on September 27, 2016.
18. On September 27, 2016 this Honourable Court saw fit to issue Orders:
 - (a) Extending the stay of proceedings to November 24, 2016; and
 - (b) Establishing a claims procedure.
19. The original Stay of Proceedings, the DIP financing and subsequent extensions of the Stay of Proceedings had been sought to provide HFPL with time to seek out qualified persons with an interest in acquiring or investing in HFPL to enable of HFPL to bring forth a Plan of Arrangement.
20. On November 24, 2016 this Honourable Court issued an Order further extending the stay to January 20, 2017.
21. On January 19, 2017 this Honourable Court issued an Order further extending the stay to February 3, 2017.

Sale/Investment Process

22. HFPL with the assistance of Grant Thornton Finance Inc. (“**GTFI**”) had, since August of 2016, been seeking expressions of interest for investment in or purchase of HFPL or its assets.
23. A number of expressions of interest (“**EOI**”) were received.
24. Copies of all EOI’s received were provided to RBC and BDC.

25. With the consent of RBC and BDC, HFPL accepted an Expression of Interest from a prospective purchaser. The EOI contemplated the purchase of substantially all of HFPL's operating assets.
26. The EOI contained no binding terms other than HFPL's agreement that until January 7th, 2017 HFPL would not solicit offers or enter into negotiations of any kind with any other party relating to the sale of any of HFPL's operating assets. The exclusivity provision was subsequently extended to January 13, 2017.
27. The EOI contemplated among other things:
 - (a) The prospective purchaser completing certain due diligence;
 - (b) The negotiation of a binding Purchase Agreement, the Purchase Agreement to contain a number of conditions precedents;
 - (c) Court approval of the sale;
 - (d) Closing of a sale transaction on January 7, 2017.
28. As noted on November 24, 2016 this Honourable Court saw fit to issue an Order extending the Stay of Proceedings to January 20, 2017 to provide HFPL time to engage in negotiations with the prospective purchaser and conclude an Agreement of Purchase and Sale;
29. The Order granted on November 24, 2016, directed and empowered the Monitor to assist HFPL in negotiating and completing any sale and to provide Royal Bank of Canada ("RBC") and Business Development Bank of Canada ("BDC") with periodic updates.
30. HFPL engaged in negotiations with the intended purchaser since shortly after the November 24, 2017 Order.
31. The Monitor was kept abreast of negotiations and his input sought.
32. RBC and BDC were provided with draft copies of the proposed agreement as negotiations evolved. There were meetings between HFPL, the Monitor, RBC, BDC, and the intended purchaser to review and provide comment on a proposed agreement.
33. An asset purchase agreement (the "APA") effective January 11, 2017, was executed by HFPL and the intended purchaser on January 13, 2017.
34. RBC, BDC, and the Monitor have expressed their support for the agreement.

35. AML Communications Inc. and 326403 Nova Scotia Limited, two of the shareholders of HFPL who are owed respectively \$9,800,000.00 and \$4,000,000.00 secured by mortgages and general security agreements which are subordinate only to the charges of RBC and BDC have approved the APA.
36. Attached and marked as Exhibit "A" to this my affidavit is a true copy of a unanimous directors resolution ratified by a unanimous resolution of the shareholders of HFPL, including AML Communications and 326403 Nova Scotia Limited, approving the APA.
37. HFPL has or will, file an application for a Sale Approval Order approving the sale contemplated by the APA to be heard contemporaneously with this application.
38. The APA provides for a Closing on February 24, 2017 or such other date as HFPL and the intended purchaser shall mutually agree.
39. The APA contains a number of conditions which must be satisfied or waived on, or prior to, Closing.

The Order Sought

40. HFPL seeks an extension to March 31, 2017:
 - (a) assuming the Sale Approval Order is granted, to provide time to satisfy the conditions set out in the APA and close the transaction;
 - (b) if the Sale Approval Order is not granted or if for some reason the transaction contemplated by the APA fails to close, to provide HFPL time, in consultation with the Monitor and HFPL's principal secured creditors to regroup while retaining the protection of these CCAA proceedings.
41. Assuming a sale is concluded, to secure the net proceeds from the sale and other funds that HFPL may have in hand after Closing, the Order applied for herein also directs and empowers the Monitor to receive and hold those funds in the trust account of its counsel pending further order(s) of this Court.

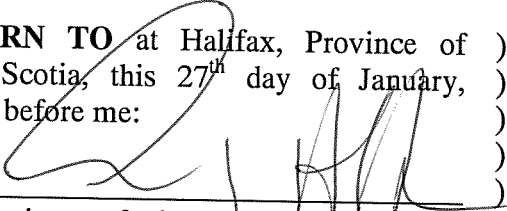
Continued Operations

42. Attached and marked as Exhibit "B" to this my affidavit is a Cash Flow Forecast to March 31, 2017 prepared by HFPL and reviewed by the Monitor. The Cash Flow Forecast takes account of the seasonal shutdown of the sawmill.

43. As appears from the Cash Flow Forecast, HFPL will be able to carry on its operations to at least March 31, 2017 without any requirement to draw the undrawn portion of the previously authorized DIP financing or to seek approval for additional DIP financing.

SWORN TO at Halifax, Province of)
Nova Scotia, this 27th day of January,)
2017, before me:)

_____)
A Barrister of the Supreme Court of)
Nova Scotia)

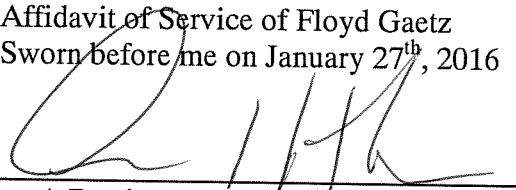


Carl A. Helm

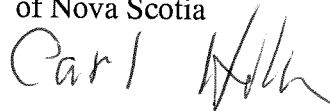


FLOYD GAETZ

This is Exhibit "A" referred to in the
Affidavit of Service of Floyd Gaetz
Sworn before me on January 27th, 2016



A Barrister of the Supreme Court
of Nova Scotia



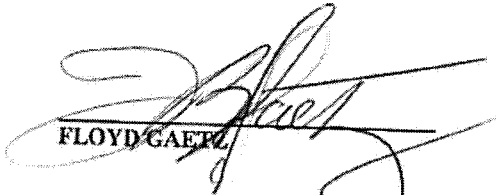
HEFLER FOREST PRODUCTS LIMITED
(the "Company")

UNANIMOUS RESOLUTION IN WRITING SIGNED BY ALL OF THE DIRECTORS
OF THE COMPANY PURSUANT TO SECTION 91 OF
THE COMPANIES ACT (NOVA SCOTIA)

BE IT RESOLVED BY ALL OF THE DIRECTORS OF THE COMPANY AND RATIFIED
BY ALL OF THE COMPANY'S SHAREHOLDERS THAT:

1. The Company enter into an agreement for the sale of substantially all of its assets and undertaking to 3304051 Nova Scotia Limited substantially in the form attached to this resolution with such amendments or revisions as may be approved by Floyd Gaetz, Graham Gaetz, and Farhad Atbin (the "Agreement").
2. Floyd Gaetz, Graham Gaetz, and Farhad Atbin are authorized to settle and agree to the Schedules to the Agreement and to execute and deliver the Agreement.
3. The Company make application to the Supreme Court of Nova Scotia in Hfx No. 453673 for an order, the form and terms of which the Company's President, Floyd Gaetz is authorized and directed to approve, approving a sale pursuant to the terms of the Agreement, (the "Order").
4. The Company's President, Floyd Gaetz, and its Secretary, Farhad Atbin, be and are hereby authorized and directed to execute and deliver such document and to do such things as may be required to give effect to the Agreement as approved by the Order on behalf of the Company.

SIGNED at Halifax, Nova Scotia all as at January 13th, 2016. 2017


FLOYD GAETZ


FARHAD ATBIN


DAVID BARRETT


GRAHAM GAETZ


TERRY FRENCH

Being all of the Directors of the Company.


#1655806

#1668587

HEFLER FOREST PRODUCTS LIMITED
(the "Company")


UNANIMOUS RESOLUTION IN WRITING SIGNED BY ALL OF THE SHAREHOLDERS
OF THE COMPANY PURSUANT TO SECTION 92 OF
THE COMPANIES ACT (NOVA SCOTIA)


With the intention that the following constitute a Special Resolution of the Company unanimously resolved by all of the Shareholders of the Company pursuant to the provisions of Section 92 of the Companies Act of Nova Scotia, the foregoing Directors resolution authorizing, *inter alia*, the Company to enter into an agreement for the sale of substantially all of its assets and undertaking to 3304051 Nova Scotia Limited is hereby adopted and ratified by all of the Company's Shareholders.

Signed at Halifax, Nova Scotia all as at January ~~13th~~ 2016. ²⁰¹⁷ 

3263403 NOVA SCOTIA LIMITED

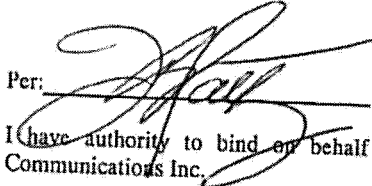
PETPESWICK HOLDINGS LIMITED


Per: 
I have authority to bind on behalf of 3263403
Nova Scotia Limited

Per: 
I have authority to bind on behalf of 3Petpeswick
Holdings Limited

AML COMMUNICATIONS INC.

ATBIN HOLDINGS INC.

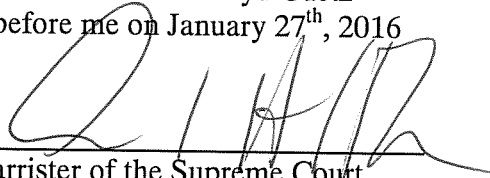
Per: 
I have authority to bind on behalf of AML
Communications Inc.

Per: 
I have authority to bind on behalf of Atbin
Holdings Inc.

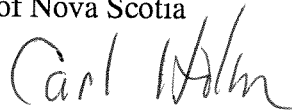

DAVID BARRETT

Being all of the Shareholders of the Company.

This is Exhibit "B" referred to in the
Affidavit of Service of Floyd Gaetz
Sworn before me on January 27th, 2016



A Barrister of the Supreme Court
of Nova Scotia



Hefler Forest Products Limited
Cash Flow Forecast
For the Period of January 23, 2017 to April 1, 2017

Week ending	Actual	Target/Severance												From Jan 23 to Apr 1	
		Week 27 28-Jan-2017	Week 28 04-Feb-2017	Week 29 11-Feb-2017	Week 30 18-Feb-2017	Week 31 25-Feb-2017	Week 32 04-Mar-2017	Week 33 11-Mar-2017	Week 34 18-Mar-2017	Week 35 25-Mar-2017	Week 36 01-Apr-2017	Total			
CASH INFLOWS															
Lumber - Eacan	2,523,613	174,716	46,000	8,400	8,400	8,400	8,400	8,400	8,400	8,400	8,400	8,400	8,400	8,400	245,916
External Biomass Sales	5,758	-	-	-	-	-	-	-	-	-	-	-	-	-	-
AR Collections - Daxler	18,782	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Sales	19,700	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Silviculture - DNR Reimbursement	20,286	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Power Plant - NSP	2,371,909	344,451	-	-	-	-	-	-	-	429,097	-	-	-	363,727	1,137,275
Kin drying	-	-	2,634	2,800	2,800	2,800	2,800	2,800	2,800	2,800	2,800	2,800	2,800	2,800	25,034
HST Collected (post CCA4 sales)	639,818	77,875	7,295	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	211,234
TOTAL CASH INFLOWS	6,004,756	597,042	55,929	12,880	12,880	12,880	12,880	12,880	12,880	506,342	3,220	3,220	3,220	421,506	1,619,458
CASH OUTFLOWS															
Logs / External Biomass	2,422,334	68,820	66,600	66,600	66,600	66,600	66,600	66,600	66,600	66,600	31,080	31,080	31,080	31,080	499,500
Payroll (incl. benefits and source ded)	1,377,206	55,530	3,000	44,559	-	92,610	3,000	68,798	3,000	68,798	68,798	68,798	68,798	46,432	313,928
Professional Fees	672,230	24,405	18,000	18,000	18,000	18,000	18,000	18,000	18,000	18,000	20,000	20,000	20,000	20,000	192,405
Insurance	100,770	-	14,276	-	-	14,276	-	-	-	-	-	-	-	-	42,804
Electricity	217,484	-	-	-	25,000	-	-	-	-	-	25,000	-	-	-	50,000
Gasoline / Diesel	65,746	-	3,261	-	-	3,261	-	-	-	3,261	-	-	-	-	9,763
Water Supply	135,856	-	7,500	-	7,500	-	7,500	-	7,500	-	7,500	-	-	-	37,500
Silviculture - based on log purchased	43,807	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Repairs and Maintenance	505,289	13,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	103,000
General Expenses	336,083	14,000	14,000	14,000	14,000	14,000	14,000	14,000	14,000	14,000	12,000	12,000	12,000	12,000	130,000
Interest on DIP Financing	25,917	-	6,600	-	-	6,600	-	-	6,600	-	-	-	-	-	19,500
HST on Professional Fees	87,450	3,661	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700	2,700	3,000	28,661
HST on Other Expenses	531,974	14,373	15,054	13,580	17,340	14,079	8,937	7,962	8,937	7,962	12,201	12,201	7,962	10,269	121,767
HST Paid (Refund)	50,000	-	19,776	-	-	-	-	-	59,637	-	-	-	-	21,051	100,465
TOTAL CASH OUTFLOWS	6,572,146	193,789	180,669	169,449	161,140	221,250	173,632	150,540	173,632	150,540	124,042	124,042	124,042	130,474	1,649,543
NET CASH FLOW	(567,390)	403,253	(124,740)	(156,569)	(148,260)	285,092	(170,412)	(147,320)	(170,412)	(147,320)	(120,822)	(120,822)	(120,822)	291,031	(30,085)
Cash, Beginning of Week	282,620	282,620	665,873	561,133	404,564	256,304	541,396	370,963	223,654	102,642	393,873	393,873	393,873	282,620	282,620
Net Cash Flow	(567,390)	403,253	(124,740)	(156,569)	(148,260)	285,092	(170,412)	(147,320)	(170,412)	(147,320)	(120,822)	(120,822)	(120,822)	291,031	(30,085)
DIP Financing	850,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cash, Ending of Week	282,620	665,873	561,133	404,564	256,304	541,396	370,963	223,654	102,642	393,873	393,873	393,873	393,873	282,620	282,620

DETAILED ASSUMPTIONS

A - Power Plant Sales are based on output of 3.1 megawatts per hour assuming 1 day down
B - Severance and all vacation pay expected to be paid out in Week 31

Heffer Forest Products Limited
Cash Flow Forecast

For the Period of January 23, 2017 to April 1, 2017

Week ending	Target/Severance													From Jan 23 to		
	26 Weeks Ending 21-Jan-2017	Week 27 28-Jan-2017	Week 28 04-Feb-2017	Week 29 11-Feb-2017	Week 30 18-Feb-2017	Week 31 25-Feb-2017	Week 32 04-Mar-2017	Week 33 11-Mar-2017	Week 34 18-Mar-2017	Week 35 25-Mar-2017	Week 36 01-Apr-2017	Apr 1	Total			
DIP Facility:																
Opening Balance	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000
Drawdown (Payback)																
Ending Balance	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000	850,000
HST Payments (ESTIMATED)																
Cumulative Refund since July 22- Jan 21			(29,606)													
Current Monthly HST Collections			85,170													
Payable on unpaid NSP																56,239
Less: -HST Paid - Professional Fees			(6,351)													14,806
Less: -HST Paid - Other Expenses			(29,427)													(11,700)
Payable (Refund)			19,776													(38,394)
																21,051
Summary of Current Assets																
Cash	282,620	685,873	561,133	404,564	256,304	541,366	370,983	223,664	102,842	393,873	252,535					
Power Receivable	740,192	493,462	598,033	702,604	807,176	418,286	510,906	603,527	696,147	370,482	463,102					
Biomass Inventory	149,785	167,541	185,967	204,393	222,819	241,245	224,151	207,057	189,963	172,869	164,565					
Retainers - Professionals	90,000	90,000	90,000	90,000	90,000	90,000	90,000	90,000	90,000	90,000	90,000					
Fuel Adjustment - Payable to Heffer																13,480
Final HST to Pay																(21,051)
	1,262,597	1,436,875	1,435,132	1,401,561	1,376,298	1,290,928	1,196,040	1,124,247	1,078,951	1,027,223	962,700					
Power Plant Receivable (including HST):																
Opening	740,192	740,192	493,462	598,033	702,604	807,176	418,286	510,906	603,527	696,147	370,482					
Week's Power Generation																
Payment Received		149,388	104,571	104,571	104,571	104,571	92,620	92,620	92,620	92,620	92,620					
Ending	740,192	493,462	598,033	702,604	807,176	418,286	510,906	603,527	696,147	370,482	463,102					
Biomass Inventory:																
Tons																
Opening	5,188	4,169	4,649	5,147	5,645	6,143	6,641	6,179	5,717	5,255	4,793					
Purchase	4,609	1,860	1,800	1,800	1,800	1,800	840	840	840	840	1,080					
Used	5,628	1,380	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302	1,302					
Closing	4,169	4,649	5,147	5,645	6,143	6,641	6,179	5,717	5,255	4,793	4,571					
Dollar Value																
Opening	187,488	149,785	167,541	185,967	204,393	222,819	241,245	224,151	207,057	189,963	172,869					
Purchase	170,533	66,820	66,600	66,600	66,600	66,600	31,080	31,080	31,080	31,080	39,960					
Used	208,236	51,064	48,174	48,174	48,174	48,174	48,174	48,174	48,174	48,174	48,174					
Closing	149,785	167,541	185,967	204,393	222,819	241,245	224,151	207,057	189,963	172,869	164,565					