

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

IN THE MATTER OF the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER OF the *Bankruptcy and Insolvency Act*, R.S.C. 1985, C. B-3, as amended

AND IN THE MATTER OF a Plan of Compromise or Arrangement of Smurfit-Stone Container Canada Inc. and the other Applicants listed on Schedule "A"

Applicants

**SECOND SUPPLEMENTARY MOTION RECORD
OF THE COMMUNICATIONS, ENERGY AND
PAPERWORKERS UNION OF CANADA**
(Motion Returnable September 25, 2009 or as soon thereafter
as this Motion may be heard)

October 8, 2009

CaleyWray

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and Paperworkers Union of Canada

TO: THE ATTACHED SERVICE LIST

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

**SERVICE LIST
Last updated on October 6, 2009**

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**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

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Applicants

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**ONTARIO
COURT OF JUSTICE
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IN THE MATTER OF the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended

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Applicants

AFFIDAVIT

I, Krystyna Las, of the City of Toronto, in the Province of Ontario, MAKE OATH

AND SAY:

1. I am an Assistant with the law firm of CaleyWray, the lawyers for the Communications, Energy and Paperworkers Union of Canada, and, as such, have knowledge of the matters contained in this affidavit.
2. On Wednesday, October 7, 2009, we received documents from Régie des rentes Québec pertaining to the indexation benefits that were to have been implemented January 1st, 2009. We received these documents both in French and English. A copy of said documents is attached hereto as Exhibit "A".

3. I make this affidavit for no improper purpose.

SWORN BEFORE ME at the City of
Toronto, in the Province of Ontario this
8th day of October, 2009



Commissioner for Taking Affidavits
(or as may be)

Ken Stuebing



KRYSTYNA LAS

Jesse Kugler

From: lise.perron@rrq.gouv.qc.ca
Sent: Wednesday, October 07, 2009 5:32 PM
To: Jesse Kugler
Subject: Décision du 23 juin 2009

Attachments: AR-M355N_20091007_164422.pdf



AR-M355N_200910
07_164422.pdf (...)

Bonjour,

(A translation will follow)

Voici une copie de la décision, tel que demandé.

Cette décision n'a pas pour effet de limiter les sorties de fonds visées par des enregistrements de modification qui seraient fait à une date postérieure à celle de la décision, autrement que selon les restrictions déjà indiquées dans la décision.

Ainsi, selon l'exemple cité, dans l'éventualité où une demande d'indexation était soumise la Régie pourrait l'enregistrer, dans la mesure où la demande est complète et non visée par des motifs portés à notre attention et empêchant son enregistrement. Le comité de retraite pourrait alors sortir les fonds du régime, lorsqu'applicable, notamment selon un pourcentage de 64 % de la valeur des droits.

Recevez mes meilleures salutations.

Lise Perron
Analyste
Direction des régimes de retraite
Tél.: 418 657-8715 poste 3852
lise.perron@rrq.gouv.qc.ca

This is Exhibit.....A.....referred to in the
affidavit of.....Krystyna Las.....
sworn before me, this.....8th.....
day of.....October.....2009.....

.....Ken Stuebing.....
A COMMISSIONER FOR TAKING AFFIDAVITS

Ken Stuebing

Direction des régimes de retraite

Le 23 juin 2009

Monsieur Philippe Keough
Emballages Smurfit-Stone Canada Inc.
630, boul. René-Lévesque Ouest
Bureau 3000
Montréal (Québec) H3B 5C7

Et

Fiducie Desjardins
Att. : Mme France Lesage
1, complexe Desjardins
C.P. 34; succ. Desjardins
Montréal, QC
H5B 1E4

Objet : Régime de retraite des employés syndiqués d'Emballages Smurfit-Stone Canada inc. - divisions La Tuque, Matane, Pointe-aux-Trembles et Burlington
Numéro du dossier : 31388

Madame, Monsieur,

Vous trouverez ci-jointe une ordonnance provisoire de la Régie des rentes. Elle remplace la décision n° D-31388-016 du 3 mars 2009 ordonnant la limitation des sorties de fonds de la caisse de retraite.

La nouvelle ordonnance permet maintenant le transfert des droits des participants jusqu'à concurrence du degré de solvabilité estimé au 31 janvier 2009 par Mme Louise Coderre, FSA, FICA et M. Michael Barbieri, FSA, FCIA de Mercer, le 2 mars 2009.

Par conséquent, nous vous demandons de mettre en place les mesures nécessaires pour que l'ordonnance soit respectée.

Veillez noter que cette ordonnance n'a pas pour effet de soustraire le régime à ses engagements : la portion des droits qui ne peut être versée en raison de l'ordonnance ne réduit pas les droits des participant, elle demeure due.

Vous devez communiquer la présente lettre et la décision ci-jointe aux personnes suivantes :

- à chaque membre du comité de retraite;
- à chaque association accréditée qui représente des participants.

Dans les meilleurs délais, le comité de retraite doit informer de notre décision les participants et les bénéficiaires dont les droits sont touchés par l'ordonnance. Le comité doit aussi les informer de leur droit de contester notre décision de la manière prévue ci-dessous.

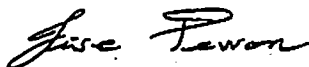
Toute personne qui croit que notre décision n'est pas fondée peut la contester devant le Tribunal administratif du Québec dans les 30 jours de sa réception. Pour obtenir des précisions, consultez le site www.taq.gouv.qc.ca.

Selon l'évolution de la situation, nous pourrions modifier l'ordonnance. Nous vous informerons dès que nous y mettrons fin.

De plus, nous portons à votre attention qu'en vertu de l'article 19 de *Loi sur les régimes sur les régimes complémentaires de retraite*, une modification non enregistrée existe mais son effet est suspendu tant qu'elle n'a pas été enregistrée. Ainsi, l'enregistrement a pour effet de conférer pleine valeur juridique à une modification. Si une modification n'est pas enregistrée, elle n'aura jamais d'effet aux fins de la Loi RCR, même si au plan du droit civil, les parties liées par le régime peuvent prétendre qu'il y a eu une modification au contrat. Les modifications non enregistrées ne devraient donc pas être appliquées puisque le comité de retraite risque de se voir dans l'obligation d'annuler tout ce qui aura été fait, advenant que les modifications prévues ne soient jamais enregistrées ou qu'elles doivent être modifiées.

Pour toute information supplémentaire, n'hésitez pas à communiquer avec nous.

Veuillez agréer, Madame, Monsieur, nos salutations distinguées.



Lise Perron, analyste
Service de la surveillance
418 643-8282

p. j.

c. c. Mme Louise Coderre, Mercer (Canada) limitée

DÉCISION N° : D-31388-017

Objet : Régime de retraite des employés syndiqués d'Emballages Smurfit-Stone Canada inc. - divisions La Tuque, Matane, Pointe-aux-Trembles et Burlington
Numéro du dossier : 31388

Ordonnance provisoire limitant les sorties de fonds

Vu l'ordonnance N° D-31388-016 du 3 mars 2009 limitant les sorties de fonds de la caisse du régime ;

Vu l'estimation du degré de solvabilité du régime à 64 % au 31 janvier 2009, faite par Mme Louise Coderre, FSA, FCIA et M. Michael Barbieri, FSA, FCIA de Mercer, le 2 mars 2009 ;

Vu le contrôle ou la garde de l'actif du régime de retraite par le comité de retraite ou son dépositaire de titres Fiducie Desjardins ;

Vu qu'il est de l'intérêt des participants et des bénéficiaires de limiter les sorties de fonds de la caisse du régime de retraite selon le degré de solvabilité estimé au 31 janvier 2009 ;

Vu l'article 248 de la *Loi sur les régimes complémentaires de retraite* (la Loi) qui permet à la Régie des rentes du Québec, lorsqu'elle l'estime nécessaire dans l'intérêt des participants et des bénéficiaires, d'ordonner à une personne qui a en sa possession, sous sa garde ou sous son contrôle, des fonds, titres ou autres biens qui font partie de l'actif d'un régime de retraite, de ne s'en départir qu'avec son autorisation et aux conditions qu'elle fixe;

Vu les pouvoirs délégués conformément aux articles 250 et 251 de la Loi.

En conséquence, il convient de remplacer l'ordonnance rendue par la Décision N° D-31388-016 du 3 mars 2009 limitant les sorties de fonds de la caisse de retraite par la suivante :

Il est ordonné provisoirement :

Que le comité de retraite du Régime de retraite des employés syndiqués d'Emballages Smurfit-Stone Canada inc. - divisions La Tuque, Matane, Pointe-aux-Trembles et Burlington (N° 31388), et aussi son dépositaire de titres Fiducie Desjardins, limitent les sorties de fonds de la caisse de retraite aux situations suivantes :

- 1- payer les rentes dont le service est en cours à la date de réception de la présente ordonnance et celles dont le premier versement devient exigible après cette date;

2- si le droit au transfert prévu à l'article 98 de la *Loi sur les régimes complémentaires de retrait* s'ouvre :

- rembourser la valeur des cotisations volontaires, le cas échéant ;
- payer la valeur des cotisations salariales ou patronales versées en application de dispositions d'un volet à cotisations déterminées, le cas échéant ;
- payer 64 % de la valeur des droits des participants, déterminée en application de l'article 61.

3- payer les dépenses d'administration du régime et les frais de gestion de ses placements.

Fait à Québec, le 23 juin 2009.

La chef du Service de la surveillance,



Johanne de Moor

Johanne de Moor

7 October 2009

As requested, here is a copy of the decision.

Other than according to the restrictions already set out in the decision, it does not have the effect of limiting the cash outflows affected by any subsequent registration of amendments.

Thus, in the example given, if an application for indexation is filed, the Régie can register it provided the application is complete and no restrictions preventing its registration are brought to our attention. The pension committee could then withdraw funds from the Plan, where applicable, notably at a rate of 64% of the value of the members' benefits.

Truly yours

*Translation of the
French original*

Lise Perron
Analyste
Régie des rentes du Québec
418 657-8715, poste 3852

23 June 2009

Mr. Philippe Keough
Emballages Smurfit-Stone Canada Inc.
630, boul. René-Lévesque Ouest
Bureau 3000
Montréal (Québec) H3B 5C7

and

Ms. France Lesage
Fiducie Desjardins
1, complexe Desjardins
C.P. 34, succ. Desjardins
Montréal, QC
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Dear Sir and Madam:

Subject: Régime de retraite des employés syndiqués d'Emballages Smurfit-Stone Canada
inc. - divisions La Tuque, Matane, Pointe-aux-Trembles et Burlington
File number: 31388

You will find enclosed a provisional order from the Régie des rentes du Québec. It replaces Decision number D-31388-016 dated 3 March 2009 ordering the limitation of cash outflows from the pension fund.

The new order now allows the transfer of members' benefits up to the degree of solvency estimated as at 31 January 2009 by Ms. Louise Coderre, FSA, FCIA and Mr. Michael Barbieri, FSA, FCIA of Mercer on 2 March 2009.

Consequently, please take the necessary steps to ensure the order is respected.

Please note that this order does not release the plan from its commitments: the portion of the benefits that cannot be paid as a result of this order remains due; members' benefits are not reduced.

You must inform the following persons of this letter and the enclosed decision:

- each member of the pension committee;
- each accredited association representing members.

The pension committee must inform the members and beneficiaries whose benefits are affected by the order of our decision as soon as possible. The committee must also inform them of their right to contest our decision in the manner provided for below.

Any person who believes that our decision is not justified may appeal against it before the Administrative Tribunal of Québec within 30 days of receiving the decision. For more information, see the Tribunal's Web site at www.taq.gouv.qc.ca.

Depending on how the situation develops, we may modify the order. We will inform you once the situation is concluded.

In addition, we wish to point out that under section 19 of the *Supplemental Pension Plans Act*, an amendment is not effective before the date it is registered. Registration gives the amendment its full legal force. If an amendment is not registered, it will never have any effect for the purposes of the *Act*, even if, from a civil law perspective, the parties bound by the plan can claim that there was an amendment to the contract. Amendments that have not been registered should therefore not be applied, since the pension committee risks being obligated to cancel what has been done if the amendments are never registered or if they must be modified.

If you would like additional information, do not hesitate to contact us.

Yours truly,

*Translation of the French original
signed by*

Lise Perron
Analyst
Service de la surveillance
418 643-8282

Encl.

c. c. Ms. Louise Coderre, Mercer (Canada) limitée

DECISION NUMBER: D-31388-017

Subject: Régime de retraite des employés syndiqués d'Emballages Smurfit-Stone Canada inc. - divisions La Tuque, Matane, Pointe-aux-Trembles et Burlington
Provisional order limiting cash outflows
File number: 31388

Considering order number D-31388-016 dated 3 March 2009 limiting cash outflows from the pension fund;

Considering the estimate of the degree of solvency at 64% as at 31 January 2009 made by Ms. Louise Coderre, FSA, FCIA and Mr. Michael Barbieri, FSA, FCIA of Mercer on 2 March 2009;

Considering the control or custody of the pension plan's assets by the pension committee or its securities depository, Fiducie Desjardins;

Considering that it is in the best interests of the members and beneficiaries to limit cash outflows from the pension fund according to the degree of solvency estimated as at 31 January 2009;

Considering section 248 of the *Supplemental Pension Plans Act*, which allows the Régie des rentes du Québec, if the Régie considers it necessary in the best interests of the members and beneficiaries, to order any person who has custody, possession or control of funds, securities or other assets of a pension plan not to dispose of them without the authorization of the Régie or otherwise than in accordance with the conditions it fixes;

Considering the powers delegated under sections 250 and 251 of the *Act*.

Consequently, the order rendered by Decision number D-31388 -016 on 3 March 2009 limiting the cash outflows from the pension fund is replaced by the following:

Now therefore, it is ordered provisionally:

That the pension committee of the "Régime de retraite des employés syndiqués d'Emballages Smurfit-Stone Canada Inc. - divisions La Tuque, Matane, Pointe-aux-Trembles et Burlington" (No 31388), and its securities depository Fiducie Desjardins, limit cash outflows from the pension fund to the following situations:

- 1- payment of the pensions in payment on the date on which the order is received and pensions the first instalment of which becomes payable after that date;

- 2- If the right to transfer benefits under section 98 of the *Supplemental Pension Plans Act* applies:
 - repayment of the value of additional voluntary contributions, if applicable;
 - payment of the value of the member or employer contributions paid under the provisions of a defined contribution component, if applicable;
 - payment of 64% of the value of the members' benefits, determined pursuant to section 61.
- 3- payment of the administrative expenses of the plan and management fees for its investments.

Dated at Québec, 23 June 2009.

Yours truly,

*Translation of the French original
signed by*

Johanne de Moor
Head, Service de la surveillance

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

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

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

SECOND SUPPLEMENTARY MOTION RECORD

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