Court File No. CV-12-9667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SINO-FOREST CORPORATION

FACTUM OF THE AD HOC COMMITTEE OF NOTEHOLDERS OF SINO-FOREST CORPORATION
(on Motion for Plan Filing and Meeting Order)

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I OVERVIEW

1. This factum is submitted by the ad hoc committee of Noteholders (the "**Ad Hoc Committee**") in connection with the motion by Sino-Forest Corporation (the "**Applicant**", "**SFC**" or the "**Company**") for an order (the "**Meeting Order**"), *inter alia*, (i) authorizing the filing by the Applicant of the draft Plan of Compromise and Reorganization dated August 14, 2012 pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA**") and the *Canada Business Corporation Act*, R.S.C. 1985, c. C-44 (the "**CBCA**") concerning, affecting and involving SFC (the "**Plan**") and (ii) convening a meeting of the affected creditors of the Applicant (the "**Creditors' Meeting**") for purposes of voting on the Plan, as the same may be amended in accordance with its terms and the Meeting Order.

2. For purposes of this Factum, all capitalized terms not otherwise defined herein have the meaning ascribed to them in the Plan or in the Affidavit of W. Judson Martin sworn August 14, 2012 (the "**Martin Affidavit**").

3. SFC sought relief under the CCAA on March 30, 2012 in order to restructure its business as soon as possible for the benefit of its stakeholders.

4. Pursuant to the Initial Order and the Sale Process Order dated March 30, 2012 (and consistent with the Restructuring Support Agreement dated March 30, 2012 between SFC and the Initial Consenting Noteholders (the "**Support Agreement**")), SFC was authorized to commence a sale solicitation process through its financial advisor, Houlihan Lokey, for the sale of all or substantially all of its business and assets.

5. On July 10, 2012, SFC issued a press release announcing that none of the letters of intent received pursuant to the sale process were qualified letters of intent and, therefore, with the consent of the Monitor and the Ad Hoc Committee, SFC was terminating the sale process and proceeding with the alternative restructuring transaction contemplated by the Support Agreement.

6. Since the commencement of these proceedings, the Applicant has been working on a "dual track" to develop the Plan alongside the sale process in order to advance the restructuring transaction in the event the sale process was not successful.

7. Under the deadlines set out in the Support Agreement, the Company was required to file the Plan and Meeting Order by no later than July 16, 2012. This deadline was first extended with the consent of the Initial Consenting Noteholders to August 7, 2012, and

then further extended to August 14, 2012, when the Company filed the Plan and Meeting Order.

8. The remaining deadlines under the Support Agreement require a meeting of creditors by no later than October 5, 2012 and sanction of the Plan by no later than October 12, 2012. These deadlines are premised on the business reality that, as confirmed by the Monitor, SFC must complete its restructuring as soon as possible if the value of the SFC business is to be preserved and maximized for the benefit of its stakeholders.

9. The Meeting Order and the draft Plan were developed with the benefit of the information obtained from the claims process (which called for claims against SFC and the Directors and Officers of SFC, and for any related claims against the subsidiaries of SFC) and the decision of this Honourable Court dated July 27, 2012 regarding the status of "equity claims" in these proceedings. The Meeting Order and the draft Plan were also developed in consultation with the Ad Hoc Committee and the Monitor and their respective advisors.

10. In its Seventh Report dated August 17, 2012 concerning the Meeting Order and the draft Plan, the Monitor states that: "The Monitor is of the view that it is important for the CCAA Proceedings to be completed as soon as possible and, as such, believes that the granting of the Meeting Order at this time is appropriate and fair and reasonable in the circumstances."

11. The Ad Hoc Committee agrees with the Company and the Monitor. It is imperative that the Applicant continues to advance these CCAA proceedings and

implement the restructuring transaction as soon as possible to facilitate an expedited emergence from CCAA protection as a going concern business, and to preserve the value of the enterprise. The filing and entry of the Meeting Order is the next step toward these goals and the Ad Hoc Committee respectfully submits, for the reasons set out below, that it is necessary and appropriate for the Applicant to take this step at this time and on the terms proposed in the Meeting Order.

II THE FACTS

12. SFC is a holding company whose assets and business are comprised entirely of its subsidiaries. Under the Initial Order, a stay of proceedings was granted in respect of SFC and its subsidiaries. Under the Expanded Powers Order dated April 20, 2012, the powers of the Monitor were expanded to allow for more direct access to and involvement with the subsidiaries of SFC. Under the Claims Procedure Order dated May 14, 2012, a claims process was instituted in respect of all claims against SFC, the Directors and Officers of SFC, and any related claims against the subsidiaries of SFC.

> Sixth Report of the Monitor dated August 10, 2012 ("**Monitor's Sixth Report**") at paras. 22 and 32.
>
> Martin Affidavit at para. 32; Applicant's Motion Record, Tab 2.

13. The Company and the Monitor have reported on several occasions that the majority of SFC's business in the People's Republic of China ("**PRC**") has come to a virtual standstill. Although certain business segments continue, they do so at significantly diminished levels and Sino-Forest's primary business, namely the purchase and sale of standing timber, is frozen. The Monitor has concluded that a court supervised

process is necessary for any chance of resolving the stalemate that the business finds itself in, and that absent a restructuring, the SFC business has little chance of viability.

> Monitor's Sixth Report at paras. 12, 35.
>
> Pre-Filing Report of the Monitor dated March 30, 2012 at para. 65.
>
> Affidavit of W. Judson Martin sworn March 30, 2012 at paras. 20-22; Applicant's Motion Record, Tab D.

14. The Company and the Monitor has repeatedly noted the urgency of these CCAA proceedings. The Monitor has stated in its Reports the need to complete these proceedings as soon as possible to preserve the value of the SFC business.

> Second Report of the Monitor dated April 30, 2012 at para. 25.
>
> Fifth Report of the Monitor dated July 16, 2012 at para. 33.
>
> Monitor's Sixth Report at paras. 35 and 81.
>
> Seventh Report of the Monitor dated August 17, 2012 ("**Monitor's Seventh Report**") at para. 56.

15. On August 10, 2012, the Monitor released its Sixth Report, which provides a detailed description of the SFC business at the subsidiary levels based on the Monitor's observations since April 2010 pursuant to the Expanded Powers Order. The Sixth Report makes clear that Sino-Forest is experiencing the results of a deteriorating business across multiple fronts. The specific concerns outlined by the Monitor include:

a. the financial and operational aspects of the business in the PRC continue to be negatively impacted by the uncertainty regarding the Company's affairs;

b. Sino-Forest's standing timber business remains frozen and Sino-Forest's other businesses are operating at substantially lower levels than in past years;

c. Sino-Forest's trading business has stopped importing, other than the existing Thai Redwood transaction (which transaction was expected to occur in May 2012 but has been delayed multiple times);

d. Sino-Forest's existing senior management team has been significantly reduced since the commencement of the CCAA proceedings;

e. work being performed by third party consultants to verify Sino-Forest's forestry estate is on-going and will take significant additional time to complete;

f. Sino-Forest's relationships with certain of its key AIs and suppliers are beginning to breakdown;

g. certain AIs who are necessary for selling standing timber under the BVI structure and who had significant outstanding receivable balances with Sino-Forest have de-registered, resulting in, among other things, increased difficulty in collecting receivables;

h. certain suppliers responsible for selling standing timber to Sino-Forest have also de-registered; and

i. SFC's limited pool of funds continues to be depleted throughout the CCAA proceedings.

Monitor's Sixth Report at paras. 35-40.

Monitor's Seventh Report at para. 55.

16. The Monitor also states in the Sixth Report that there is no indication that Sino-Forest will be able to resume its business absent a successful restructuring through these CCAA proceedings and that unless and until these proceedings produce a resolution, the ability of Sino-Forest to maintain its relationship with the PRC government may become increasingly difficult.

Monitor's Sixth Report at paras. 39 and 41.

17. It is the view of the Applicant and the Monitor that it is important for these proceedings to be completed as soon as possible given the events that have taken place (and may continue to take place) and which have had a significantly negative impact on the business. The Ad Hoc Committee shares this view.

Monitor's Sixth Report at paras. 39, 41 and 81.

Monitor's Seventh Report at para. 56.

Martin Affidavit at para. 43; Applicant's Motion Record, Tab 2.

III THE LAW

A. IT IS APPROPRIATE TO PERMIT THE APPLICANT TO FILE THE PLAN AND CALL THE CREDITORS' MEETING

i) The Threshold for Filing a Plan and Calling a Meeting of Creditors is Met

18. The threshold to be satisfied for the filing of a plan and the calling of a meeting of creditors is low. In *Nova Metal Products Inc. v. Comiskey (Trustee of)*, the Ontario Court of Appeal held that:

> I agree that the feasibility of the plan is a relevant and significant factor to be considered in determining whether to order a meeting of creditors: S.E. Edwards, "Reorganizations Under the Companies' Creditors Arrangement Act," at pp. 594-595. I would not, however, impose a heavy burden on the debtor company to establish the likelihood of ultimate success from the outset. As the Act will often be the last refuge for failing companies, it is to be expected that many of the proposed plans of reorganization will involve variables and contingencies which will make the plan's ultimate acceptability to the creditors and the Court very uncertain at the time the initial application is made. [*Emphasis added*]
>
> *Nova Metal Products Inc. v. Comiskey (Trustee of)* (1990), 1 C.B.R. (3d) 101 (Ont. C.A.) at para. 90; Ad Hoc Committee's Book of Authorities, Tab 4.

19. Courts have noted that unless it is obvious that a plan would not be approved by the affected creditors, a debtor company should not be prevented from presenting a plan to its creditors at a meeting.

> In my opinion it should not be up to the Court to second guess the probability of success of a proposed plan of arrangement. Businessmen are free to make their own views known before and ultimately at the creditors' meeting. It seems to me that the Court should only decline to give preliminary approval and refuse to order a meeting if it was of the view that there was no hope that the plan would be approved by the creditors or, if it

> was approved by the creditors, it would not, for some other reason, be approved by the Court.
>
> *ScoZinc Ltd., Re* (2009), 55 C.B.R. (5th) 205 (N.S. S.C.) at para. 7; Ad Hoc Committee's Book of Authorities, Tab 5.

20. The Meeting Order and the draft Plan have been developed in consultation with, and have the support of, the Monitor and the Ad Hoc Committee. The Monitor has stated in its Seventh Report concerning the Meeting Order and the draft Plan that it is important for the CCAA proceedings to be completed as soon as possible and that, in its view, the granting of the Meeting Order at this time is appropriate and fair and reasonable in the circumstances.

> Monitor's Seventh Report at para. 56.

21. The Ad Hoc Committee represents the largest group of creditors in this case (given that the Noteholders have direct, non-contingent claims against the debtor and its subsidiaries, whereas the Third Party Defendants' claims are either equity claims or, at best, are contingent claims based on their liability, which has not been established). Under the Support Agreement, Noteholders holding approximately 72% of the aggregate principal amount of SFC's Notes (approximately USD$1.8 billion), with over 66 2/3% in each of the four series of Notes, have agreed to support the Plan and to vote in favour of the Plan.

> Fourth Report of the Monitor dated July 10, 1012, Appendix B – Press Release of SFC dated July 10, 2012.

22. While the Plan (and the Noteholders' commitment to vote in favour of it under the Support Agreement) remains subject to certain conditions precedent, the Plan should be presented to creditors for consideration at this time. As the terms of the Meeting Order

are fair and reasonable and as the draft Plan has the support of the Monitor and the Ad Hoc Committee (and is certainly not "doomed to failure"), the Ad Hoc Committee respectfully submits that this Honourable Court should enter the Meeting Order and allow the Applicant to proceed to the next phase of this restructuring process.

> *ScoZinc Ltd., Re* (2009), 55 C.B.R. (5th) 205 (N.S. S.C.) at paras. 4-6; Ad Hoc Committee's Book of Authorities, Tab 5.

B. THE PROPOSED CLASSIFICATION OF CREDITORS FOR VOTING PURPOSES IS APPROPRIATE

i) Creditors with a Commonality of Interest Should Be Placed in the Same Class for Voting Purposes

23. Section 22(1) of the CCAA provides that:

> A debtor company may divide its creditors into classes for the purpose of a meeting to be held under section 4 or 5 in respect of a compromise or arrangement relating to the company and, if it does so, it is to apply to the court for approval of the division before the meeting is held.
>
> *CCAA*, section 22(1); Ad Hoc Committee's Book of Authorities, Tab 1.

24. Section 22(2) of the CCAA further provides that, for the purposes of section 22(1), creditors with a "commonality of interest" may be included in the same class.

> *CCAA*, section 22(2); Ad Hoc Committee's Book of Authorities, Tab 1.

25. Creditors must be classified with the underlying purpose of the CCAA in mind – to facilitate successful restructurings. A fragmentation of classes that would render it excessively difficult to obtain approval of a CCAA plan would be contrary to the purpose of the CCAA and ought to be avoided.

> *Norcen Energy Resources Ltd. v. Oakwood Petroleums Ltd.* (1988), 72 C.B.R. (N.S.) 20 (Alta Q.B.) at paras. 32-47, Ad Hoc Committee's Book of Authorities, Tab 6.
>
> *Sklar-Peppler Furniture Corp. v. Bank of Nova Scotia* (1990), 8. C.B.R. (3d) 312 (Ont. Ct. J. (Gen. Div.) [Commercial List]) at para. 13; Ad Hoc Committee's Book of Authorities, Tab 7.
>
> *Atlantic Yarns Inc. (Re)* (2008), 42 C.B.R. (5th) 107 (N.B. Q.B.) at para. 55; Ad Hoc Committee's Book of Authorities, Tab 8.

26. The Ontario Court of Appeal in *Stelco* upheld the lower court's conclusion that absent a valid reason to have separate classes of creditors, it is "reasonable, logical, rational and practical" to have all of the unsecured debt placed in one class. The lower court noted that this approach avoids fragmentation, which could occur with as few as two classes.

> *Stelco Inc, Re.* (2005), 15 C.B.R. (5th) 307 (Ont. C.A.) at paras. 13-14, affirming *Stelco Inc., Re* (2005), 15 C.B.R. (5th) 297 ((Ont. S.C.J. [Commercial List]); Ad Hoc Committee's Book of Authorities, Tab 9.

27. Case law dealing with the classification of creditors for the purposes of voting on a plan indicates that while a class must be confined to those persons whose legal rights in relation to the debtor company are not so dissimilar as to make it impossible for them to consult together with a view to their common interest, classification must not be so fine that it renders plan approval impossible.

> *Norcen Energy Resources Ltd. v. Oakwood Petroleums Ltd.* (1988), 72 C.B.R. (N.S.) 20 (Alta Q.B.) at paras. 44 and 46; Ad Hoc Committee's Book of Authorities, Tab 6.
>
> *Sklar-Peppler Furniture Corp. v. Bank of Nova Scotia* (1990), 8. C.B.R. (3d) 312 (Ont. Ct. J. (Gen. Div.) [Commercial List]) at paras. 13-14; Ad Hoc Committee's Book of Authorities, Tab 7.
>
> *SemCanada Crude Co., Re* (2009), 57 C.B.R. (5th) 205 (Alta Q.B.) at paras. 20-21; Ad Hoc Committee's Book of Authorities, Tab 10.

28. Prior to the 2009 amendments to the CCAA, the Ontario Court of Appeal endorsed the following principles for assessing commonality of interest:

a. commonality of interest should be viewed on the basis of a "non-fragmentation" test, not on an "identity of interest" test;

b. the interests to be considered are the legal interest that the creditor holds *qua* creditor in relationship to the debtor, prior to and under the plan as well as on liquidation;

c. the commonality of these interests is to be viewed purposively, bearing in mind the object of the CCAA, namely to facilitate reorganizations if possible;

d. in placing the broad and purposive interpretation on the CCAA, the Court should be careful to resist classification approaches that might jeopardize viable plans;

e. absent bad faith, the motivations of creditors to approve or disapprove a plan are irrelevant; and

f. the requirement that creditors can consult together means they can assess their legal entitlements as creditors before or after the plan in a similar manner.

Stelco Inc, Re. (2005), 15 C.B.R. (5th) 307 (Ont. C.A.) at paras. 23-24, citing *Re Canadian Airlines Corp.* (2000), 19 C.B.R.) (4th) 12 (Alta Q.B.), application for leave to appeal dismissed (2000), 19 C.B.R. (4th) 33 (Alta C.A.); Ad Hoc Committee's Book of Authorities, Tab 9.

> *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.*, (2008), 43 C.B.R. (5th) 269 (Ont. Sup. Ct. J. [Commercial List]) at para. 73; aff'd, *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.* (2008), 45 C.B.R. (5th) 163 (Ont. C.A.); Ad Hoc Committee's Book of Authorities, Tab 11.

29. The Ontario Court of Appeal in *Stelco* cautioned that the very flexibility at the heart of the CCAA precludes the adoption of fixed rules governing classification and held that the circumstance of the individual case needed to be considered:

> It is clear that classification is a fact-driven exercise, dependent upon the circumstances of each particular case. Moreover, given the nature of the CCAA process and the underlying flexibility of that process – a flexibility which is its genius – there can be no fixed rules that apply in all cases.
>
> *Re Stelco Inc.* (2005), 15 C.B.R. (5th) 307 (Ont. C.A.) at para. 22; Ad Hoc Committee's Book of Authorities, Tab 9.
>
> *SemCanada Crude Co., Re* (2009), 57 C.B.R. (5th) 205 (Alta Q.B.) at para. 18; Ad Hoc Committee's Book of Authorities, Tab 10.

30. The factors to be considered in determining whether creditors have a "commonality of interest" have been codified in section 22(2) of the CCAA. These factors do not change in any material way or exclude the factors that were articulated in the case law prior to the amendments:

> (a) the nature of the debts, liabilities or obligations giving rise to their claims;
>
> (b) the nature and rank of any security in respect of their claims;
>
> (c) the remedies available to the creditors in the absence of the compromise or arrangement being sanctioned, and the extent to which the creditors would recover their claims by exercising those remedies; and
>
> (d) any further criteria, consistent with those set out in paragraphs (*a*) to (*c*), that are prescribed.
>
> *CCAA*, section 22(1); Ad Hoc Committee's Book of Authorities, Tab 1.

SemCanada Crude Co., Re (2009), 57 C.B.R. (5th) 205 (Alta Q.B.) at paras. 44 and 45; Ad Hoc Committee's Book of Authorities, Tab 10.

ii) The Noteholders Have a Commonality of Interest and Should Be Placed in the Same Class for Voting Purposes

31. The Noteholders of all four series of SFC's Notes have a commonality of interest and should be placed in the same class for voting purposes. In particular:

a. Noteholders of all four series of SFC's Notes have claims against SFC for the repayment of principal and interest due on the Notes;

b. Noteholders of all four series of SFC's Notes have claims against subsidiaries of SFC that provided guarantees under the Note Indentures for the repayment of principal and interest due on the Notes;

c. the Plan contemplates that all Noteholders will receive the same distribution under the Plan in respect of their claims against SFC and its subsidiaries; and

d. Noteholders representing at least 72% of the aggregate principal amount of the Notes outstanding have signed the Support Agreement and agreed to vote together in favour of the Plan as a single class.

Plan, section 4.1; Applicant's Motion Record, Tab A.

32. Accordingly, it is appropriate for the Noteholders of the four series of Notes to vote in the same class as they have a commonality of interest and any differences that may exist between the claims of the Noteholders of the various series of Notes are not of a degree that warrants separate classification. To the contrary, separate classification would hinder the purposes of the Plan and the CCAA process.

iii) The Ordinary Affected Creditors and Noteholders Have a Commonality of Interest and Should Be Placed in the Same Class for Voting Purposes

33. The Affected Creditor Class is comprised of creditors with "Noteholder Claims" and creditors with "Ordinary Affected Creditor Claims", that include any valid and enforceable indemnification claims that the Third Party Defendants may have (and that are not Equity Claims). The Noteholders and the Ordinary Affected Creditors have a commonality of interest and should be placed in the same class for voting purposes. In particular:

a. the Noteholders have claims against SFC and guarantee claims against subsidiaries of SFC for the repayment of principal and interest due on the Notes;

b. the auditors and underwriters of SFC claim to have contingent indemnity obligations owed to them by SFC and certain of the same subsidiaries that provided guarantees under the Notes;

c. pursuant to the Plan, all of the Affected Creditors, being Noteholders and Ordinary Affected Creditors, are entitled to the same distribution; and

d. all of the Affected Creditors will have their claims against SFC and the subsidiaries released in exchange for the consideration provided under the Plan.

Plan, section 4.1; Applicant's Motion Record, Tab A.

34. As the Affected Creditors have substantially similar claims *against* SFC (and its subsidiaries), and as the Affected Creditors will all receive the same consideration *from* SFC (and its subsidiaries), the Affected Creditors share a commonality of interest and should be classified together, and not apart, for purposes of voting on the Plan.

35. The Plan is put forward in the expectation that the parties with an economic interest in SFC, including Noteholders and Ordinary Affected Creditors, when considered as a whole, will derive a greater benefit from the implementation of the Plan and the continuation of the SFC business as a going concern than would result from a bankruptcy or liquidation of SFC.

Plan, section 2.1; Applicant's Motion Record, Tab A.

Martin Affidavit at para. 3; Applicant's Motion Record, Tab 2.

Atlantic Yarns Inc. (Re) (2008), 42 C.B.R. (5th) 107 (N.B. Q.B.) at para. 49; Ad Hoc Committee's Book of Authorities, Tab 8.

36. Canadian courts have repeatedly held that in addition to considering issues of commonality of interest, Courts should also be cautious to avoid "a tyranny of the

minority". Courts should avoid creating a separate creditor class that would simply provide an opposing creditor "the potential to exercise an unwarranted degree of power."

> *Stelco Inc, Re.* (2005), 15 C.B.R. (5th) 307 (Ont. C.A.) at para. 28; Ad Hoc Committee's Book of Authorities, Tab 9.
>
> *SemCanada Crude Co., Re* (2009), 57 C.B.R. (5th) 205 (Alta Q.B.) at para. 33; Ad Hoc Committee's Book of Authorities, Tab 10.
>
> *Sklar-Peppler Furniture Corp. v. Bank of Nova Scotia* (1990), 8 C.B.R. (3d) 312 (Ont. Ct. J. (Gen. Div.) [Commercial List]) at para. 14; Ad Hoc Committee's Book of Authorities, Tab 7.

37. The classification proposed by the Applicant is neither prejudicial nor unfair to any creditor, and any minor distinctions that may exist among the creditors do not negate the underlying commonality of interest or render a single class inappropriate. Rather, the proposed class structure addresses the classification standards for commonality of interest and is intended to facilitate the viable restructuring of the Applicant.

iv) It is Appropriate for the Noteholder Class Action Claimants to Be Prohibited from Voting on the Plan

38. The Meeting Order and the Plan provide that Noteholder Class Action Claimants are not entitled to vote on the Plan at the Meeting in respect of their class action claims against SFC as these claimants do not have provable claims against SFC.

> Plan, section 4.4(a); Applicant's Motion Record, Tab A.

39. The rule against double proof prevents multiple creditors from proving the same debt in the same estate. Where there may technically be two separate liabilities, but in substance the liabilities are the same, there cannot be a double proof against the estate of a debtor.

> *Re Coughlin & Co.* (1923), 4 C.B.R. 294 (Man. C.A.) at para. 5 and 31, citing *Melton, Re* (1917), [1918] 1 Ch. 37 (Eng. Ch. Div.); Ad Hoc Committee's Book of Authorities, Tab 12.
>
> *Cuchuran v. Dubitz* (1945) 27 C.B.R. 25 (Alta Dist. Ct.) at paras. 12-13; Ad Hoc Committee's Book of Authorities, Tab 13.
>
> *Olympia & York Developments Ltd., Re* (1998), 4 C.B.R. (4th) 189 (Ont. Ct. J. (Gen. Div.) [In Bankruptcy]) at para. 23; Ad Hoc Committee's Book of Authorities, Tab 14.

40. This rule was developed "to ensure *pari passu* distribution of the assets comprised in the estate of an insolvent in the pro rata discharge of his liabilities. The payment of more than one dividend in respect of what is in substance the same debt would give the relevant proving creditors a share of the available assets larger than the share properly attributable to the debt in question."

> *Olympia & York Developments Ltd., Re* (1998), 4 C.B.R. (4th) 189 (Ont. Ct. J. (Gen. Div.) [In Bankruptcy]) at para. *25*; Ad Hoc Committee's Book of Authorities, Tab 14.

41. There is one debt outstanding under each of the Note Indentures, being the applicable principal and interest owing thereunder. Pursuant to the Note Indentures, it is the current "Holders" of the Notes that are, *inter alia*, entitled to receive payment of principal and interest on the Notes, to bring suit for enforcement of any such payments, and direct the trustee, by way of a majority, with respect to conducting any proceeding for available remedies. "Holders" under the Note Indentures are persons in whose name a Note is registered in the register in respect of such Notes.

> 2013 Note Indenture, sections 1.01, 8.05 and 8.07.
>
> 2014 Note Indenture, sections 1.01, 6.05 and 6.07.
>
> 2016 Note Indenture, sections 1.01, 8.05 and 8.07.
>
> 2017 Note Indenture, sections 1.01, 6.05 and 6.07.

42. Accordingly, only the current Noteholders (who are Affected Creditors) are entitled to seek recovery against SFC and its subsidiaries for amounts owing in respect of the Notes and the guarantees thereof. Former noteholders (who are the class action plaintiffs) are not entitled to any recovery from SFC in respect of the principal and interest due under the Notes and the guarantees by virtue of the rule against double proof and the provisions of the Note Indentures. Consequently, former noteholders are not entitled to vote on the Plan. Former Noteholders may pursue other parties in respect of any losses they may have incurred in respect of the Notes, but not SFC or the subsidiaries.

43. If approved, all Noteholder Class Action Claims against SFC, the subsidiaries and/or the Named Directors or Officers (other than any Noteholder Class Action Claims against the Named Directors or Officers that are section 5.1(2) claims or Non-Released D&O Claims (e.g., fraud claims)) will be released under the Plan. The Plan does not compromise Noteholder Class Action Claims against the Third Party Defendants under the Plan and Noteholder Class Action Claims against the Third Party Defendants will be permitted to continue (subject only to those Noteholder Class Action Claims for which any such claimants have a valid and enforceable Class Action Indemnity Claim against SFC being limited, in the aggregate, to an amount agreed to by SFC, the Monitor, the Initial Consenting Noteholders and counsel to the Ontario Class Action Plaintiffs, or such other amount determined by the Court, as set forth in the Plan and as described in the Monitor's Seventh Report).

Plan, section 4.4; Applicant's Motion Record, Tab A.

Monitor's Seventh Report at para. 26.

v) It is Appropriate for the Equity Claimants to Be Prohibited from Voting on the Plan

44. Pursuant to section 22.1 of the CCAA, equity claimants are prohibited from voting on a plan, unless the court orders otherwise. Section 22.1 of the CCAA provides as follows:

> Despite subsection 22(1), creditors having equity claims are to be in the same class of creditors in relation to those claims unless the court orders otherwise and may not as members of that class, vote at any meeting unless the court orders otherwise.
>
> CCAA, section 22.1; Ad Hoc Committee's Book of Authorities, Tab 1.

45. Section 6(8) of the CCAA provides expressly for the subordination of equity claims and prohibits a distribution to equity claimants prior to payment in full of all non-equity claims. Section 6(8) provides as follows:

> No compromise or arrangement that provides for the payment of an equity claim is to be sanctioned by the court unless it provides that all claims that are not equity claims are to be paid in full before the equity claim is to be paid.
>
> CCAA, section 6(8) ; Ad Hoc Committee's Book of Authorities, Tab 1.

46. Consistent with the provisions of the CCAA, the Plan provides that equity claimants will not receive any consideration or distributions under the Plan and will not be entitled to vote on the Plan at the Creditors' Meeting. The Plan also releases SFC and its subsidiaries from all equity claims.

> Plan, sections 3.2(b) and 4.5; Applicant's Motion Record, Tab A.

47. An "Equity Claimant" under the Plan is "any Person having an Equity Claim, but only with respect to and to the extent such Equity Claim". Consistent with the

endorsement of this Honourable Court in these proceedings dated July 27, 2012 (the "**Equity Claims Decision**"), the Plan defines "Equity Claim" as follows:

> "Equity Claim" means a Claim that meets the definition of "equity claim" in section 2(1) of the CCAA and, for greater certainty, includes any of the following:
>
> (a) any claim against SFC resulting from the ownership, purchase or sale of an equity interest in SFC, including the claims by or on behalf of current or former shareholders asserted in the Class Actions;
>
> (b) any indemnification claim against SFC related to or arising from the claims described in sub-paragraph (a), including any such indemnification claims against SFC by or on behalf of any and all of the Third Party Defendants (other than for Defence Costs, unless any such claims for Defence Costs have been determined to be Equity Claims subsequent to the date of the Equity Claims Order); and
>
> (c) any other claim that has been determined to be an Equity Claim pursuant to an Order of the Court.
>
> Plan, section 1.1.; Applicant's Motion Record, Tab A.
>
> *Sino-Forest Corp., Re*, 2012 ONSC 4377 (Ont. Sup. Ct. J. [Commercial List]), Ad Hoc Committee's Book of Authorities, Tab 15.

48. In the Equity Claims Decision, this Honourable Court held that "the claims against SFC from ownership, purchase or sale of equity interests in SFC, including, without limitation, the claims by or on behalf of current or former shareholders asserted in the [Class Actions] are 'equity claims' as defined in s. 2 of the CCAA, being claims in respect of monetary losses resulting from the ownership, purchase or sale of an equity interest."

> *Sino-Forest Corp., Re*, 2012 ONSC 4377 (Ont. Sup. Ct. J. [Commercial List]) at paras. 77, 80 and 96; Ad Hoc Committee's Book of Authorities, Tab 15.

49. This Honourable Court further held that "any indemnification claim against SFC related to or arising from the Shareholder Claims, including, without limitation, by or on behalf of any of the other defendants to the [Class Actions] are "equity claims" under the CCAA, being claims for contribution or indemnity in respect of a claim that is an equity claim."

> *Sino-Forest Corp., Re*, 2012 ONSC 4377 (Ont. Sup. Ct. J. [Commercial List]) at paras. 80, 97; Ad Hoc Committee's Book of Authorities, Tab 15.

50. Accordingly, the Equity Claimants are not entitled to vote on, or to receive any distribution pursuant to, the Plan and all Equity Claims will be released under the Plan. In the Monitor's Seventh Report, the Monitor states that: "The Monitor believes that this approach to classification and related relief...regarding the Equity Claims is consistent with the Equity Order and is appropriate in these circumstances."

> Monitor's Seventh Report at para. 27.

51. The Plan does not affect any Class Action Claims against the Third Party Defendants (subject to the releases provided for the Named Directors and Officers discussed above) that relate to the purchase, sale or ownership of Existing Shares or Equity Interests, and such claims will be permitted to continue as against the Third Party Defendants.

> Plan, sections 4.5 and 7.5; Applicant's Motion Record, Tab A.

vi) It is Appropriate that Unresolved Claims Not Be Counted Towards the Required Majority Unless and Until they are Determined to be Voting Claims

52. The proposed Meeting Order contemplates that Affected Creditors with Unresolved Claims as at the Voting Record Date are entitled to attend and vote at the Creditors' Meeting in respect of their Unresolved Claims; however, such votes will not be counted towards the calculation of the Required Majority unless and until they are ultimately determined to be a Voting Claim. Consistent with the Equity Claims Decision, claims for defence costs by the Third Party Defendants are treated as Unresolved Claims at this stage.

53. The Monitor will keep a separate record of votes cast by Affected Creditors with Unresolved Claims and will report to the Court in respect of such votes at the sanction hearing. The Monitor may also seek directions from the Court should the approval or non-approval of the Plan by Affected Creditors be altered by the votes cast in respect of Unresolved Claims.

54. Accordingly, the Meeting Order provides adequate protection with respect to the voting rights of Affected Creditors with Unresolved Claims.

C. THE PLAN IS NOT DOOMED TO FAIL AND IS FAIR AND REASONABLE

55. As discussed above, the Plan has been developed in consultation with the Monitor and the Ad Hoc Committee, is supported by these parties, is likely to be approved by the Affected Creditors and is not "doomed to fail". Moreover, although the Court is not required to assess the fairness and reasonableness of the Plan at this stage, the Plan is fair

and reasonable in the Ad Hoc Committee's view and the Monitor supports its presentation to creditors for consideration and voting at this time. In this respect, the Ad Hoc Committee draws the Court's attention to the following features of the proposed Plan.

i) The Court has the Jurisdiction to Approve a Plan that Includes Third Party Releases

56. The Plan includes releases for certain parties, which releases are described in the Monitor's Seventh Report and the Information Circular that will be sent to creditors pursuant to the Meeting Order.

> Monitor's Seventh Report at paras. 40-41.
>
> Sino-Forest Draft Information Circular at 48-50; Supplementary Motion Record of the Applicant, Tab A.

57. Canadian courts have on several occasions approved plans containing various forms of releases and injunctions in favour of non-debtor parties. In the *MuscleTech* proceedings, Ground J. noted that it is "not uncommon in CCAA proceedings, in the context of a plan of compromise or arrangement, to compromise claims against the Applicants and other parties against whom such claims or related claims are made." After review of U.S. and Canadian authorities, Ground J. further found that it appeared that "the jurisdiction of the courts to grant Third Party Releases has been recognized both in Canada and the U.S.".

> *Re MuscleTech Research and Development Inc.* (2007), 30 C.B.R. (5th) 59 (Ont. Sup. Ct. J. [Commercial List]) at paras. 23 and 26 [*MuscleTech*]; Ad Hoc Committee's Book of Authorities, Tab 16.
>
> *Re MuscleTech Research and Development Inc.* (2006), 25 C.B.R. (5th)

231 (Ont. Sup. Ct. J.) at para. 8-9; Ad Hoc Committee's Book of Authorities, Tab 17.

58. In the 2008 *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.* ("***Metcalfe***") decision, the Ontario Court of Appeal considered the question of whether a plan of compromise or arrangement under the CCAA would contain a release of claims against parties other than the debtor company or its directors and found that:

> On a proper interpretation, in my view, the CCAA permits the inclusion of third party releases in a plan of compromise or arrangement to be sanctioned by the court where those releases are reasonably connected to the proposed restructuring. I am led to this conclusion by a combination of (a) the open-ended, flexible character of the CCAA itself, (b) the broad nature of the term "compromise or arrangement" as used in the Act, and (c) the express statutory effect of the "double-majority" vote and court sanction which render the plan binding on *all* creditors, including those unwilling to accept certain portions of it. The first of these signals a flexible approach to the application of the Act in new and evolving situations, an active judicial role in its application and interpretation, and a liberal approach to that interpretation. The second provides the entrée to negotiations between the parties affected in the restructuring and furnishes them with the ability to apply the broad scope of their ingenuity in fashioning the proposal. The latter afford necessary protection to unwilling creditors who may be deprived of certain of their civil and property rights as a result of the process.
>
> *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.* (2008), 45 C.B.R. (5th) 163 (Ont. C.A.) at para. 43; leave to appeal refused (2008), 257 O.A.C. 400 (SCC); Ad Hoc Committee's Book of Authorities, Tab 18.

59. The Courts have adopted the findings in the *Metcalfe* decision on several occasions, approving plans of compromise or arrangement in CCAA proceedings containing releases of claims against third parties.

> *Canwest Global Communications Corp. Re* (2010), 70 C.B.R. (5th) 1 (Ont. Sup. Ct. J. [Commercial List]) at paras. 28-30; Ad Hoc Committee's Book of Authorities, Tab 19.
>
> *Angiotech Pharmaceuticals Inc. Re* (2011), 76 C.B.R. (5th) 210 (B.C. S.C. [In Chambers]) at paras. 12-13, 15; Ad Hoc Committee's Book of

Authorities, Tab 20.

AbitibiBowater Inc., Re (2010), 72 C.B.R. (5th) 80 (Que. S.C.) at para. 73; Ad Hoc Committee's Book of Authorities, Tab 21.

60. Should the Plan receive the requisite creditor approval, the fairness and reasonableness of the particular releases contained in the Plan will be considered at the sanction hearing.

MuscleTech Research & Development, Inc. (2006), 25 C.B.R. (5th) 231 (Ont. Sup. Ct. J.) at para.11, Ad Hoc Committee's Book of Authorities, Tab 17.

ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp. (2008), 45 C.B.R. (5th) 163 (Ont. C.A.) at para. 100; leave to appeal refused (2008), 257 O.A.C. 400 (SCC); Ad Hoc Committee's Book of Authorities, Tab 18.

61. Accordingly, it is submitted that it is appropriate for the Plan to contain the third party releases contemplated therein and that this Honourable Court should permit the Applicant to file the Plan at this time and hold the Creditors' Meeting to seek approval of the Plan and its proposed terms by the Affected Creditors.

ii) The Treatment of Section 5.1(2) Claims under the Plan and the Releases is Appropriate

62. Although the Plan provides for releases of certain "Named Directors and Officers", the Plan does not release any claims of the kind listed in section 5.1(2) of the CCAA in respect of any party, nor does the Plan provide any releases of any kind for anyone in respect of fraud, criminal misconduct or non-monetary remedies of the OSC or any other regulatory body.

Plan, section 7.1(b); Applicant's Motion Record, Tab 2.

Monitor's Seventh Report at para. 41.

63. Section 5.1(2) claims are affected by the terms of the Plan only to the extent that section 4.9(e) of the Plan directs recovery in respect of such claims against the Named Directors and Officers to insurance proceeds payable in respect of such claims under the insurance policies held by SFC. Claims against the Named Directors and Officers in respect of fraud or criminal conduct are not limited to recovery against insurance proceeds, nor are there any limitations under the Plan in respect of recovery for claims against the Other Directors and Officers.

Plan, section 4.9(e); Applicant's Motion Record, Tab A.

64. The Ontario Court has previously approved a plan of arrangement that directed claims to a debtor's insurance thereby preserving and protecting a recovery pool for creditors or other stakeholders who may benefit directly or derivatively from such insurance.

Allen-Vanguard Corp., Re, Sanction Order granted December 16, 2009 Toronto CV-09-00008502-00CL, (Ont. Sup. Ct. J) at para. 27; Ad Hoc Committee's Book of Authorities, Tab 22.

65. These provisions of the Plan, that properly carve-out and protect claims of the kind referred to in section 5.1(2) of the CCAA, direct such claims to the Applicant's available insurance, and carve-out and protect claims for fraud and criminal conduct with no limitation as to recovery, are appropriate provisions in the circumstances and the Applicant ought to be permitted to propose these provisions to its creditors for their consideration at the Creditors' Meeting.

iii) The Release of the Subsidiaries is Appropriate

66. The Plan provides for a limited release of all claims related to SFC that may be made against its subsidiaries, which are not CCAA applicants, including claims by the Noteholders and all other Affected Creditors. The Claims Procedure Order granted by this Honourable Court on May 14, 2012 (the "**Claims Procedure Order**") called for all such claims against the subsidiaries of SFC.

Plan, section 7.2; Applicant's Motion Record, Tab A.

Martin Affidavit at para. 32; Applicant's Motion Record, Tab 2.

Monitor's Seventh Report at para. 40.

Claims Procedure Order, section 22.

67. This aspect of the Plan is fair and reasonable (and does not doom the Plan to failure) because SFC is a holding company whose sole assets are its direct and indirect subsidiaries. SFC's business is conducted entirely through these direct and indirect subsidiaries. Pursuant to the Plan, the Affected Creditors will all receive, among other things, their respective share of shares of Newco, whose assets will be comprised of the subsidiaries, all of which will be directly or indirectly transferred from SFC to Newco under the Plan. As reported by the Company, there can be no effective restructuring of SFC's business and separation from its Canadian parent if the claims asserted against the subsidiaries arising from or connected to claims against SFC remain outstanding. As such, all of the Affected Creditors' claims against the subsidiaries that relate to SFC (as filed) will be released in exchange for the consideration provided under the Plan.

Plan, section 4.1; Applicant's Motion Record, Tab A.

Martin Affidavit at para. 32; Applicant's Motion Record, Tab 2.

Monitor's Seventh Report at para. 21.

68. The Plan only releases the subsidiaries from the SFC-related claims that were filed against them under the claims process. The Plan does not release the subsidiaries from any non SFC-related claims or any ordinary course of business claims that may exist against them (in the PRC or elsewhere). Basically, for the reasons discussed above, the Plan releases the subsidiaries from the SFC-related Note guarantee claims and any contingent indemnity claims that the Third Party Defendants may have against the subsidiaries, if any.

D. THE COURT HAS THE JURISDICTION TO APPROVE AMENDMENTS OF A DEBTOR COMPANY'S CONSTATING DOCUMENTS TO EXTINGUISH SHAREHOLDERS' INTERESTS

69. The Plan contemplates the cancellation of all Existing Shares and Equity Interests and certain related steps under section 191 of the CBCA, subject to the receipt of any required approvals from the OSC with respect to any trades in securities contemplated by the Plan.

Plan, sections 4.14 and 6.4; Applicant's Motion Record, Tab A.

70. The Court has the jurisdiction to approve, and has approved, plans of arrangement and compromise that effected fundamental changes to an applicant's constating documents, including changes that resulted in the extinguishment of the rights of the applicant's shareholders and others holding equity interests.

Stelco Inc. Re. (2006), 17 C.B.R. (5th) 78 (Ont. Sup. Ct. J.) at paras. 14-17; Ad Hoc Committee's Book of Authorities, Tab 23.

> *Laidlaw, Re* (2003), 39 C.B.R. (4th) 239 (Ont. Sup. Ct. J.) at para. 9; Ad Hoc Committee's Book of Authorities, Tab 24.
>
> *Beatrice Foods Inc., Re*. (1996), 43 C.B.R. (4th) 10 (Ont. Ct. J. (Gen. Div.)[Commercial List]) at paras. 12-14; Ad Hoc Committee's Book of Authorities, Tab 25.
>
> *Algoma Steel Inc., Re* (2001), 30 C.B.R. (4th) 1 (Ont. Sup. Ct. J. [Commercial List]) at para. 7; Ad Hoc Committee's Book of Authorities, Tab 26.

71. These fundamental changes have been approved and effected without any shareholder vote pursuant to provisions such as section 191 of the CBCA or section 186 of the *Ontario Business Corporation Act*, R.S.O. 1990, c. B-16 (the "**OBCA**"). Those sections provide that the Court may grant an order in the CCAA proceedings amending an applicant's articles of incorporation without a vote of the shareholders despite that such amendments would normally require a special resolution. Fundamental changes have also been effected in a CCAA without a shareholder vote through the arrangement provisions under the CBCA and the OBCA.

> CBCA, sections 191, 192; Ad Hoc Committee's Book of Authorities, Tab 2.
>
> OBCA, sections 182, 186; Ad Hoc Committee's Book of Authorities, Tab 3.
>
> *Stelco Inc. Re*. (2006), 17 C.B.R. (5th) 78 (Ont. Sup. Ct. J.) at paras. 14-17; Ad Hoc Committee's Book of Authorities, Tab 23.
>
> *Masonite International Inc., Re (*2009), 56 C.B.R. (5th) 42 (Ont. Sup. Ct. J. [Commercial List]) at paras. 7-8, 16, 21; Ad Hoc Committee's Book of Authorities, Tab 27;

72. The 2009 amendments reinforce the power of the Court to grant an order extinguishing the rights of holders of equity interests. Section 6(2) of the CCAA now expressly provides that if the Court sanctions a compromise or arrangement, it may also

order that the debtor's constating instrument be amended in accordance with the compromise or arrangement:

> 6(2) If a court sanctions a compromise or arrangement, it may order that the debtor's constating instrument be amended in accordance with the compromise or arrangement to reflect any change that may lawfully be made under federal or provincial law.
>
> *CCAA*, section 6(2) ; Ad Hoc Committee's Book of Authorities, Tab 1.
>
> *Canwest Global Communications Crop., Re* (2010), 70 C.B.R. (5th) 1 (Ont. Sup. Ct. J. [Commercial List]) at paras. 35-37; Ad Hoc Committee's Book of Authorities, Tab 19.
>
> *Angiotech Pharmaceuticals Inc., Re* (2011), 76 C.B.R. (5th) 210 (B.C. S.C. [In Chambers]) at para. 11; Ad Hoc Committee's Book of Authorities, Tab 20.

73. The Court in *Angiotech* dispensed with the calling of a meeting of existing shareholders in order to amend the articles of the applicant, finding that "the CCAA prohibits a plan that calls for distribution to pay an equity claim where non-equity claims cannot be paid in full" and further finding that even if "the combined effect of ss. 6(8) and 6(2) of the CCAA do not remove the requirement for a shareholders' meeting, I am satisfied that the requirement should be dispensed with in the circumstances of this case. To do otherwise, so that a meeting is held, would cause persons who no longer have an economic interest in the company to acquire a functional veto."

> *Angiotech Pharmaceuticals Inc., Re* (2011), 76 C.B.R. (5th) 210 (B.C. S.C. [In Chambers]) at para. 11; Ad Hoc Committee's Book of Authorities, Tab 20.

74. It is submitted that this Honourable Court has the jurisdiction to approve the amendments to the Applicant's articles of incorporation that are contemplated by the Plan and that a shareholder vote is not required in connection therewith.

IV CONCLUSION

75. The Applicant submits that the threshold for filing of the Plan and entry of the Meeting Order has been met. The Monitor and the Ad Hoc Committee support this position.

76. The notice, voting and other terms and procedures of the Meeting Order, as extensively described in the Monitor's Seventh Report, the materials filed by the Company and the proposed meeting materials, are fair and reasonable and the contemplated timeline is necessary and appropriate.

77. The terms of the draft Plan have been developed in consultation with, and have the support of, the Monitor and the Ad Hoc Committee (and the other Noteholders who have signed the Support Agreement). The terms of the Meeting Order and Plan have also been discussed with counsel to the class action plaintiffs, counsel to the Third Party Defendants and counsel to the OSC, and certain concerns raised by these parties have been addressed in the latest versions of the Meeting Order and the Plan.

78. As it is critical that these CCAA proceedings be completed as soon as possible, and as the threshold for filing of the Plan and entry of the Meeting Order has been met, the Ad Hoc Committee respectfully submits that it is appropriate for this Court to grant the Meeting Order at this time so that the Applicant can continue to advance these restructuring proceedings as expeditiously as possible.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 24th day of August, 2012.

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Noteholders of Sino-Forest Corporation

SCHEDULE "A" - LIST OF AUTHORITIES

1. *Nova Metal Products Inc. v. Comiskey (Trustee of)* (1990), 1 C.B.R. (3d) 101 (Ont. C.A.).

2. *ScoZinc Ltd., Re* (2009), 55 C.B.R. (5th) 205 (N.S. S.C.).

3. *Norcen Energy Resources Ltd. v. Oakwood Petroleums Ltd.* (1988), 72 C.B.R. (N.S.) 20 (Alta Q.B.).

4. *Sklar-Peppler Furniture Corp. v. Bank of Nova Scotia* (1990), 8. C.B.R. (3d) 312 (Ont. Ct. J. (Gen. Div.) [Commercial List]).

5. *Atlantic Yarns Inc. (Re)* (2008), 42 C.B.R. (5th) 107 (N.B. Q.B.).

6. *Stelco Inc, Re.* (2005), 15 C.B.R. (5th) 307 (Ont. C.A.).

7. *SemCanada Crude Co., Re* (2009), 57 C.B.R. (5th) 205 (Alta Q.B.).

8. *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.*, (2008), 43 C.B.R. (5th) 269 (Ont. Sup. Ct. J. [Commercial List]).

9. *Coughlin & Co., Re* (1923), 4 C.B.R. 294 (Man. C.A.).

10. *Cuchuran v. Dubitz* (1945) 27 C.B.R. 25 (Alta Dist. Ct.).

11. *Olympia & York Developments Ltd., Re* (1998), 4 C.B.R. (4th) 189 (Ont. Ct. J. (Gen. Div.) [In Bankruptcy]).

12. *Sino-Forest Corp., Re*, 2012 ONSC 4377 (Ont. Sup. Ct. J. [Commercial List]).

13. *MuscleTech Research and Development Inc., Re* (2007), 30 C.B.R. (5th) 59 (Ont. Sup. Ct. J. [Commercial List]).

14. *MuscleTech Research and Development Inc., Re* (2006), 25 C.B.R. (5th) 231 (Ont. Sup. Ct. J.).

15. *ATB Financial v. Metcalfe & Mansfield Alternative Investments II Corp.* (2008), 45 C.B.R. (5th) 163 (Ont. C.A.).

16. *Canwest Global Communications Corp. Re* (2010), 70 C.B.R. (5th) 1 (Ont. Sup. Ct. J. [Commercial List]).

17. *Angiotech Pharmaceuticals Inc. Re* (2011), 76 C.B.R. (5th) 210 (B.C. S.C. [In Chambers]).

18. *AbitibiBowater Inc., Re* (2010), 72 C.B.R. (5th) 80 (Que. S.C).

19. *Allen-Vanguard Corp., Re*, Sanction Order granted December 16, 2009 Toronto CV-09-00008502-00CL, (Ont. Sup. Ct. J).

20. *Stelco Inc. Re.* (2006), 17 C.B.R. (5th) 78 (Ont. Sup. Ct. J.).

21. *Laidlaw, Re* (2003), 39 C.B.R. (4th) 239 (Ont. Sup. Ct. J.).

22. *Beatrice Foods Inc., Re*. (1996), 43 C.B.R. (4th) 10 (Ont. Ct. J. (Gen. Div.)[Commercial List]).

23. *Algoma Steel Inc., Re* (2001), 30 C.B.R. (4th) 1 (Ont. Sup. Ct. J. [Commercial List]).

24. *Masonite International Inc., Re (*2009), 56 C.B.R. (5th) 42 (Ont. Sup. Ct. J. [Commercial List]).

SCHEDULE "B" - LEGISLATION

1. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, sections 4, 5, 6(2), 6(8), 22(1), 22(2), 22.1,

2. *Canada Business Corporation Act*, R.S.C. 1985, c. C-44, sections 191, 192.

3. *Ontario Business Corporation Act*, R.S.O. 1990, c. B-16, sections 182, 186.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SINO-FOREST CORPORATION

Court File No. CV-12-9667-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
- COMMERCIAL LIST

Proceeding commenced at TORONTO

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