

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

IN RE: . Case No. 09-11296-KJC  
. .  
ABITIBIBOWATER, INC., .  
et al., . 824 North Market Street  
. . Wilmington, DE 19801  
. .  
Debtors. . April 17, 2009  
. . . . . 2:46 p.m.

TRANSCRIPT OF HEARING  
BEFORE HONORABLE KEVIN J. CAREY  
UNITED STATES BANKRUPTCY COURT JUDGE

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I N D E X

<u>EXHIBITS</u>	<u>ID.</u>	<u>EVD.</u>
Declaration of Mr. Harvey		17

1 THE COURT: Good afternoon, everyone.

2 MS. MORGAN: Good afternoon, Your Honor. Pauline  
3 Morgan from Young, Conaway, Stargatt & Taylor on behalf of the  
4 debtors, AbitibiBowater, Inc. and its affiliates. Your Honor,  
5 first of all thank you very much for making time to hear us  
6 today. I'd like to first introduce our co-counsel from Paul,  
7 Weiss, Rifkind, Wharton & Garrison. I'm here with Kelly  
8 Cornish, Claudia Tobler, and Alice Eaton. And I'm also here  
9 with my colleague, Sean Greecher from Young, Conaway. And,  
10 Your Honor, I would like to turn the podium over directly to  
11 Ms. Cornish. Thank you very much.

12 THE COURT: Very well. Thank you.

13 MS. CORNISH: Good afternoon, Your Honor. Thank you  
14 for taking the time this afternoon to see us. My name is Kelly  
15 Cornish. I'm with Paul, Weiss, Rifkind, Wharton & Garrison on  
16 behalf of AbitibiBowater, Inc. and certain of its U.S. and  
17 Canadian subsidiaries that are debtors in these Chapter 11  
18 cases. Before I make some introductory remarks I'd like to  
19 introduce to the Court a couple of representatives from the  
20 company who are here and its advisors. First, William Harvey,  
21 Bill Harvey. He is the company's CFO, and Duane Owens, who is  
22 the Vice President of Finance are here from AbitibiBowater.  
23 From Blackstone Advisory Services, the company's financial  
24 advisor, Steve Zelin.

25 And before I get to the first day motions, Your

1 Honor, I'd like to take just a few minutes to tell you about  
2 the company, why we're here today, and what we hope to achieve  
3 in these cases.

4 THE COURT: All right.

5 MS. CORNISH: First a little bit of background.

6 AbitibiBowater is an industry giant. It's one of the leaders  
7 in forest and the wood products industry. It supplies a broad  
8 range of forest products in 90 countries all over the globe.  
9 The company realized sales of approximately \$6.8 billion in  
10 2008, and has a workforce of about 15,800 employees. The  
11 company has four basic business segments, newsprint, commercial  
12 printing papers, wood products, and market pulp. In addition,  
13 the company is one of the largest recyclers in North America.

14 Let me tell you a little bit about each of those  
15 segments. AbitibiBowater is the world's largest producer of  
16 newsprint by capacity, and one of the largest publicly traded  
17 pulp and paper producers in the world. It supplies newsprint  
18 to The New York Times, The Washington Post, and many other  
19 newspapers in major markets.

20 The company is also a global leader in the production  
21 of commercial printing papers. It produces approximately 3.8  
22 million metric tons of coated and uncoated papers for  
23 magazines, catalogs, flyers, and some of the world's best  
24 selling books. Along with its two dozen pulp and paper mills,  
25 the company owns and operates 38 wood products facilities,

1 including saw mills. It has an annual capacity of over three  
2 billion board feet of lumber, which is enough to build about  
3 200,000 homes.

4           AbitibiBowater also re-manufactures and engineers  
5 wood for greater strength in specialized applications such as  
6 mobile homes, roofing, and flooring material. The company also  
7 produces approximately 1.1 million metric tons of market pulp  
8 that is sold in 18 overseas markets. Its pulp is used in a  
9 wide range of products, including tissue, paper towels, and  
10 diapers, as well as printing and writing papers.

11           Basically -- also, AbitibiBowater owns a number of  
12 energy assets, including hydroelectric facilities with an  
13 aggregate 554 watt output and cogeneration facilities. The  
14 company is also a partner in several joint ventures. Three are  
15 in the United States, named Augusta Newsprint Company,  
16 Ponderay, and Calhoun Newsprint Company. And each of the joint  
17 ventures is a self -- essentially self sustaining and has  
18 independent operations, and none of the joint ventures are  
19 debtors in these Chapter 11 cases.

20           Onto the corporate structure, which is complex, and I  
21 want to spend a little time on. AbitibiBowater was created,  
22 Your Honor, in 2007, through a merger of two industry giants,  
23 first, Bowater Incorporated, which was headquartered in the  
24 U.S. but has widespread U.S. and Canadian operations, and  
25 second, Abitibi Consolidated, Inc., which is headquartered in



1 headquartered in Montreal. And this expanded Bowater's  
2 operations deep into Canada, and added five large paper mills  
3 to its operations. By 2001 Bowater acquired Alliance Forest  
4 Products, which is also headquartered in Montreal, and added  
5 ten Canadian sawmills and three paper mills to Bowater's  
6 operations. So, as you see, Your Honor, the Bowater chain, if  
7 you will, spans both the U.S. and Canada.

8           Like Bowater, prior to the merger Abitibi, which is  
9 on the left side of your chart, at the bottom, in Canada, and  
10 in the more complex chart, Your Honor, you'll see a lot more  
11 entities indicated on the more complex chart on the Abitibi  
12 side.

13           Abitibi was a leading publicly traded pulp and paper  
14 manufacturer with roots tracing back to 1914. Prior to the  
15 merger in 2007 Abitibi had ownership interests in 20 sawmills,  
16 four re-manufacturing facilities and two engineering wood  
17 facilities in Canada. There's a third piece to the company  
18 that you should also understand, Your Honor, and that's what we  
19 call the Donohue Corp. chain, or D-Corp. And on the simplified  
20 chart that's the group of companies that is in the upper right  
21 hand corner, depicted in the United States.

22           Prior to its acquisition by Abitibi about ten years  
23 ago, Donohue was also an integrated forest products company  
24 engaged in forest management and in the manufacturing sale of  
25 newsprint, specialty papers, market pulp, and wood products,

1 with mills located in Quebec, Ontario, British Columbia, and  
2 Texas. It owns paper production and manufacturing facilities  
3 in the United States, and it operates the company's recycling  
4 operations.

5           Abitibi acquired Donohue in 2000, thereby expanding  
6 its U.S. operations, and these are extensive. Abitibi is among  
7 the world's largest recyclers of newspapers and magazines. In  
8 connection with the 2008 restructuring, D-Corp. became an  
9 indirect wholly owned sub of AbitibiBowater, Inc., so, in other  
10 words, of the holding company. So, the Donohue chain used to  
11 be under the Abitibi chain, and it was spun up. So, you see,  
12 Your Honor, the corporate structure really falls into two basic  
13 silos, Bowater with its U.S./Canadian operations depicted on  
14 the left of the chart, and Abitibi, which has principally C  
15 Canadian operations and D-Corp., which has principally U.S.  
16 operations, and runs the company's U.S. recycling, but is  
17 effectively an arm of Abitibi.

18           When we talk about the capital structure, and in  
19 particular the post-petition financing that we'll get to in a  
20 moment, these silos will become particularly relevant. Before  
21 we get there, though, Your Honor, I just want to spend a moment  
22 talking about how we got here today, and why the company had to  
23 resort to Chapter 11.

24           For many months prior to the filing of these cases  
25 the company has endeavored to accomplish a comprehensive out of

1 Court restructuring, financial restructuring through complex  
2 exchange offers and capital raises on both the Bowater and  
3 Abitibi sides of the capital structure. Unfortunately, and the  
4 company pursued those alternatives for many, many months.  
5 Unfortunately, given the current environment, with the  
6 recession and everything that's going on in the world today, an  
7 out of Court solution just did not come together before the  
8 company's liquidity demands became really unsustainable. So,  
9 in sum, Your Honor, we're here for three reasons. First, the  
10 declining paper and wood products industry; second, the  
11 company's balance sheet, and a need for a restructuring and de-  
12 leveraging of the balance sheet; and third, the general credit  
13 freeze in the credit markets today. And a brief comment on  
14 each.

15           First, the market. The company's products are  
16 essentially commodities driven by supply and demand. Abitibi  
17 has experienced an unprecedented decline in market demand for  
18 its primary product, which is newsprint. And we read about  
19 that every day in the newspapers. In addition --

20           THE COURT: What's left of them anyway.

21           MS. CORNISH: Exactly. Exactly. In addition, due  
22 mostly to the recession there's been a significant decline for  
23 coded mechanical papers, as well, and other large product the  
24 company has, due principally to a sharp decline in advertising.  
25 Global demand for market pulp has also gone down, driven by

1 offshore markets. Finally, with regard to wood products, the  
2 company, like many others, is a victim of a dramatic slow down  
3 in new home construction in the United States, which has  
4 severely depressed lumber prices and demand.

5           Second, the balance sheet. The company is highly  
6 leveraged. As of December 31, 2008, the company had on a  
7 consolidated basis outstanding total debt of approximately \$6  
8 billion, of which approximately 1.1 billion was secured, and  
9 it's carrying 22 separate note series on its books totaling  
10 about \$5 billion. In addition, it has three secured bank  
11 facilities with about 650 million outstanding, and a  
12 securitization facility with about 270 million outstanding. At  
13 the beginning of this year the company was facing new term debt  
14 maturities of approximately a billion dollars, including a  
15 maturity on March 30th of a 347 million secured bank facility.

16           In addition to the over leverage and the decline in  
17 the market demand for the company's products, the credit freeze  
18 has made it impossible to refinance approaching maturities or  
19 otherwise access credit for new liquidity outside of a  
20 proceeding. So, that, in a nutshell, Your Honor, is why we are  
21 here.

22           Now, I'd like to take a few moments to explain, or  
23 describe which AbitibiBowater entities have filed for  
24 bankruptcy protection and where. In general, the Chapter 11  
25 cases are intended, in general, to be fully coordinated with

1 CCAA proceedings, which were instituted this morning in  
2 Montreal, in which AbitibiBowater entities are debtors before  
3 Justice Gascon in Montreal. We have filed a motion, or we will  
4 file a motion for approval of a cross border protocol, and it  
5 is our hope and intention to administer these Chapter 11 cases  
6 and the CCAA proceedings before Justice Gascon in a fully  
7 integrated fashion.

8           AbitibiBowater, although having a complex corporate  
9 structure, is one enterprise, and we believe that the value  
10 will be maximized for all shareholders if the company is  
11 reorganized as a whole.

12           The specific filing structure is as follows.  
13 Basically, all of AbitibiBowater's principal corporate entities  
14 are either in Chapter 11 or CCAA proceedings, or both.  
15 Specifically, all of the U.S. entities are in Chapter 11, so if  
16 you look, Your Honor, at the more complex chart that shows all  
17 of the entities of the company, and the top part of the chart,  
18 which are the U.S. entities, with the Bowater entities to the  
19 left and the Donohue Corporation entities to the right, all of  
20 the U.S. entities are in Chapter 11 except for some special  
21 purpose vehicles, which are in orange, most of that in orange  
22 there, and three joint ventures that I previously mentioned,  
23 Calhoun, Ponderay and -- I'm forgetting -- Augusta. Sorry.  
24 Augusta Newsprint.

25           In Canada, Your Honor, most of the Canadian legal

1 entities are CCAA debtors except minority owned partnerships or  
2 joint ventures in Canada. And a few companies are dual filers.  
3 They filed for both Chapter 11 and CCAA relief, and that was  
4 mostly driven by our DIP financing arrangements on the Bowater  
5 side of the structure. And we'll explain that more when we get  
6 to the DIP motion.

7           Finally, Your Honor, we intend to file Chapter 15  
8 proceedings -- petitions for Abitibi's two principal Canadian  
9 entities, and they are Abitibi Consolidated, Inc., and Abitibi  
10 Consolidated Company of Canada, which we usually call ACCC, and  
11 they are the two entities, Your Honor, outlined in red on the  
12 more complex chart in the lower right quadrant of the chart.

13           They are also CCAA filers in Canada and are part of  
14 the company's securitization program with Citibank that we'll  
15 get to later in the day.

16           THE COURT: When is it expected that those Chapter  
17 15's will be filed?

18           MS. CORNISH: Probably this afternoon. I think this  
19 afternoon, Your Honor. Obviously we needed to wait to get an  
20 order from Canada, so that we had foreign proceedings to which  
21 we would be ancillary. I think it will be this afternoon. And  
22 we would attempt to get the soonest possible hearing that we  
23 could get.

24           THE COURT: I'm, you may know, out of the office  
25 Monday through Wednesday of next week. I am in Thursday and

1 Friday. I have full calendar days, but I will fit you in  
2 somewhere.

3 MS. CORNISH: Okay. Thank you, Your Honor. We  
4 really appreciate it.

5 The company is very optimistic about its  
6 restructuring opportunities. The debtors and the CCAA debtors'  
7 interests are united, as I mention, in their integrated and co-  
8 dependent business relationship. And as I mentioned earlier,  
9 all of the U.S. and Canadian debtors are committed to engage in  
10 a joint and harmonious restructuring in the U.S. and Canada in  
11 an effort to maximize value for all of our stakeholders. So,  
12 that concludes, Your Honor, my introductory remarks. We have  
13 filed, as you know, a number of first day motions and  
14 applications. And I believe that we've provided Your Honor  
15 with a binder of them. I would mention, first, that we -- in  
16 support of all of the motions we've filed a lengthy declaration  
17 of William Harvey, who I introduced you to earlier, the  
18 company's Chief Financial Officer. And we would be relying on  
19 the sworn statements in that declaration for the factual basis  
20 and evidentiary basis of our first day motions. And obviously  
21 Mr. Harvey is here and available to be cross examined as  
22 appropriate.

23 THE COURT: All right. Well, let me ask this. Would  
24 you like to move the declaration into Evidence?

25 MS. CORNISH: I would, Your Honor.

1 THE COURT: Is there any objection? It's admitted  
2 without objection.

3 MS. CORNISH: Thank you, Your Honor. Your Honor, the  
4 company, in view of the progressing lateness of the day, and  
5 also the fact that it's Friday, and I know Your Honor has a  
6 very crowded calendar, the company has a pressing need to get  
7 its financing motions approved today, if possible. And so,  
8 although we've laid out an order of first day motions here, I  
9 would propose that we mix that up a bit and start with the  
10 joint administration motion, move to cash management, and the  
11 move directly to the financing motions, our motion for DIP  
12 financing really to finance the Bowater Group, and then a  
13 motion to approve a securitization facility, the extension of a  
14 securitization facility, and then we'll finish with the rest of  
15 the first days if that's acceptable to Your Honor.

16 THE COURT: That's fine.

17 MS. CORNISH: Okay. With that I'm just going to turn  
18 the podium over quickly to my colleague. Pauline, are you  
19 going to -- okay.

20 MS. MORGAN: Again, for the record, Your Honor,  
21 Pauline Morgan from Young, Conaway for the debtors. Your  
22 Honor, before, again, turning to the first days, we did also  
23 want to mention that we did have an opportunity to speak to Mr.  
24 Klauder from the U.S. Trustee's Office a couple times  
25 yesterday, and we thank Mr. Klauder for making himself

1 available, including late last night. So, I think for the more  
2 routine motions, Your Honor, I think we're -- we have  
3 substantial resolution, if not total resolution with the U.S.  
4 Trustee, and we will indicate, you know, during the  
5 presentation where some changes were made at the U.S. Trustee's  
6 request.

7           Your Honor, the first matter that we do need to  
8 address, I guess, before turning to anything else is joint  
9 administration. Your Honor, these companies are affiliates  
10 within the meaning of Section 101 of the Bankruptcy Code. We  
11 do think it would enhance the administration of these estates  
12 to be jointly administered. The U.S. Trustee had no issues  
13 with this particular form of order, and unless Your Honor does,  
14 we would ask that it be approved.

15           THE COURT: I do not. Let me just ask for the record  
16 if anyone else wishes to be heard in connection with the  
17 motion? I hear no response. Do you have a form of order for  
18 me?

19           MS. MORGAN: Yes, Your Honor. Would you like to view  
20 these one at a time?

21           THE COURT: Well, we're just doing a couple, I guess,  
22 before financing?

23           MS. MORGAN: That's right, Your Honor. May I  
24 approach?

25           THE COURT: Yes.

1 (Pause)

2 THE COURT: Thank you. The order has been signed.

3 MS. MORGAN: Thank you, Your Honor. And Mr. Tobler  
4 -- I'm sorry - Ms. Tobler will address Item 13 on the agenda,  
5 which is the cash management motion.

6 THE COURT: Okay.

7 MS. TOBLER: Good afternoon, Your Honor. The cash  
8 management motion does provide a long narrative and description  
9 as to what the cash management is for this company. On its  
10 face it looks quite complex. I do want to start by saying that  
11 when you boil down to why the cash management system works,  
12 it's a series of account that's meant to centralize incoming  
13 money from accounts receivable, centralize them in bank  
14 accounts, and then pay them out to various smaller accounts at  
15 the various mills and throughout the company as they are  
16 needed.

17 As my colleague, Kelly, mentioned, the companies  
18 operate their cash management and their funding systems along  
19 the historic Abitibi and Bowater lines, so we basically have  
20 two parallel cash management systems in place, but they are  
21 centralized and they work in an interconnected basis. So, the  
22 relief that we're trying to seek ultimately in terms of what  
23 the order provides I believe is quite standard in that it seeks  
24 to preserve the company's ability to continue that system in  
25 place, to allow the company to continue to use its existing

1 bank accounts with its existing banks, to maintain the inter  
2 company transfers and the monthly and daily and sometimes  
3 weekly reconciliations that the company engages in, and  
4 basically to allow the company to continue to manage its cash  
5 consistent with its pre-petition practices.

6           Along those lines, if you look at the cash management  
7 system, it's fairly common, I think, or comparable to other  
8 similar cash management systems for large companies of this  
9 size.

10           So, having said that, as an introduction and  
11 overview, I do want to spend a little bit of time, and I know  
12 we don't have a lot of time today, but I do want to give a  
13 little bit of an overview of the two systems and explain a bit  
14 how the accounts work. Towards that end, we do have an  
15 illustration, it's just a slightly larger and more colorful  
16 version of what was attached to the motion, and if I may  
17 approach Your Honor and give a copy of that, I think it will  
18 help the discussion.

19           THE COURT: You may. Thank you.

20           MS. TOBLER: The added complexity to the cash  
21 management system as well includes the fact that we have a lot  
22 of cross border transfers between Canada and the U.S., and you  
23 will see this repeated on the Abitibi side, as well. And we do  
24 have a foreign currency exchange functions that some of the  
25 banks service or provide. If you look at the illustration, and

1 this is one of the exhibits, this is the Bowater Group cash  
2 management schematic attached to the motion, you will see that  
3 for U.S. operations the primary operating or concentration  
4 account is held with Wachovia Bank, and that is where all the  
5 arrows point on the bottom half of the line. As I mentioned  
6 previously, the accounts payable are collected through a  
7 combination of lock boxes and ancillary accounts that basically  
8 feed into the central system. The company has a number of  
9 mills throughout North America, and a lot of the mills have  
10 independent operating accounts, and the money flows from those  
11 accounts into the concentration account, and then basically  
12 goes out. It goes out to make payables, and it also goes out  
13 to feed the -- or to transfer up to the Canadian operations and  
14 vice-versa, it comes down, as well. So, that's how the money  
15 flows. If you'd look on the top part of the chart where you  
16 have the Canadian operations, again, a fairly similar concept.  
17 What's a little bit different in Canada with the banks is that  
18 you have a U.S. dollar and Canadian dollar set of systems. And  
19 the reason why is you have customers and you have vendors that  
20 are vendors that are paid in either U.S. or Canadian dollars,  
21 and depending on the need you will use either a Canadian or a  
22 U.S. dollar account to make those payments or to receive  
23 deposits coming in. And that basically serves foreign currency  
24 exchange functions to permit the company to pay invoices and to  
25 make payments, and to receive deposits in the currency in which

1 they are made.

2           On the Abitibi side I also have a chart that I think  
3 will help illustrate how those cash flows work. And if I may  
4 approach, Your Honor, and hand this up to the Court?

5           THE COURT: You may. Thank you.

6           MS. TOBLER: This is a slightly more expanded chart.  
7 It also shows the operations on the Abitibi side for the  
8 Abitibi Group, the North American cash management system. What  
9 is slightly different on the Abitibi side is the securitization  
10 accounts. I'll refer to them that way. And you will hear more  
11 about the securitization facility. But is a standard  
12 securitization facility. The company sells, on the Abitibi  
13 side its accounts receivable into that facility. They are  
14 processed through the terms of that facility, and then funds  
15 are released. So, where you see on this chart the red boxes,  
16 those represent accounts held by the funding company that is  
17 involved in the securitization, the accounts receivable that  
18 are sold into the facility, payments on those accounts. And  
19 related security collateral go into those accounts, they get  
20 run through the system, and then they get released to the  
21 company into the company's main operating accounts, and you  
22 will see that those are the Bank of America and Royal Bank of  
23 Canada accounts that are outlined in blue on the diagram.

24           Once the money has been released from the  
25 securitization facility and released into the operating

1 accounts of the company, they are then disbursed along the  
2 various legal entity lines, and you will see in the United  
3 States you have Abitibi Consolidated, Inc., and Abitibi  
4 Consolidated Company of Canada. Those are the two non-U.S.  
5 filers, but they are part of the cash management, which is why  
6 they are explained here. And I should mention, too, that a lot  
7 of the accounts that are being described in sort of the cash  
8 flow system, it is an integrated system. It would not have  
9 been an appropriate or a complete picture to pull out only the  
10 Chapter 11 debtors, and that is why we are describing to some  
11 extent cash and bank accounts involved on both sides of the  
12 company and throughout the company, not all of them necessarily  
13 are Chapter 11 filers. I do want to point that out. But that  
14 is the Abitibi Group's North American cash management system.

15           Once the money goes into the operating account, what  
16 are indicated as sort of concentration accounts here on this  
17 schematic, they do go up to Canada to a Treasury Account in  
18 Canada. They get disbursed to their various mills through  
19 ancillary accounts, just as I described on the Bowater side,  
20 and those ancillary accounts, often at the mill level also  
21 receive some deposits, not big ones, and they get sent back  
22 into the concentration accounts.

23           There is also a third part to this, which is the  
24 European cash management, but we had included that as -- to  
25 give a full picture of what the company's cash management

1 structure looks like. None of those entities are Chapter 11  
2 debtors, and so unless Your Honor had any specific questions  
3 about that aspect of it, I would rely on the text in the  
4 motion. The money basically comes from the European operations  
5 in a similar manner and gets -- comes into the cash management  
6 system right now mostly at the Canadian level, but sometimes at  
7 the U.S. level.

8           And that, by way of broad strokes, is how the cash  
9 management system works. The company keeps records of all  
10 transfers between various entities. It also keeps records of  
11 flows between the bank accounts. The relief that we're looking  
12 for, again in this motion, is pretty standard, I think, for  
13 cash management type of relief. What we want to do is we want  
14 to keep the existing system in place. We want to permit the  
15 company to continue to keep its current bank accounts, to  
16 continue to permit the inter-company transactions, and the  
17 reconciliations that are part of its current day-to-day  
18 operations.

19           And let me just speak very briefly about some of the  
20 inter-company transfers that are covered by this, and that are  
21 reflected, and how the cash management system works. The  
22 company, at the AbitibiBowater, Inc., at the parent level, has  
23 centrally billed expenses. They get allocated to both sides  
24 depending on which legal entity benefits from the services  
25 provided. So, some of the transfers between the bank accounts

1 will be reflected, or will be caught as part of that  
2 reconciliation process. The same is true for corporate expense  
3 allocations that occur at the parent company level, but then  
4 all the sub companies do benefit from that. That also is part  
5 of that reconciliation process. Other inter-company type of  
6 transfers are, for example, you have the centralized sales  
7 force for the company that resides at Bowater America, Inc.  
8 That centralized sales force makes sales a product for the  
9 entire company. So, you might have a sale generated at Bowater  
10 America, Inc. that is ultimately through the reconciliation  
11 process allocated to the legal entity that owns the mill that  
12 actually produced the product sold. And the same is true on  
13 the converse side of that for the customer accounts receivable  
14 that come in, putting aside the ones involved right now at the  
15 moment with the securitization, but on the Bowater side, if you  
16 have a customer that makes a payment on an invoice, that  
17 invoice, the amount coming in might be allocated to the legal  
18 entity at which that product was generated originally, and the  
19 inter-company transfers and allocations will properly allocate  
20 the value of the invoice and the customer payment to reflect  
21 where the product was made -- manufactured and also sold. So,  
22 that's -- those are the type of inter-company transfers.  
23 Again, the company keeps very good records. They are  
24 traceable.

25           So, part of the relief that we are seeking in the

1 order is to continue to maintain this process, to continue to  
2 keep those records, to grant the company's administrative  
3 expense priority claims to reflect the value that is flowing  
4 between the companies. We think that's quite standard. And  
5 then, also, at the request -- we did have some comments to  
6 this, we do have language in there that provides that although  
7 the companies might have administrative priority claims against  
8 each other, that they are essentially -- they must forbear from  
9 exercising any remedies on those claims to the extent -- you  
10 know, so you wouldn't have one inter-company dispute, you  
11 wouldn't have one company trying to foreclose on the assets of  
12 another based on that inter-company administrative expense  
13 priority claim provided, however, that that doesn't have any  
14 effect on the company's on-going setoffs and reconciliations,  
15 and things of that sort.

16           We did discuss this with the United States Trustee,  
17 the cash management. Both gave them an over -- the motion --  
18 the relief that we're looking for. At the U.S. Trustee's  
19 request we have agreed to make the order interim until the next  
20 hearing to be able to address any concerns that, given the time  
21 of day this was filed and the amount of time he's had to look  
22 at it, to address any concerns that he might have, answer any  
23 questions. We have also agreed regarding the Section 345  
24 waiver, because there are several investment accounts involved  
25 in the cash management system, to also enter that waiver on an

1 interim basis, at which time we will revisit the request to  
2 waive that for a longer period of time. And with that, Your  
3 Honor, I ask that you grant the requested relief. I'm not  
4 aware -- the interim -- both the waiver is interim and the  
5 relief granted on the order is interim. We request Your Honor  
6 to enter that order on an interim basis as submitted. We will  
7 have a black line to hand up. I don't have it with me in Court  
8 at the moment. Oh, we do? Okay. Oh. It's interlineated?  
9 Okay. So, we need the dates for the second -- okay. We have  
10 an inter -- may I just show it to the U.S. Trustee to see if  
11 you're okay with the language in here?

12 (Pause)

13 MR. KLAUDER: Yes. Your Honor, David Klauder for the  
14 United States Trustee. Just to be clear, the request was  
15 originally for an interim waiver, but it was for 60 days.  
16 We've agreed that that interim would just track to the next  
17 hearing on the cash management motion, and we'll address it at  
18 the next hearing, or prior to that, hopefully.

19 THE COURT: Very well. Does anyone else care to be  
20 heard in connection with this motion?

21 MR. TODER: Thank you, Your Honor. Richard Toder,  
22 Morgan, Lewis & Bockius, attorneys for Wachovia Bank, which is  
23 one of the two agents on the Bowater facility side. We have no  
24 objection to the order being entered. Two small points. One  
25 is that reference was made to keeping records and

1 reconciliation among the -- with respect to the inter-company  
2 claims. Both Wachovia and indeed Bank of Nova Scotia, the  
3 other facility on the Bowater side have liens on inter-company  
4 receivables which, as of the petition date, of course, would be  
5 the key time for determination ultimately in terms of adequate  
6 protection. In point of fact, if there is to be subsequent  
7 post-petition nettings, or transfers, or wiping out of debts,  
8 the point I only wanted to make is that of course it's as of  
9 the petition date in which the testing of any diminution would  
10 occur regardless of subsequent acts. I don't think that's  
11 controversial, but I did want to mention it.

12           The second piece dealing again with the record  
13 keeping and reconciliation, while there is an administrative  
14 claim being granted with respect to these receivables that are  
15 owed to and fro, it does seem appropriate for there to be true  
16 ups that occur on a regular basis so that indeed we don't have  
17 a situation potentially where there would be an ever increasing  
18 administrative claim running to one side or the other side,  
19 whether it's the Abitibi side or the Bowater side. And so,  
20 what we've discussed with the debtor to be implemented on a to  
21 be determined basis based upon exigencies of the business and  
22 again practicality, is to have discussions subsequent to this  
23 interim hearing so that by the time of the final hearing we've  
24 worked out an appropriate regime in that regard.

25           THE COURT: Thank you. Does anyone else care to be

1 heard? I hear no further response. Do you have a form of  
2 order?

3 MS. TOBLER: Thank you. And just for the record we  
4 have no problem with that, and the interim order will help us  
5 implement that at a later time.

6 THE COURT: All right. Thank you.

7 MS. TOBLER: And also, Your Honor, if -- I want to  
8 ask if you had a date in mind, perhaps, for our second day  
9 hearing.

10 THE COURT: Well, let me ask you. Did you have a  
11 date in mind?

12 (Laughter)

13 MS. TOBLER: 20 days out --

14 MR. KLAUDER: To help Your Honor -- I'm sorry. On  
15 the formation meeting I think April 28th, although that hasn't  
16 been officially noticed that's the date we're gearing towards.

17 THE COURT: All right. Thank you.

18 (Pause)

19 MS. TOBLER: Your Honor, May 12th?

20 THE COURT: Well, let me make some suggestions. The  
21 12th is pretty full. How would the 15th or the 18th or the  
22 20th suit the parties?

23 MS. TOBLER: The 15th -- the 15th, Your Honor,  
24 because we do want to get it in before the utilities --

25 THE COURT: All right. The 15th at ten o'clock.

1 MS. TOBLER: The 15th at ten o'clock. Thank you.

2 (Pause)

3 THE COURT: Thank you.

4 MS. TOBLER: And, Your Honor, if I may make one  
5 additional request regarding the cash management order? We do  
6 have some banks in Canada that have asked to see copies of it  
7 so that they can -- as soon as possible, so if I may request  
8 Your Honor to have that signed as soon as we can and put it on  
9 the docket so that we can send it up to Canada?

10 THE COURT: We will do that.

11 MS. TOBLER: Thank you, Your Honor.

12 THE COURT: We need to file in an objection date.

13 MS. TOBLER: May 8th, Your Honor?

14 THE COURT: With that, the order has been signed.

15 MS. TOBLER: Thank you, Your Honor. And with that I  
16 turn the podium back over to my colleague, Kelly Cornish.

17 MS. CORNISH: Thank you, Your Honor. I'd like to  
18 turn now to Item 15 on the agenda, which is the debtor's motion  
19 for an order approving post-petition financing, authorizing use  
20 of cash collateral, granting liens and providing super priority  
21 expense, granting adequate protection, modifying the automatic  
22 stay, and scheduling a final hearing.

23 And I would also note that in addition to the items  
24 in Mr. Harvey's declaration that are relevant to this motion we  
25 also have filed a declaration of Steven Zelin of Blackstone,

1 which is Item 17 of the agenda, in support of the DIP financing  
2 motion. And again, Mr. Zelin is here in the Court, and  
3 available for cross examination if necessary. I'd like to  
4 proffer his testimony during my presentation, and also request  
5 that the declaration be submitted into Evidence -- or,  
6 admitted, I should say, into Evidence.

7 THE COURT: All right. Is there any objections to  
8 the admission of the declaration? It's admitted without  
9 objection.

10 MS. CORNISH: Thank you, Your Honor. Your Honor, the  
11 debtors seek approval of a fully committed 600 million -- 206  
12 million -- sorry -- term loan available upon entry of an  
13 interim order to provide very much needed working capital to  
14 the Bowater Group. And I would point out, Your Honor, that  
15 this financing would be to finance the Bowater Group, the left  
16 side of the chain of companies that I described in my opening.  
17 Specifically, the financing provides for borrowings and  
18 extensions of credit consisting of 166 million in term loan for  
19 the Bowater U.S. debtors, which are in the upper right hand  
20 quadrant of the chart, and 40 million in term loan proceeds for  
21 the Canadian Bowater debtors, which are in the bottom left  
22 quadrant. The DIP facility, Your Honor, is capable of being  
23 upsized to \$600 million through an incremental term loan, and  
24 an ABL revolving loan. The U.S. portion of the DIP is secured  
25 by first liens on unencumbered assets of the U.S. debtors,

1 which are primarily Catawba, South Carolina, a large and very  
2 efficient and profitable mill, and Calhoun, Tennessee, and also  
3 post-petition inter-company obligations of the U.S. borrowers,  
4 plus junior liens on encumbered U.S. assets, including inter-  
5 company obligations.

6           The Canadian DIP facility is secured -- the security  
7 package is really parallel. First liens on unencumbered assets  
8 of Bowater, Canada, borrowers plus second liens on encumbered  
9 assets. And when we get to describe in more detail the  
10 adequate protection package and the order, we'll give more  
11 detail on that. We are seeking use of pre-petition -- the pre-  
12 petition lenders' cash collateral, and we are providing them  
13 adequate protection. And as I mentioned, there are two pre-  
14 petition facilities currently in place. One is agented by  
15 Wachovia Bank, and that is a facility that funds the U.S.  
16 Bowater debtors of approximately \$370 million, and there's  
17 about -- over \$200 million outstanding on that at this time.  
18 And then there is a facility, a separate facility in funding  
19 the Bowater Canada entities that's agented by Bank of Nova  
20 Scotia.

21           Entering these Chapter 11 cases, Your Honor, the  
22 debtor's liquidity was extremely constrained. And it is very  
23 essential to the debtor's on-going operations to put the DIP  
24 facility in place immediately to fund on-going operations. The  
25 DIP facility that we are -- proposed DIP facility that we are

1 proposing to put in place that funds the Bowater side of the  
2 business really mirrors the structure of the pre-petition  
3 facilities. As we mentioned, Your Honor -- as I mentioned in  
4 the Harvey -- and in the Harvey declaration, there was a 2007  
5 merger of two equals here, and as a result following the merger  
6 the A side, or the Abitibi side of the company and the Bowater  
7 side of the company were really funded by essentially separate  
8 funding arrangements. And again, I mentioned on the B side you  
9 have the -- the Bowater side the Wachovia and BNS credit  
10 facilities, and on the Abitibi side pre-petition there was a  
11 Citibank securitization facility, which is up in the D-Corp.  
12 group of companies, as well as a 364 day term loan which  
13 provided liquidity prior to the filing to the company -- or to  
14 the Abitibi side, as well.

15           The DIP financing facility that we are proposing will  
16 be provided by Fairfax Financial Holdings and Avenue  
17 Investments. I would like to just point out to Your Honor  
18 right up front that the two representatives of Fairfax  
19 Financial Holdings have seats on Abitibi's board of directors,  
20 and Fairfax also holds substantial pre-petition debt across the  
21 capital structure. Avenue Investments also is a pre-petition  
22 debt holder.

23           THE COURT: The papers did disclose the connection  
24 with the directors. How many directors are on the board?

25           MS. CORNISH: I believe 14. I think 14.

1 UNIDENTIFIED SPEAKER: 12.

2 MS. CORNISH: Excuse me?

3 UNIDENTIFIED SPEAKER: 12.

4 MS. CORNISH: 12.

5 THE COURT: 12. All right. Thank you.

6 MS. CORNISH: 12. Okay. As I mentioned, Your Honor,  
7 Steve Zelin, the company's financial advisor, has submitted a  
8 declaration describing the process that the company went  
9 through in order to secure the proposal that's before you  
10 today, and I thought in particular because of the Fairfax  
11 relationship to the company, it would make sense to walk  
12 through that, and make a record, so I'll do that.

13 Your Honor, Blackstone was engaged in late February  
14 by the company to, among other things, assist the company in  
15 sourcing and securing DIP financing for the company. Early in  
16 March Blackstone solicited proposals from various --

17 THE COURT: I'm sorry to interrupt.

18 MS. CORNISH: Sure.

19 THE COURT: This is Judge Carey. I hear noise coming  
20 from the telephone connection. Let me ask all of the telephone  
21 participants to make sure that their telephones are on mute.  
22 Thank you. You may proceed.

23 MS. CORNISH: Thank you. In early March of 2009, the  
24 company solicited proposals from various potential sources of  
25 DIP financing, and after conversations and discussions with

1 Blackstone and the company, we received written indications of  
2 interest from five prospective providers, four of them were  
3 major financial institutions and one was a group of existing  
4 bond holders of the company. There was some due diligence  
5 done. There were further negotiations with those parties, and  
6 within a period of a week or two the company decided to pursue  
7 one particular proposal, which -- from a major financial  
8 institution, which had terms that were extremely favorable to  
9 the company, both in terms of the size of the facility and the  
10 cost and the like. In particular, the facility was a \$600  
11 million fully underwritten facility that would have provided  
12 immediately working capital to the company, and also would have  
13 refinanced the existing pre-petition facilities at -- at both  
14 Bowater U.S. and Bowater Canada, the Wachovia and the Bank of  
15 Nova Scotia facilities.

16           And it was on terms that were extremely favorable,  
17 particularly in this environment, as we see DIP facilities very  
18 hard to obtain, and if they're obtained they tend to be very,  
19 very expensive. Within a week we were -- of working with that  
20 entity, and Blackstone worked with them very closely,  
21 unfortunately that lender advised the company that it had  
22 decided not to proceed with the proposal that it had made so  
23 that the company was in a position to have to go back and  
24 source a lender once again. We went back to one of the lenders  
25 that was part of the initial group of five that had provided

1 written indications of interest, and within a number of days  
2 the company executed a work letter with that entity to raise a  
3 \$200 million term loan on a best efforts basis.

4           Around April 7th syndication efforts were begun by  
5 that potential arranger, and it seemed clear that early on in  
6 that process the indications were not showing that there were  
7 advantageous terms that were going to be offered through that  
8 facility. By the end of the week the company became very  
9 concerned and Blackstone became very concerned that an  
10 acceptable DIP provider might not be found and finalized in a  
11 timely manner, as the company's liquidity position continued to  
12 deteriorate. And as liquidity was tightening the company  
13 realized that it actually might need to file in a fairly  
14 imminent and short period of time.

15           In that context, Your Honor, and having lost the  
16 initial proposal, the company contacted Fairfax and Blackstone  
17 -- actually, it was Blackstone contacted Fairfax to see whether  
18 Fairfax would be interested in perhaps providing a DIP. And I  
19 would mention, and this is in the declarations submitted in  
20 support of the motion, Fairfax had provided in the past some  
21 emergency funding to the company under tight time frames and on  
22 very, very favorable terms.

23           Within 24 hours of that solicitation, Fairfax came  
24 back and indicated that it indeed would provide a \$175 million  
25 term loan, committed term loan, to the company. Blackstone

1 immediately began to work with Fairfax to finalize that  
2 proposal. Blackstone continued, as well, working with the  
3 alternate DIP arranger that was still attempting to arrange a  
4 \$200 million term loan. Finally, on April 11th the company  
5 finalized a DIP financing with Fairfax through a commitment  
6 letter and a term sheet that provided a fully committed DIP  
7 loan, or term loan in the amount of \$184.5 million.

8           We also, shortly -- around the same time did receive  
9 a competing proposal from another lender. And those -- the  
10 terms of those, the basic economic terms of those proposals are  
11 set out in Mr. Zelin's, and compared in Mr. Zelin's  
12 declaration. Very briefly -- and I will in a moment, I'm not  
13 going to do it right now, we had a couple of glitches in terms  
14 of the numbers, and I'm going to -- we are going to submit a  
15 correct affidavit. But I'll go through the numbers now and  
16 we'll get to that later.

17           The basic terms of the competing proposals were the  
18 alternate DIP arranger proposed to provide \$225 million  
19 available to fund operations in a term loan with 100 million in  
20 addition to refinance the existing indebtedness. The Fairfax  
21 proposal, as I mentioned, offered \$184.5 million. The interest  
22 rates, the alternate proposal was LIBOR plus 8.5 percent,  
23 whereas the Fairfax term sheet was LIBOR plus 7.5 percent.  
24 There were extensions contemplated in the term sheets. In the  
25 alternate arranger's term sheet for a three month extension,

1 and there were some hurdles to get over there, the interest  
2 rate went up to LIBOR plus 10.5. In the Fairfax term sheet  
3 there were two three-month extensions. And I failed to mention  
4 the maturity of both of these facilities, Your Honor, was 12  
5 months at the outset. So, the alternate arranger had a three-  
6 month extension, one three-month extension at LIBOR plus 10.5,  
7 and the Fairfax proposal two extensions with hurdles at LIBOR  
8 plus eight. There was no second extension, as I mentioned, on  
9 the alternate DIP arranger, and the extension -- the second  
10 extension on the Fairfax term sheet was also at LIBOR plus  
11 eight.

12           The fees, Your Honor, were notably different. The up  
13 front fees on the alternate DIP arranger proposal totaled about  
14 11 percent of the amount of the loan, eight percent on a DIP  
15 fee and three percent for an arranger fee. The Fairfax term  
16 sheet was, up front fees total of seven percent with no  
17 arranger fee and a seven percent DIP fee. And then exit fees  
18 on both facilities were proposed at two percent.

19           I've already mentioned the extension fees, and so all  
20 in, Your Honor, the alternate DIP arranger proposal  
21 contemplated 13 percent in fees plus one percent if there were  
22 an extension, compared with the Fairfax proposal, which came in  
23 at nine percent with no bump up on the extensions. Blackstone  
24 compared the proposals, considered them, also in the context,  
25 not just of the economic terms, but considering the time frame

1 that the company was under in terms of getting to a closing and  
2 its need to get the liquidity secured, and also considerations  
3 of execution risk and likelihood of closing, and the like. And  
4 Blackstone ultimately concluded, as Mr. Zelin states in his  
5 declaration, that the more favorable proposal was the Fairfax  
6 proposal. He made that recommendation to management, and  
7 ultimately the board decided to go along and pursue the Fairfax  
8 proposal.

9           The company proceeded, over the course of the next  
10 few days, to negotiate definitive documents, which at the end  
11 of the day actually improved the economic terms that -- the  
12 Fairfax initial proposal had set forth, and very briefly, the  
13 facility was upsized to the 206 million in part by getting -  
14 bringing Avenue Investments into the facility. The interest  
15 rate remained the same for the first 12 months, as well as for  
16 the first three month -- or for the extensions. The up front  
17 fees actually decreased, Your Honor. The Fairfax up front fee,  
18 in its initial proposal was seven percent, and it is five in  
19 the proposal before you. So, again, the comparison between the  
20 alternate arranger that we were considering at 11 percent we  
21 are now at five percent.

22           The exit fees remained at two percent. There are  
23 now, on the two extensions, on the first extension 50 basis  
24 points increase, and on the second extension another 50 basis  
25 point increase, but all in, Your Honor, the Fairfax -- the



1 COURT CALL OPERATOR: Yes, sir.

2 THE COURT: Would you please identify the source of  
3 the noise coming from the telephone connection and mute that  
4 line for me?

5 COURT CALL OPERATOR: Yes, sir. I will mute that  
6 line.

7 THE COURT: Thank you. You may continue.

8 MS. CORNISH: Thank you, Your Honor. Your Honor, the  
9 trade has greatly constrained. We need reassurance of  
10 viability of the company to loosen up the trade and get the  
11 trade to start shipping, and hopefully re-establish terms as  
12 quickly as possible. And part of our projections, our DIP  
13 projections assume that that will occur, that trade will start  
14 shipping and that we will get normalized trade terms within  
15 some reasonable period of time.

16 We believe that the \$200 million DIP right out of the  
17 box sets the right level of liquidity to reestablish terms, and  
18 credibility in -- with our trade. We're not saying that we're  
19 going to, by any means that the company is going to burn  
20 through \$200 million in the next 45 days. That's not the case  
21 at all. We need it to, as I said, establish credibility with  
22 the trade. We need some cushion there. Also, competitors, if  
23 we don't have a reasonable cushion, with our liquidity  
24 competitors can use this to try to take business away. And  
25 also, we need it to reassure our customers.

1 I would just note that Bowater has about \$50 million  
2 of payables per month, so that would put I think in context the  
3 \$200 million really is an appropriate amount of liquidity for a  
4 company of this size and scope to have on its balance sheet.

5 With that, Your Honor, I'd like to turn briefly to  
6 the terms of the proposed DIP. And I've covered most of this,  
7 but I'll go over it quickly. It's a \$206 million facility,  
8 \$166 million term loan that would be available to the U.S.  
9 borrowers, 40 million term loan at Bowater Canada. Again, with  
10 an uncommitted upsizing to 600 million both incremental term  
11 and revolver upon entry of a final order. The interest rate,  
12 the base rate is base plus 650 basis points, and LIBOR is plus  
13 seven fifty basis points, and the default rate increases at two  
14 percent.

15 I mentioned the maturity of this facility is 12  
16 months. It has two extension features. One three month  
17 extension, and the trigger there is the filing of a plan of  
18 reorganization. That's acceptable to the lender. And the  
19 second extension, there is a 50 basis point increase in  
20 interest rate there, and we get -- we will get that extension  
21 if we are -- if the plan is on file and we are moving in good  
22 faith and best efforts towards confirmation of that plan.

23 And I've already reviewed the fees, so I won't take  
24 you back through that, Your Honor. At this point I'd like to  
25 pass the podium over to my colleague, Alice Eaton, who is going

1 to cover the inter-creditor arrangements and adequate  
2 protection arrangements, as well as the DIP order eventually.  
3 Thank you, Your Honor.

4 MS. EATON: Good afternoon, Your Honor. This DIP  
5 credit facility, because Fairfax is taking first liens on  
6 unencumbered assets and second liens on currently encumbered  
7 assets, there are inter-creditor elements that we were able to  
8 negotiate with our pre-petition lenders, and we're pleased to  
9 report that we were able to reach an agreed order with -- among  
10 Fairfax, Wachovia, and Bank of Nova Scotia. And so, to walk  
11 through -- so, there will be a little bit of repeat here, but  
12 to walk through, again, Fairfax is a first lien on currently  
13 unencumbered assets, and a second lien on encumbered assets in  
14 the United States. That would be second to Wachovia's pre-  
15 petition collateral. There is one exception. To the extent of  
16 any post-petition inter-company claims, Fairfax would get a  
17 first lien on those inter-company claims.

18 Now, in Canada Fairfax would get a first lien on  
19 unencumbered assets, which in effect means they will have a  
20 second lien on all the assets that secure the Bank of Nova  
21 Scotia loans. And Fairfax will also get a first lien on post-  
22 petition inter-company claims.

23 Now, as adequate protection -- oh, and one other  
24 point before I forget. When we were doing diligence on  
25 outstanding liens and claims, it appeared that there was a

1 stray lien on the Catawba property. We have reached out to the  
2 lien holder and understand that the lien has been assigned and  
3 we've also -- the lien -- well, the party that would now hold  
4 the lien believes that the lien has been -- the loan has been  
5 paid off. And we reached out to try and get a release of that  
6 lien and clean up the title, but we were unable to do so. So,  
7 out of an abundance of caution we are -- Fairfax is seeking a  
8 priming lien to the extent of that very small outstanding lien  
9 that we believe is no longer in existence, and to give you some  
10 context it is on a very discreet parcel of property at Catawba,  
11 which is a very large -- a large facility.

12 THE COURT: Well, has the present owner of the lien  
13 been notified?

14 MS. EATON: They have. We have provided notice of  
15 this hearing. In advance of the hearing we had reached out,  
16 and as -- it's described in our motion. Unfortunately, we  
17 tried to contact, you know, in trying to contact the mortgagor  
18 it's one of these situations where the mortgage had been  
19 assigned, and then the mortgagor had -- I believe the mortgagor  
20 had been through bankruptcy, and so, you know, we -- it -- you  
21 know, over the course of time in the period from 1996 and the  
22 expected release, or what we understand to be the release in  
23 1997, a lot has happened. And so, what we did is we provided  
24 -- we provided notice to the initial lien holder, and we  
25 provided notice to the subsequent lien holder of this hearing,

1 in addition to our efforts to try to reach out to them prior to  
2 this hearing.

3 THE COURT: What was the original principal amount of  
4 the loan?

5 MS. EATON: I'm going to have to confer with my  
6 colleagues. One moment. Excuse me.

7 (Pause)

8 MS. EATON: With apologies, Your Honor, my colleagues  
9 will confer. We understood that it's in the -- it's of  
10 millions of dollars, but certainly far smaller than the value  
11 of the property.

12 THE COURT: You may continue.

13 MS. EATON: Okay. Thank you. Now, regarding the  
14 adequate protection package to the pre-petition lenders, we  
15 have reached an agreement where there are different adequate  
16 protection packages in the U.S. and in Canada because we have  
17 two different facilities. And in both instances the pre-  
18 petition lenders will have post-petition replacement liens on  
19 their -- what would constitute their pre-petition collateral  
20 package, with the exception of the inter-company claims, as I  
21 outlined earlier, where Fairfax would be first, and the pre-  
22 petition lenders would be second.

23 The pre-petition lenders also have a junior lien on  
24 the DIP collateral. And to explain that a bit further, in the  
25 U.S. Wachovia will have a junior lien and Bank of Nova Scotia

1 will have a junior lien on the U.S. assets. To be clear,  
2 Wachovia is unable to get a junior lien on the Canadian assets,  
3 and likewise, just as Fairfax -- the loans that are made in the  
4 U.S. do not have the benefit of the Canadian collateral, and  
5 that's primarily because of tax reasons, but must cross border  
6 loans are structured this way.

7           In addition to the junior liens the Bank of Nova  
8 Scotia facility will get a third lien on the certain  
9 collateral, so you have the pre-petition lien in Canada, and  
10 you have the Fairfax lien, and then you have the Canadian  
11 facility will have -- Bank of Nova Scotia will have a third  
12 lien on certain real property because their -- it's our  
13 understanding that there is sufficient collateral value to have  
14 a third lien, or at least they could get any residual value.

15           In addition, the pre-petition lenders will have  
16 507(b) claims to the extent of their diminution in value, and  
17 these 507(b) claims will be pari passu to the super priority  
18 administrative expense claims of Fairfax and Avenue. As  
19 additional adequate protection, the pre-petition lenders will  
20 receive a catch up payment of past due interest and  
21 professional fees. And I understand that the U.S. Trustee had  
22 a question about what the amount is, and we are going to verify  
23 that amount, but we understand that these amounts have been  
24 paid currently throughout the case, and in prior to filing, so  
25 we're not expecting this to be a significant -- it would be

1 somewhat ordinary course cash payment, the only difference  
2 being that it's -- we now in -- you know, we're now in Chapter  
3 11.

4           The pre-petition lenders will also receive a current  
5 cash pay interest at the non-default LIBOR rate as set forth in  
6 their pre-petition credit agreements, and they'll receive  
7 copies of all information that we provide to the DIP lenders.

8           Now, since we have distinct creditor groups and  
9 distinct collateral packages, the parties have agreed to an  
10 inter-creditor arrangement that is embodied in the DIP order,  
11 and what it provides is that in the event that the DIP lender  
12 were to seek to exercise rights and remedies, they would have  
13 to give the standard five business days' notice in order to do  
14 so. At that point in time --

15           THE COURT: I'm sorry.

16           MS. EATON: Yes.

17           THE COURT: Is the Court Call operator on the line?

18           COURT CALL OPERATOR: Yes, Your Honor.

19           THE COURT: All right. I'd like you to hear this.  
20 I'm going to caution, for one last time, the parties on the  
21 telephone connection. And the next time I hear noise coming  
22 from the line, except when someone is being asked to speak, I  
23 will direct the Court Call operator to terminate that  
24 connection. Please proceed.

25           MS. EATON: Thank you. Once the DIP lenders give the

1 five business days' notice, at that point the parties in  
2 interest have the right to appear before the Court. The  
3 debtors' rights are limited to arguing whether or not an event  
4 of default has occurred. The pre-petition lenders are  
5 permitted to raise objections at that point in time with  
6 respect to how the collateral is disposed. And the way this  
7 will work is the DIP agent doesn't have the right to enforce  
8 remedies against collateral in which it doesn't have a first  
9 lien. So, to the extent the DIP lenders have a second lien,  
10 they will have to stand still on that collateral, or at the  
11 time work out something with the pre-petition lenders if they  
12 wanted to proceed against that collateral.

13           In addition, to the extent the DIP lender disposes of  
14 any real property where the pre-petition lenders hold  
15 collateral, and this really relates to the collateral where  
16 Fairfax has a first lien and Wachovia has a replacement first  
17 lien on inventory, at that point in time the pre-petition agent  
18 will have a reasonable amount of time to remove or dispose of  
19 its collateral located at the property where Fairfax has a  
20 first lien.

21           In addition, I -- well, I guess at this point I will  
22 move on to the terms of the order, unless you have any further  
23 questions about the inter-creditor arrangement?

24           THE COURT: I do not.

25           MS. EATON: Thank you. Okay. I was just informed

1 that the amount of the lien, the stray lien at the Catawba  
2 property is \$24 million.

3 THE COURT: Thank you.

4 MS. EATON: Okay. The order -- aside from the inter-  
5 creditor negotiations, the order sets forth the standard  
6 provisions and findings of fact if the debtors provide a -- the  
7 debtors stipulate as to the extent of the claims and the  
8 validity, and priority of the liens and claims in connection  
9 with both the Wachovia facility and the Bank of Nova Scotia  
10 facility, and any committee has the right to further  
11 investigate those claims, and bring an action within 75 days,  
12 and there is a carve out of \$50,000 to investigate those liens  
13 and claims.

14 And to be clear on one point, to the extent Fairfax  
15 is a pre-petition lender the debtors are not stipulating as to  
16 the liens and claims of Fairfax.

17 The order, in addition to the adequate protection and  
18 setting forth liens and claims, the order provides that upon  
19 entry -- upon entry of a final order the DIP lenders and the  
20 pre-petition lenders would have the benefit of a 506(c) waiver.  
21 The collateral package does not include any avoidance actions,  
22 and so the DIP order also sets forth clear exclusion avoidance  
23 actions.

24 With respect to payment --

25 THE COURT: What about proceeds of avoidance actions?

1 MS. EATON: Those are also carved out. The U.S.  
2 Trustee had a question about payment of the fees of the pre-  
3 petition -- the professional fees of the pre-petition lenders,  
4 and we've provided in the order that ten days' notice would be  
5 provided to the committee, the debtors, and the U.S. Trustee.  
6 So, to the extent the U.S. Trustee had any issue, they would  
7 have a period of time to reach out to us prior to any objection  
8 -- I'm sorry -- prior to any payment being made. And that's  
9 the sum and substance of what I wanted to cover in the order.  
10 And if there's any questions that you have? The courtroom is  
11 full of people. I'm sure to the extent that I said something  
12 that requires correcting, someone would jump up and do so.

13 THE COURT: What's the present state of the form of  
14 proposed order? I've reviewed what's been submitted with the  
15 binder. Have further changes been made since the submission?

16 MS. EATON: The order is somewhere in the courtroom.  
17 We have a red line, as well as some additional hand markings.  
18 The changes I'd characterize as largely non-substantive.  
19 They're really just clean up reflecting the deal that was  
20 reached. But I think we -- if we could just take a break for a  
21 moment I could find -- or, if I could move off the podium and  
22 pass it back to Kelly, we need to get the order. And we can  
23 either read those changes into the record, or hand up the copy  
24 for you to review.

25 THE COURT: Well, maybe given the fact that it's

1 still circulating, let me just turn to the gathered and ask if  
2 anyone wants to be heard in connection with this motion?

3 MR. KLAUDER: Your Honor, other than review of the  
4 order, I think all of our comments have been incorporated.

5 THE COURT: All right. Thank you.

6 (Pause)

7 MS. EATON: Well, I've been -- subject to my review,  
8 as well, I've been told that we are done on the order, and the  
9 U.S. Trustee is going to just take a quick flip through to to  
10 confirm the changes.

11 THE COURT: All right.

12 MS. EATON: Your Honor, how would you like us to  
13 proceed? Can we hand up this black line, and you have  
14 comments, as well, to pass on. Is this an opportunity for you  
15 to give us those comments?

16 THE COURT: No. I don't --

17 (Pause)

18 THE COURT: I don't have any questions except to note  
19 that in the draft I have there is a blank with respect to  
20 what's defined as the directors' indemnification in charge.  
21 And -- I just want to make sure you've gotten to a figure.

22 MS. EATON: Yes. And that figure is dictated by the  
23 initial order that our colleagues in Canada are proceeding to  
24 obtain today. That is -- the number in the Canadian order is  
25 quite large, but the priority portion is seven-and-a-half

1 million dollars, and so that's the number that will be  
2 inserted, and the DIP lenders have agreed that that would be  
3 appropriate.

4 THE COURT: Okay. Let me hear from others that wish  
5 to be heard in connection with this motion. I knew you'd have  
6 something to say, Mr. Toder.

7 MR. TODER: That's unfair, Your Honor. We've gone  
8 through this before. Richard Toder again. Your Honor, perhaps  
9 it guilds the lily, but suffice it to say, there were extensive  
10 negotiations over this, as you would expect, but it's fair to  
11 say two things. One is that we're absolutely convinced that  
12 the DIP loan needs to be made, should be made, and we do think  
13 it's a fair give and take, back and forth, with regard to the  
14 adequate protection. It was hard fought, but I think there was  
15 a lot of give and take. So, we are very supportive of it.

16 THE COURT: Thank you. Does anyone else care to be  
17 heard? I hear no further response. Let me ask if anyone  
18 wishes to examine Mr. Zelin? I hear no response.

19 MS. EATON: Your Honor, we, at this point, once we  
20 gather the order, we will hand it up to you, if that's  
21 acceptable, and ask you to enter our marked up order, and I  
22 assume we can follow up with a conformed copy subsequently, if  
23 that's okay.

24 THE COURT: That's fine.

25 MS. EATON: Okay. Thank you.

1 THE COURT: So long as all the markings are legible.

2 (Pause)

3 MS. CORNISH: Just one last thing before we move off  
4 the DIP. I had mentioned to Your Honor that we had submitted  
5 the declaration of Mr. Zelin, and there were a couple of errors  
6 in it. They are not material errors, and the proffer that I  
7 made to you included the corrections as opposed to the  
8 inaccuracies, so we will be filing a corrected version of this  
9 shortly.

10 THE COURT: Thank you.

11 MS. CORNISH: That's it for the DIP motion. Thank  
12 you very much, Your Honor. We're past our time. We have a  
13 second financing motion, and we have issues with respect to it,  
14 and I am wondering if it would make sense for us to take a  
15 break at this point and Your Honor could move forward with your  
16 calendar, and then we might be able to come back afterwards?

17 THE COURT: Yes. Let me tell you what I suggest that  
18 we do. I have an oral argument coming up on a motion to  
19 dismiss in a complex adversary. I don't know how many lawyers  
20 are going to ask for time, but once I find that out and make a  
21 decision about how much time they should have, we'll e-mail Ms.  
22 Morgan, I guess, and make a suggestion about when you can  
23 return. I'm not sure when that will be, but I hope to know  
24 that shortly. How's that?

25 MS. CORNISH: That's terrific, Your Honor. Thank you

1 very much.

2 THE COURT: All right. Now, when will I get the  
3 order?

4 (Pause)

5 MS. EATON: Your Honor, may I approach?

6 THE COURT: Yes.

7 MS. EATON: Thank you.

8 THE COURT: And I would like to look through it now  
9 while you're all still here. Thank you. Okay. Now, is this  
10 the copy you want me to sign? Okay.

11 (Pause)

12 THE COURT: All right. I do have a question.

13 MS. EATON: Yes. Sure.

14 (Pause)

15 THE COURT: All right. Date by which notice of the  
16 order will be provided?

17 (Pause)

18 MS. CORNISH: Monday, the 20th.

19 THE COURT: All right. Objection date? May 8th?

20 MS. CORNISH: May 8th?

21 THE COURT: Okay. Final hearing May 15th at ten  
22 o'clock. All right. Based upon the record made, I'm satisfied  
23 the debtor has met its burden in demonstrating its need for the  
24 relief that's been requested. I've therefore signed the marked  
25 up order. And after having reviewed it I do think a conformed

1 copy would be in order.

2 MS. EATON: Thank you, Your Honor.

3 THE COURT: All right. We'll recess this matter. I  
4 will let you know shortly when you should return to finish the  
5 balance of the agenda items. In the meantime this order will  
6 be docketed.

7 MS. CORNISH: Thank you, Your Honor. One more  
8 housekeeping question. Would there be any possibility, Your  
9 Honor, in your absence early next week, to assign our Chapter  
10 15 petitions and hearing to one of your colleagues?

11 THE COURT: Well, what I would likely do is, because  
12 these are related cases, they would be assigned to me, but have  
13 the duty Judge -- I think I know who that is, but have the duty  
14 Judge handle whatever immediate needs you have, if that would  
15 be your preference.

16 MS. CORNISH: We would appreciate that. Yes, Your  
17 Honor.

18 THE COURT: Okay.

19 MS. CORNISH: Thank you, Your Honor.

20 THE COURT: Court will stand in recess.

21 (Recess)

22 THE COURT: All right. What's next?

23 MS. CORNISH: Your Honor, thank you for continuing  
24 the hearing and giving us more time. We really appreciate it,  
25 and it was a very productive use of time, as well. We were

1 able to, I think, at least preliminarily work through some  
2 difficult issues. With respect to the next motion, which we'd  
3 like to take up Item 18 on the agenda, which is the -- excuse  
4 me --

5 THE COURT: 16.

6 MS. CORNISH: 16. Sorry.

7 THE COURT: Don't scare me like that.

8 MS. CORNISH: The debtor's motion for an interim  
9 order authorizing the continuance of a receivables facility.  
10 Very briefly, Your Honor, I know it's very late in the day,  
11 this motion really is quite simple. We seek authority to keep  
12 a vital pre-petition receivables securitization program in  
13 place which essentially funds the Donohue Corporation Group and  
14 Abitibi Group in Canada. Specifically, the company has  
15 monetized substantially all of its accounts receivable  
16 generated by the Abitibi Group, and specifically the two  
17 entities are ACSC, Abitibi Consolidated Sales Corporation, and  
18 ACI, the Canadian entity, through a securitization program with  
19 Citibank. And this motion simply seeks to keep the pre-  
20 petition securitization program in place for a limited period  
21 of time, 45 days, until the company puts a replacement facility  
22 in place. There's nothing fancy about this. There are no new  
23 liens being granted. We believe no one's rights are being  
24 altered, etcetera. We are simply taking a pre-petition  
25 facility and extending it into the case for 45 days.

1           The reason we are here before you is the filing of  
2 the Chapter 11 CCAA proceedings gives Citibank the right to  
3 terminate the securitization program. It's a termination event  
4 under the existing program, which would result in an immediate  
5 and very detrimental disruption of cash flow on the Abitibi  
6 side. The group depends, Your Honor, on advance funding of its  
7 accounts receivable under the securitization program to fund  
8 its operations in Canada. The program is a classic -- and in  
9 the U.S. The program is a classic securitization structure.  
10 ACI and ACSC originate receivables and then they sell them into  
11 an SPV, which is called Abitibi Consolidated U.S. Funding  
12 Corp., and it's on your chart, if you still have that?

13           THE COURT: I do.

14           MS. CORNISH: It is the one entity, I believe, Your  
15 Honor -- it's on the left side of the chart, and it is below  
16 ACSC. And those receivables are sold at a discount based on  
17 outstanding balances on accounts receivable. The SPV ACI funds  
18 pays ACI and ACSC for the receivables from essentially two  
19 sources, collections on accounts receivable it already owns,  
20 and second, pooling acquired receivables and selling an  
21 undivided percentage ownership to Citibank, which has committed  
22 to purchase receivables up to \$210 million under the program.

23           The financing available under the program is limited  
24 principally by the outstanding balance of eligible receivables  
25 and the size of total reserves, basically an equity cushion

1 based on the present value of the future income stream from the  
2 receivables. Under the program Citibank was granted a security  
3 interest, and all of ASI fundings, the SPV's rights under  
4 certain of the securitization documents, the receivables  
5 themselves, lock boxes, deposit accounts, and other items under  
6 the documents.

7           As I mentioned, the filing of these cases and the  
8 CCAA proceedings constitute a termination event, and we are  
9 seeking approval of a Fifth Amendment to the securitization  
10 program pursuant to which Citi will waive that termination  
11 event and permit the continuation of the securitization program  
12 for 45 days, again, Your Honor, at which time we expect that we  
13 will be replacing that facility with another securitization  
14 facility or some other alternate financing vehicle.

15           The Fifth Amendment effectively maintains the  
16 securitization program's pre-petition economics and structure,  
17 we believe to the benefit of all stakeholders. And I note that  
18 the company is seeking identical relief in the Canadian Court  
19 with respect to ACI's participation in this program.

20           So, in summary, Your Honor, the items that we're  
21 seeking under this motion are approval of the Fifth Amendment.  
22 In addition, a finding that the transfers that are made by ACI  
23 and ACSC to the SPV are true sales, I think something that was  
24 done in Tribune, and perhaps other cases. Also a finding that  
25 the performance by ACI and ACSC and the SPV under the financing

1 agreements does not provide a basis for substantive  
2 consolidation of those entities. There is an administrative  
3 claim that is granted in favor of Citi, which basically covers  
4 indemnification obligations, and similar obligations by ACI and  
5 ACSC. And then, finally, we're seeking authorization for ACSC  
6 to cause the SPV to pay certain fees to Citi in connection with  
7 the extension, which are set forth in the motion.

8           We have had extensive negotiations with the company's  
9 -- with the term loan lenders. Your Honor, I mentioned in my  
10 opening remarks, I believe, that one of the ways that the  
11 Abitibi Group has been -- gotten working capital and has been  
12 funded over the last year is through a secured 364-day term  
13 loan facility that is at ACCC in Canada. That loan is secured  
14 by fixed assets and -- excuse me, personalty in Canada, as well  
15 as there are guarantees by the Donohue Corp. entities and  
16 certain of its subsidiaries of those obligations, and those  
17 guarantees are secured by a pledge of certain personalty of  
18 Donohue Corp. and subsidiaries, some real property, and other  
19 collateral. The term loan lenders have asserted that they are  
20 entitled to adequate protection of their interests in  
21 connection with the extension of the securitization facility,  
22 and we have negotiated with them we believe an adequate  
23 protection package that the company is prepared to provide.  
24 And I believe that -- and counsel for the term loan lenders can  
25 speak for themselves. I believe they have no objection to at

1 this point. And essentially that adequate protection package  
2 contains the following. The adequate protection -- first off,  
3 all of the elements I'm about to recite are really for just the  
4 duration of the 45-day period of the securitization facility.  
5 They go no further than that. First, the adequate protection  
6 is to be provided by Donohue Corporation and its subsidiaries,  
7 who are debtors in these cases. This does not -- the adequate  
8 protection package does not impact the securitization or any of  
9 Citibank's rights with respect to the program. To the extent  
10 of diminution in value on their pre-petition collateral during  
11 the 45-day period, the term loan lenders will receive  
12 replacement liens on post-petition assets that constituted pre-  
13 petition collateral in the case of the receivables subject to  
14 the inter-creditor agreement. They will receive liens on  
15 unencumbered assets on which the debtors are able to grant such  
16 a lien. And just to be clear, those assets do not include the  
17 membership interest to the Augusta News Print Corp. joint  
18 venture. That will not be subject to the adequate protection  
19 lien.

20           We have also offered junior liens on assets that are  
21 already encumbered on the D-Corp. side. As additional adequate  
22 protection we have offered a 507(b) claim in an allowed amount  
23 equal to the amount of interest due on the facility through the  
24 petition date and interest accruing during the 45-day period.

25           In addition, we've offered reasonable fees and

1 expenses of advisors to the term loan lenders, including their  
2 financial advisor, I believe it's Jeffries, Canadian counsel,  
3 and their primary U.S. and local counsel. There is no  
4 stipulation in this adequate protection package as to the  
5 validity, enforceability, perfection of the term lenders' liens  
6 or claims here. And finally, there is a standstill under the  
7 inter-creditor agreement. It will continue to be valid with  
8 the term loan lenders having the right and obligation under the  
9 inter-creditor -- all rights and obligations under the inter-  
10 creditor agreement. That standstill will expire upon the  
11 termination of the securitization facility or obviously at the  
12 end of the 45-day period.

13           And I believe that covers what we -- the debtors are  
14 willing to offer as adequate protection, and again, I believe  
15 that the term loan lenders have no objection, but I will turn  
16 the podium over to them. Oh. Thank you. Also, just a  
17 clarification. The 507(b) claim that I just described with  
18 respect to payment of interest, is junior to Citi's claim,  
19 their administrative claim that we've negotiated with respect  
20 to the Fifth Amendment.

21           THE COURT: All right. Thank you. Anyone else care  
22 to be heard?

23           MR. LANDIS: Thank you, Your Honor, and good evening.  
24 Adam Landis for the record on behalf of certain ACC term  
25 lenders. I am -- we did file a limited objection, and I don't

1 know if Your Honor was able to take a look at it.

2 THE COURT: I've read it.

3 MR. LANDIS: We were working pretty fast without a  
4 net. I'm here with David Hillman from Schulte, Roth & Zabel,  
5 co-counsel in this matter, and although we haven't moved his  
6 admission pro hac vice by formal paper, I'd like to move it for  
7 the purposes of this hearing orally today.

8 THE COURT: You will follow up with a written motion?

9 MR. LANDIS: Absolutely, Your Honor.

10 THE COURT: Very well. Thank you.

11 MR. LANDIS: And I'll yield the podium to Mr.  
12 Hillman.

13 THE COURT: All right. Welcome.

14 MR. HILLMAN: Good evening, Your Honor. Thank you.  
15 I'm here today as counsel to certain of what we've been  
16 describing as the ACC term lenders. Debtor's counsel has  
17 described certain proposals that they've made in the form of  
18 adequate protection. I think there are some clarifications  
19 that are worth making. First, it's our understanding that the  
20 proceeds, the cash collateral that will be generated from the  
21 sale of receivables to the securitization, and the existing  
22 cash collateral on the company's balance sheet will be used in  
23 accordance with a budget. We've been provided today with an  
24 amended copy of that budget, and it's our understanding that  
25 the stipulation that we're reading into the record here today



1           MR. HILLMAN: Your Honor, I was saying that there was  
2 a -- part of the package included a standstill of any  
3 enforcement under the inter-creditor agreement, and I believe  
4 the debtor said that it would terminate upon the termination of  
5 the securitization program, or if an event of default occurs  
6 under the termination program. I wanted to add that in.

7           One of the other super priority administrative claims  
8 that you did hear about was with respect to interest. We also  
9 were provided or offered a super priority administrative  
10 expense claim for the use of cash collateral equal to the  
11 diminution that would arise during the 45-day period. That is  
12 a separate super priority administrative expense claim, but  
13 that super priority expense claim is also subordinate to the  
14 claim granted to Citibank under the securitization order.

15           Things are moving fast. My clients are trying to get  
16 up to speed and follow all of the events as they unfold.

17           THE COURT: I try to do the same thing. And I  
18 haven't met a slow case recently, either.

19           MR. HILLMAN: It's not always possible to be on top  
20 of every order of every provision, but I know we will work  
21 diligently with the debtor, as they will with us, to try to  
22 keep us in the loop, and to get this order entered. I would  
23 say that to the extent the Court is inclined to enter the order  
24 that's been presented, I would ask that we put on the order  
25 that it's as modified by the agreements on the record, and that

1 we will work with the debtor to come up with a standalone order  
2 to address the issues that we have outlined to the Court.

3           The last point I would like to make is the motion is  
4 to use or to sell accounts receivable that constitute cash  
5 collateral of the ACC lenders. We have liens in that. When  
6 the proceeds are generated, it is also the ACC lender's  
7 position that we have liens in the proceeds. I wanted to make  
8 sure that that position was accurately reflected on the record  
9 as we will want to recite that in our stipulation, as well.

10           This order, as you heard, would be interim, and I  
11 don't know what the Court's scheduling is like to schedule a  
12 final hearing, but as a housekeeping matter at 5:30 or quarter  
13 to six we were trying to get a hold of all of our clients to  
14 get them to sign off on this, and I wasn't able to reach all of  
15 those clients, so I would just ask that the Court take that  
16 into consideration when scheduling the final hearing. Thank  
17 you, Your Honor.

18           THE COURT: Well, we've already scheduled a final  
19 hearing in connection with the other financing motion. I had  
20 anticipated we would do the same with this one.

21           MR. HILLMAN: I suspected that would be Your Honor's  
22 position. I didn't know if there was any opportunity to have  
23 an earlier date as maybe a status or a hold date in case there  
24 are issues that need to be resolved.

25           THE COURT: If there are issues, reach out to me by

1 conference telephone.

2 MR. HILLMAN: Thank you, Your Honor.

3 MS. CORNISH: Your Honor, just a couple of points.

4 On the issue of a budget, we will provide a budget for the 45-  
5 day period, but we do not agree that we are bound by it or that  
6 it can't be amended, or the like. We will provide a budget.  
7 And with respect to the lien with respect to Augusta, I just  
8 want to confirm that we are not able to grant that lien, and  
9 therefore that's not part of the package that's being offered.  
10 And finally, with respect to Mr. Hillman's statements with  
11 respect to the liens, and claims, and where they sit in the  
12 structure, we just want to make it clear for the record that  
13 we're not conceding any of that, and I understand it's his  
14 position, but we're not conceding any of that. And with that,  
15 Your Honor, we would ask you to approve this motion, which  
16 would permit the debtors to continue this very vital  
17 securitization program post-petition.

18 THE COURT: Well, are you asking me to sign the form  
19 of order that you have by pooling in the agreements that have  
20 been read into the record so that it can get docketed tonight?  
21 I take it that's what you're asking?

22 MS. CORNISH: We are. Yes. And then we will do a  
23 separate order memorializing what's been agreed to orally here  
24 this evening.

25 THE COURT: Okay. And assuming that doesn't come to

1 me tonight, is there any problem with my signing that upon my  
2 return on Thursday of next week?

3 MS. CORNISH: Absolutely not, Your Honor, as long as  
4 our order gets signed this evening and it incorporates the oral  
5 agreements this evening, that's adequate.

6 THE COURT: Okay.

7 MS. CORNISH: Thank you, Your Honor.

8 THE COURT: Mr. Hillman?

9 MR. HILLMAN: I'm sorry. But the -- one comment that  
10 the debtor's counsel has made is troublesome, and it deals with  
11 the budget. Effectively this is a cash collateral motion, in  
12 part, because the debtor seeks the authority to use cash  
13 collateral. The budget is a vital piece of that, and we had  
14 many concerns about line items in the budget, and the debtor,  
15 to which credit addressed a number of our concerns by removing  
16 some of the line items that gave us problems. So, to hear the  
17 debtor say we'll give you a budget but we won't be bound by it,  
18 that's troublesome, and I'm not sure how we can resolve that  
19 other than to say my understanding is there is a budget and the  
20 debtors need to be bound by that budgeting. If that's not the  
21 deal, then we have a separate issue to deal with. I don't mean  
22 to raise this at the last minute, but this is a problem.

23 THE COURT: Let's get the understanding clear.

24 MS. CORNISH: Well, it is being raised at the last  
25 minute, because although we've had lots of discussions about a

1 budget early on when we realized we had an issue with respect  
2 to this motion, when we sat down and laid out what the elements  
3 of the adequate protection package would be, we did not agree  
4 that we would provide a budget at all, which is why I didn't  
5 recite it to you when I stated what the debtors were offering  
6 as an adequate protection package. We did not offer that. And  
7 frankly, it was not discussed. Now that it's been raised, we  
8 are willing to provide a budget, but we cannot be bound to  
9 every, you know, item in the budget.

10 THE COURT: Well, normally a budget would contain  
11 variances, allowances. Maybe that would be the way to address  
12 that issue.

13 MS. CORNISH: It just puts us in a very tough spot,  
14 especially now, Your Honor. You can imagine how busy and how  
15 many things are on the plate of this debtor. And to get  
16 something together and to be comfortable with it for this very  
17 brief -- I mean, we're talking about 45 days starting today. I  
18 mean, we're not talking about a rolling 13-week forecast that  
19 cover a year DIP. It's 45 days. The amount of time -- you  
20 know, we'll get something together. We will get it to them in  
21 good faith. But it was not something that we offered as a part  
22 of this package, and I just don't want to -- I don't want to  
23 constrain the company.

24 THE COURT: Well, Mr. Hillman, here's what I'm  
25 hearing is that the debtor will use its best efforts to provide

1 a budget to you. To the extent the parties can't reach  
2 agreement on what it should be, reach out to me and I will  
3 address it then. I don't know. The one comfort I have and  
4 expectation I almost always have is that regardless of what  
5 might have happened pre-petition, and I'm making no suggestion  
6 about that once the debtor is in Chapter 11, with so many  
7 people looking over its shoulder that the likelihood of it  
8 doing something untoward is fairly low, not that it's  
9 impossible.

10 MR. HILLMAN: Your Honor, I understand the Court's  
11 comments. While it is a 45-day period, or 30 days until the  
12 final hearing, there is a substantial amount of money that is  
13 to be spent, in excess of 20-plus million dollars. So, cash  
14 collateral use requires, in every case I've been involved with,  
15 a budget. And I'm confident that we can work together with the  
16 debtor to come up with a budget along the lines of what they  
17 showed us, and reasonable variances. So, I don't see this as a  
18 stumbling block, but it's not something we want to see six  
19 weeks, 45 days, 30 days. It's part of a stipulation that we  
20 should be preparing for the Court as soon as we leave the  
21 hearing or shortly thereafter.

22 THE COURT: Well, as I said, if there's an issue  
23 reach out to me by conference telephone.

24 MR. HILLMAN: Thank you, Your Honor.

25 THE COURT: All right. Does anyone else care to be

1 heard in connection with this motion? I hear no further  
2 response. So, I take it, Mr. Hillman, on the record, the  
3 limited objection is resolved?

4 MR. HILLMAN: I would say that the limited objection  
5 to entry of the interim order is resolved, but we reserve our  
6 rights to carry the objection to the final hearing, whenever  
7 that is set for.

8 THE COURT: Understood.

9 MR. HILLMAN: Thank you, Your Honor.

10 THE COURT: Okay. Is there a form of order?

11 MS. CORNISH: Should we keep moving along, and then  
12 we'll --

13 THE COURT: Certainly.

14 MS. CORNISH: Your Honor, why don't we move along  
15 through the rest of the first day motions, and we will, as soon  
16 as we make some interlineations, we'll hand up the order?

17 THE COURT: All right.

18 MS. CORNISH: Thank you, Your Honor.

19 MS. MORGAN: Your Honor, again for the record,  
20 Pauline Morgan from Young, Conaway, Stargatt & Taylor. Good  
21 evening.

22 MR. LANDIS: I'm sorry to interrupt, Your Honor, but  
23 given the late hour, I'm wondering if the ACC lenders may be  
24 excused from the balance of the proceedings?

25 THE COURT: But I have to stay?

1 (Laughter)

2 MR. LANDIS: Your Honor, you have the robes. You can  
3 do whatever you'd like.

4 (Laughter)

5 THE COURT: They are perfectly free to leave.

6 MR. LANDIS: Thank you, Your Honor.

7 THE COURT: Thank you.

8 MS. MORGAN: Your Honor, back to the more routine  
9 motions. Your Honor, here are just Items 4, 5 and 6 on the  
10 agenda. Item 4 was the debtor's application to retain Epic  
11 Bankruptcy Solutions as its claims and balloting agent. Your  
12 Honor, this is a standard motion. We do have thousands of  
13 creditors in this case. We did talk to the United States  
14 Trustee about the motion and proposed order, and Mr. Klauder  
15 did request that some changes be made. Specifically, we have  
16 agreed and Epic has agreed that invoices that it provides to  
17 the debtors, copies will be provided to the official committee  
18 when formed, and also to the U.S. Trustee. We have also  
19 modified the indemnification language to comport with what we  
20 call the standard plan and Hollywood language in this district.  
21 And again, Mr. Klauder has reviewed that, and with those  
22 changes the order is acceptable to him, and we would ask that  
23 the order be approved. Your Honor, I could approach with a  
24 black line.

25 THE COURT: Thank you.

1 (Pause)

2 THE COURT: Does anyone else wish to be heard in  
3 connection with this application? I hear no response. With  
4 the changes that have been made which would always be there  
5 initially anyway, I've signed the order.

6 MS. MORGAN: Thank you, Your Honor. Your Honor, the  
7 next item is Number 5 on the agenda. The debtor's motion for  
8 declaratory order enforcing Sections 362 and 525 of the Code.  
9 Your Honor, this is, in our view, a stabilization order that  
10 allows the company to enter into its Chapter 11 transition with  
11 minimal disruption. As you've heard today, Your Honor, we do  
12 have that cross border case. We have thousands of vendors in  
13 many countries, and we think it's important in this kind of  
14 case to help creditors in other jurisdictions understand what  
15 the Bankruptcy Code says, especially Sections 362 and 525.  
16 We've narrowly tailored the order, Your Honor, to really  
17 basically just recite what the statute says, and we do think it  
18 would be beneficial to our operations and of great benefit to  
19 the estate, and we ask that it be approved.

20 THE COURT: I have one comment, and it's with respect  
21 to Paragraph 4 of the proposed order. I do sign comfort orders  
22 in cross border situations so long as they're plain vanilla,  
23 but I wonder what Paragraph 4 means. It looks like one reading  
24 might allow -- or someone might think it might allow someone to  
25 actually enforce this order. And I don't think that's truly

1 the purpose of the order. The order is to just say here's what  
2 the applicable law is, you know, be advised and act  
3 accordingly.

4 MS. MORGAN: I think that's right, Your Honor. I  
5 think the purpose of this is to avoid the a ten-day stay under  
6 the rules for, you know, any order, so I think we are just  
7 asking for this to be effective immediately. I don't think it  
8 is intended to direct anything beyond that.

9 THE COURT: Well, and I signed a comfort order very  
10 recently, I don't remember whether it had a similar provision  
11 in it or not, and assuming there's no other objection I'll  
12 enter it, but understand it's not a device to be used to  
13 enforce anything as far as I'm concerned.

14 MS. MORGAN: Thank you, Your Honor. And before you  
15 enter it, Your Honor, I think Mr. Klauder would like to be  
16 heard.

17 THE COURT: Okay.

18 MR. KLAUDER: Your Honor, I'm not going to make any  
19 correction on that.

20 THE COURT: Okay.

21 MR. KLAUDER: I think you've made your point clear.

22 THE COURT: All right. And I know the U.S. Trustee's  
23 Office generally prefers that we not enter such orders, but  
24 I'll consider your objection having been made and overruled.  
25 How's that?

1 (Laughter)

2 MS. MORGAN: Thank you, Your Honor. Your Honor, may  
3 I approach?

4 THE COURT: You may. Thank you.

5 (Pause)

6 THE COURT: That order has been signed.

7 MS. MORGAN: Thank you, Your Honor. Item 6 on the  
8 agenda is the debtor's motion prohibiting utility providers  
9 from altering, refusing or discontinuing service to the debtors  
10 and deeming utility providers adequately assured of future  
11 performance on an interim basis, Your Honor. We are today  
12 presenting a standard interim order that maintains the status  
13 quo between now and a final hearing. It does provide, however,  
14 that the debtors will deposit as adequate assurance under 366 a  
15 deposit of \$15 million. Your Honor, that is approximately two  
16 weeks' deposit. The debtor's utilities spend, debtors -- that  
17 is all debtors, Canadian and U.S., is about \$970 million  
18 annually for the U.S. debtors. In the Chapter 11's it's three  
19 sixty-five annually. So, again, about \$30 million a month, and  
20 we are proposing \$15 million as adequate assurance until we get  
21 to a final hearing. We did, again, review this order with Mr.  
22 Klauder. He had no issues with it, Your Honor, and we would  
23 ask that it be approved.

24 THE COURT: All right. Anyone else care to be heard  
25 in connection with this motion? I hear no response. Thank

1 you. That order has been signed.

2 MS. MORGAN: Thank you, Your Honor. I'm going to turn  
3 the podium back over to our co-counsel, Ms. Tobler.

4 MS. TOBLER: Good evening, Your Honor. I am going to  
5 address the remaining first day motions on the agenda, which  
6 are Items 7 through 12, starting with Number 7. This is the  
7 debtor's motion for authority to pay any outstanding pre-  
8 petition wages and salaries and similar benefits. The debtors  
9 have -- it's about 6,000 employees that are part of the Chapter  
10 11 filing. We are seeking to pay any pre-petition amounts  
11 owing on account of those. We have reviewed this order with  
12 the U.S. Trustee. He has suggested some language that we have  
13 included in the order regarding 503(c) to make clear that none  
14 of those types of payments are involved. These are routine  
15 salary and wage payments. And unless Your Honor had any  
16 questions, I would just rely on what's been said in the motion  
17 and in the declaration, and ask that you please enter the order  
18 as submitted.

19 THE COURT: No, I don't have any questions. I've  
20 reviewed the submissions. But let me ask if anyone else would  
21 like to be heard in connection with this motion? I hear no  
22 response.

23 MS. TOBLER: Your Honor, I'll hand up a clean and a  
24 black line.

25 THE COURT: All right. Thank you.

1 (Pause)

2 THE COURT: That order has been signed.

3 MS. TOBLER: Thank you, Your Honor. The next motion  
4 on the docket -- on the agenda is the motion seeking authority  
5 to continue the debtor's worker's compensation insurance and  
6 other insurance policies in place. It's Item Number 8 on the  
7 agenda. Your Honor, the debtors are current with their  
8 insurance policies. We are not seeking authority to pay any  
9 specific pre-petition amounts. The premiums are current, but  
10 there might be some amounts arising under the various insurance  
11 policies on account of claims that we might have a deductible  
12 on, or things of that sort that might have a post-petition  
13 element to them that might give rise to a payment due, not --  
14 that have some pre-petition aspect to it. We're seeking  
15 authority to be able to pay those amounts as they come due in  
16 the ordinary course. Again, we're current on all the premiums  
17 and policies, so we are seeking that relief in this motion. We  
18 have submitted it and shown it to the U.S. Trustee. He did not  
19 have any objections to it. Your Honor, I'm going to again rely  
20 on what's said in the motion, and the narrative, and the  
21 declaration, and ask Your Honor to enter it.

22 THE COURT: All right. Does anyone else care to be  
23 heard in connection with this motion? I hear no response. I  
24 don't have any questions.

25 MS. TOBLER: Thank you, Your Honor.

1 THE COURT: Thank you.

2 (Pause)

3 THE COURT: That order has been signed.

4 MS. TOBLER: Thank you, Your Honor. The next number  
5 on the agenda is Number 9. This is the debtor's motion seeking  
6 authority to continue to honor its pre-petition customer and  
7 broker obligations in the ordinary course, and to continue  
8 those customer and broker programs and practices in the  
9 ordinary course of business. Your Honor, obviously the  
10 relationship the company has with its customers is critical.  
11 It's a vital component to the success of the company's  
12 reorganization efforts. The company, like other large  
13 companies, they have incentive, rebate type programs in place  
14 for their customers. They also rely on brokers for certain  
15 sales. All of this is described in more detail in the motion,  
16 Your Honor. We are seeking the relief to pay any pre-petition  
17 amounts that might be accrued pre-petition or that might be  
18 owing for pre-petition sales incentive programs, and we  
19 estimate that amount to be between eight and \$10 million, and  
20 we seek the authority to pay those in the ordinary course as  
21 they come due, and to keep those programs in place going  
22 forward. We think it's an important part of the relief sought  
23 on the first day to enable the company to continue with its on-  
24 going relationships. And we have also submitted this to the  
25 U.S. Trustee and I believe he has no comments on it. Okay.

1 We've talked with him and we've explained what the programs  
2 were, and he has no comments on them, so we would ask Your  
3 Honor to enter them unless you have any further questions as to  
4 the scope of the relief sought.

5 THE COURT: I do not. Does anyone else care to be  
6 heard in connection with this motion? I hear no response.

7 Thank you.

8 (Pause)

9 THE COURT: The order has been signed.

10 MS. TOBLER: Thank you, Your Honor. The next item on  
11 the agenda is Item Number 10.

12 MS. CORNISH: Your Honor, we have the order on the  
13 securitization program. May I approach?

14 THE COURT: You may. Thank you. All right. Give me  
15 a moment to look through this.

16 (Pause)

17 THE COURT: All right. That order has been signed.  
18 Now, just so you know, all of these orders will be docketed  
19 this evening through the magic of electronics. It may not be  
20 done at this location, but it will be done. So, it may take a  
21 while, but they will be docketed, I'm told, this evening.

22 MS. CORNISH: Thank you very much, Your Honor.

23 THE COURT: All right.

24 MS. TOBLER: Thank you, Your Honor.

25 THE COURT: It's okay. Go ahead.

1 (Laughter)

2 MS. TOBLER: Okay. The next item on the agenda,  
3 moving along, is the debtor's motion, it's Number 10, debtor's  
4 motion for an order authorizing the payment of certain pre-  
5 petition sales, use, franchise and property taxes. Your Honor,  
6 again, we are most -- we are current with our routine, these  
7 are routine business type taxes. We have shown this order to  
8 the U.S. Trustee. He asked us to confirm that these taxes are  
9 ordinary course, and we're not trying to make a catch up  
10 payment of any kind. That is true. We are not trying to  
11 accomplish that here. We believe there's about 12-and-a-half  
12 million dollars of accrued taxes that would fall within this  
13 category. We don't expect to -- we -- basically everything  
14 that's set forth in the motion I wish to rely on, and I'll ask  
15 to enter the order unless you have any questions.

16 THE COURT: I do not. I've read the papers. Does  
17 anyone else care to be heard in connection with this motion? I  
18 hear no response. Thank you.

19 (Pause)

20 MS. TOBLER: Your Honor, the next item on the agenda  
21 is Item Number 11, the debtor's motion for an order authorizing  
22 payment of pre-petition claims of shippers, warehousemen, and  
23 other lien claimants. Just by way of brief summary the  
24 debtor's operations are heavily shipping dependent, both for  
25 supplies going to the various mills, and also customer product

1 going from the mill to the customers. They employ  
2 approximately 1,200 shippers of various sorts, including  
3 truckers, trains, boats, and it is a critical component of both  
4 their production and also their supply chain. We expect  
5 there's approximately five million due and owing as of the  
6 filing date to these carriers. They are a critical component  
7 of our operations, and the risk is that if we do not have  
8 authority to pay those amounts, then those shippers and  
9 warehousemen will refuse to ship product and hold onto it.  
10 Your Honor, we again have shown this to the U.S. Trustee. I  
11 believe he has no comments, and we ask that Your Honor enter  
12 the order as submitted based on what's in the motion and in the  
13 declaration.

14 THE COURT: Does anyone else care to be heard in  
15 connection with this motion? I hear no response. I don't have  
16 any questions. Thank you.

17 MS. TOBLER: This brings us to the last motion on the  
18 agenda. It's Item Number 12. It's the debtor's motion for  
19 authority to pay certain critical vendor claims, and at the  
20 outset I want to say that we did share this with the U.S.  
21 Trustee. He did have some comments as to the specific  
22 components of the relief requested in here, and I have agreed  
23 to make some representations on the record. They will go  
24 beyond the scope of Mr. Harvey's declaration. Mr. Harvey is in  
25 the courtroom and is able to be cross examined on this, and I

1 am going to proffer his testimony to the extent it goes beyond  
2 the scope of the declaration, Your Honor.

3           In this motion the company is seeking the authority  
4 to pay critical vendors up to \$20 million. We had originally  
5 submitted the motion with a \$25 million - and we had negotiated  
6 that with the U.S. Trustee. We are now submitting it and we  
7 will have revised order for you in the amount of \$20 million.

8           There are four basic categories of critical vendors  
9 that the company has identified, the raw materials and chemical  
10 suppliers, suppliers of operating and plant maintenance  
11 components. We have committed project suppliers and we have  
12 dependent vendors. Your Honor, there's no issue with the first  
13 three of those categories, and they are described in the  
14 motion, and I think the relief as to those particular group of  
15 vendors is not controversial. The real issue that the U.S.  
16 Trustee raised is the dependent vendor category. In that group  
17 of critical vendors is Augusta News Print Company. August News  
18 Print, as you've heard previously, and as described in more  
19 detail at Page 9 of the declaration, is a 51 percent owned  
20 joint venture. What is it? It's a new print mill in Augusta,  
21 Georgia. It makes news print. It is a mill. It has  
22 approximately 300 employees. 289 are unionized. It is a self  
23 sufficient, self sustaining operation, but what it does is it  
24 sells 100 percent of its output to ACSC, which is a debtor  
25 entity. That payment is made once a month, and it is for the

1 purchase by ACSC of the entire output of that mill. The  
2 payment came due on the 15th in the amount of 19.2 million.  
3 The ACSC lacked sufficient liquidity to make the payment in  
4 full, and so as of the filing date, as of today there was 9.2  
5 million owing to that mill. In the absence of that payment the  
6 mill has no other source of income and it cannot fund its  
7 operations. So, the criticality here for terms of critical  
8 vendor motion and the relief we're requesting, it's twofold.  
9 One, they are a critical supplier to us. They produce news  
10 print. We buy their entire output. And while news print may  
11 be paper and one might consider it fungible, and a commodity,  
12 as you've heard us say earlier, the fact and the processing  
13 component of this is that it is supplied to specific customers.  
14 So, we cannot just replace the output from that particular mill  
15 by calling up another mill and having that output redirected.  
16 A lot of the customers have the mill qualified before they will  
17 purchase paper from that particular mill. And it is a  
18 qualification process basically to meet the customer's end  
19 needs, so that if they have certain printing requirements or  
20 processing requirements for their output, for their newspapers  
21 that they produce, they know that they can rely on a consistent  
22 product from a particular mill within our company to produce  
23 their news print. So, there's a criticality on that side in  
24 terms of even though this is a joint venture, the product that  
25 we purchase from them is critical to our operations. If we had

1 to not make that payment and that mill were to shut down or be  
2 unable to operate, even for a short period of time, we could  
3 not supply our end customers, and that would disrupt our  
4 relationship with our customer, but as well, cause harm to  
5 obviously our revenue and our future income stream.

6           Now, the other criticality, and that -- why they fall  
7 into the dependent vendor category as described in our motion  
8 is we buy all of their output. They have no other source of  
9 income. If we don't make this payment they will not be able to  
10 operate. There are 300-plus employees at stake here, and they  
11 have no other source of funding.

12           So, Your Honor, we ask that you authorize the payment  
13 of this as part of the critical vendor relief. We do believe  
14 that they are critical, as I described, both as a supplier and  
15 also as a dependent vendor. And I do believe the Trustee has  
16 some comments on that.

17           THE COURT: Well, first let me just say it. I'll  
18 take that as Mr. Harvey's proffer, and ask whether anyone  
19 wishes to examine him? I hear no response. Mr. Klauder?

20           MR. KLAUDER: Your Honor, just briefly. We ask that  
21 the debtors put on the record on the payment because it is an  
22 unusual payment to an affiliate, owned about 50 percent by one  
23 of the debtors. We certainly had concerns based on that, plus  
24 it's a very large payment. If you look at the total cap of 20  
25 million this is approximately half of that. We asked the

1 debtors to think about whether that number can be cut down a  
2 little bit, and they've presented to you today that it cannot.  
3 And whether their record today meets the appropriate standard  
4 we, of course, will -- you know, not necessarily comment on  
5 that, it's just an unusual payment. It's something we would  
6 really love a committee to come in and look at. But once the  
7 money is out the door, that's probably unlikely. So, those  
8 were our concerns. Thank you.

9 THE COURT: Thank you. Does anyone else care to be  
10 heard in connection with this motion? Does the debtor have  
11 anything further in support of this motion?

12 MS. TOBLER: Yes, Your Honor. I just want to briefly  
13 respond to two points. First, as to the magnitude of the  
14 dollars at stake here. Yes, in terms of the entire amount that  
15 we're seeking, it is \$10 million out of the 20. But if you  
16 look at the overall relief, the critical vendor relief in this  
17 motion, it is small. It is a \$20 million ask for a company  
18 that has over \$6 billion in sales. If you look at comparable  
19 companies like Smurfit, they came in with a \$60 million  
20 critical vendor ask. I think the relief here is very, very  
21 reasonable, and in fact, it's a bit conservative in terms of  
22 comparable companies. And also, the second point as to the  
23 harm that would be caused here, if you look at the overall  
24 balance of harm and the criticality to the dependent supplier  
25 here, it is a supplier. I mean, we buy their news print. I

1 know it's a joint venture, but if you just look at their role  
2 and relationship, they are a supplier, so I do think that they  
3 meet the standard in that sense. And we really have to pay  
4 them. It is a critical issue. They already received only half  
5 of the payment they were due, so there's no ability to delay  
6 the payment. So, for those reasons, Your Honor, I would ask  
7 that you grant us the relief requested.

8 THE COURT: Thank you. Based upon this record I'm  
9 satisfied the debtor has met its burden for payment to the  
10 critical vendor, and under Rule 6003 I agree with the U.S.  
11 Trustee it's a bit unusual, but the need is no less urgent, so  
12 I'm prepared to grant the relief that's been requested.

13 MS. TOBLER: Thank you, Your Honor. And with that I  
14 believe we have all our motions. And we appreciate your time  
15 and your flexibility.

16 THE COURT: I need a form of order.

17 MS. TOBLER: You need a form of order?

18 THE COURT: Well, I don't need one, actually. You  
19 probably need one.

20 MS. TOBLER: And, Your Honor, just for the record, it  
21 is a black line because we did decrease the original ask from  
22 25 to 20.

23 THE COURT: Thank you.

24 MS. CORNISH: Your Honor, I think the motion to  
25 approve a cross border protocol is on the agenda, but we just

1 wanted to get it filed, and obviously it will go out on notice  
2 and be heard on our first motion day.

3           THE COURT: Yes. I did see that it was going to be  
4 put out for another time. I did read through it briefly, but  
5 not closely. I just wanted to make one comment. When BAPCPA  
6 was passed there weren't a set of Bankruptcy Rules to go with  
7 it, so a set of interim rules was put together and adopted as  
8 local rules by various Courts, including this one. With the  
9 passage of the permanent rules effective last year, I suppose,  
10 we entered an order, as was appropriate, revoking the order  
11 that had been entered adopting the interim rules as local  
12 rules. However, that order left untouched what was interim  
13 rule 5012, which governs communication and cooperation with  
14 foreign Courts and foreign representatives. So, that remains  
15 as a local rule here, and I just point that out to you. It  
16 deals a little bit with how Courts are to communicate, and  
17 under what circumstances they may do so with or without the  
18 consent of the parties. So, I just want to make sure there's  
19 nothing in the protocol which would run afoul of the local  
20 rule.

21           MS. CORNISH: We will take a look at the rule and be  
22 sure that there's nothing in there that does run afoul of it.  
23 And thank you for pointing it out to us.

24           THE COURT: Okay. You're welcome. Anything further  
25 for today?

1 MS. CORNISH: Your Honor, I think that concludes our  
2 agenda for today, and once again, we very much thank you for  
3 the time and also for the extra time, and as well as all the  
4 folks in the Court. We appreciate it a great deal, and we know  
5 it's a late hour.

6 THE COURT: All right. Thank you, all. That  
7 concludes this hearing. Court will stand adjourned.

8 \* \* \* \* \*

C E R T I F I C A T I O N

I, TAMMY DeRISI, court approved transcriber, certify  
that the foregoing is a correct transcript from the official  
electronic sound recording of the proceedings in the above-  
entitled matter to the best of my ability.

/s/ Tammy DeRisi  
TAMMY DeRISI  
J&J COURT TRANSCRIBERS, INC.

Date: April 27, 2009

**UNITED STATES BANKRUPTCY COURT  
District of Delaware**

**In Re:**

AbitibiBowater Inc.  
1155 Metcalfe Street, Suite 800  
Montreal  
Quebec, H3B 5H2  
CANADA  
EIN: 98-0526415

**Chapter: 11**

*Case No.:* 09-11296-KJC

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REDACTION***

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Clerk of Court

Date: 4/29/09

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