



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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**THE HONOURABLE** )  
 )  
**JUSTICE PEPALL** ) **TUESDAY, THE 1st**  
 ) **DAY OF DECEMBER, 2009**

**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"**

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by MBI Limited/Limitée ("**MBI**"), as general partner of Smurfit-MBI, and the other Applicants for an order approving the sale transaction (the "**Transaction**") contemplated by an offer to purchase and agreement (the "**Sale Agreement**") between MBI and General Realty Group or Nominee (the "**Purchaser**") made as of November 4, 2009 and appended to the Affidavit of Dean Jones sworn November 26, 2009 (the "**Jones Affidavit**"), together with such non-material amendments relative to MBI as may be consented to by the Monitor, and vesting in the Purchaser MBI's title and interest in and to the assets described in the Sale Agreement

(the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Jones Affidavit and the exhibits annexed thereto, and on hearing the submissions of counsel for the Applicants and the Partnerships listed on Schedules "A" and "B" hereto and the Ninth Report of the Monitor:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved. The execution of the Sale Agreement by MBI is hereby approved, and MBI is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser and to vest the Purchased Assets in the Purchaser as contemplated by this Order.

2. **THIS COURT ORDERS AND DECLARES** that if the Purchaser assigns its interests in the Sale Agreement to the assignee (the "Assignee") pursuant to an executed assignment agreement, then each reference to the Purchaser in paragraphs 3 to 10, inclusive, of this Order shall mean the Assignee, and the Registrar of Land Titles is hereby directed to comply with the terms of this Order on that basis.

3. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of a Monitor's certificate substantially in the form attached as Exhibit 1 hereto (the "Monitor's Certificate"), all of MBI's right, title, interest and estate in and to the

Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"), including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Pepall dated January 26, 2009, as amended and restated; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule "C" hereto, all of which are collectively referred to as the "Encumbrances," which term shall not include the permitted encumbrances, easements, and restrictive covenants listed on Schedule "D" hereto; and, for greater certainty, subject to the delivery of the Monitor's Certificate as described in the first sentence of this paragraph 3, this Court orders that all of the Encumbrances affected or relating to the Purchased Assets, other than those listed on Schedule "D" hereto, are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that, subject to the permitted encumbrances as listed in Schedule "D" hereto, upon being presented with an original letter from counsel to MBI directed to the Alberta Land Titles Office confirming receipt of all of the cash balance of

the purchase price contemplated in the Sale Agreement, an Affidavit of Value as prescribed by the *Land Titles Act* (Alberta), and a certified copy of this Order, the Alberta Land Titles Office be and is hereby authorized and directed to cancel the existing certificate of title to the real property identified in Schedule "E" hereto (the "**Real Property**") and to issue a new certificate of title in the name of General Realty Group Ltd. or Nominee or its permitted assignee, located at 4120-84 Avenue, Edmonton, Alberta, T6B 3H3, as specifically set out in the said letter, free and clear of all encumbrances, whether registered before or after the date of this Order, subject only to the permitted encumbrances listed as item number 1 in Schedule "D" hereto.

5. **THIS COURT ORDERS** that the cancellation of title and issuance of a new title and discharge of instruments as set out in paragraph 4 shall be registered notwithstanding the requirements of Section 191(1) of the *Land Titles Act* (Alberta), R.S.A. 2000, c.L-4.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of the Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery to the Purchaser thereof.


8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of MBI or the other Applicants and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of MBI or the other Applicants;

the Sale Agreement and the transactions contemplated therein and by this Order and the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of MBI or the other Applicants and shall not be void, voidable or opposable by creditors or claimants of MBI or the other Applicants, nor shall they constitute or be deemed to be settlements, fraudulent preferences, transfers at undervalue, assignments, fraudulent conveyances or other reviewable transactions under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario), R.S.O. 1990, c.B-14 .

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body in any province or territory or otherwise having jurisdiction in Canada or in the United States, including the United States Bankruptcy Court for the District of Delaware, to give effect to this Order and to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, or the Applicants as may be necessary or desirable to give effect to this Order or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.



A handwritten signature in black ink, appearing to read "S. L.", is written over a horizontal line.

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

DEC 01 2009

PER / PAR: 

**SCHEDULE "A"**

Smurfit-Stone Container Canada Inc.

3083527 Nova Scotia Company

MBI Limited/Limitée

639647 British Columbia Ltd.

B.C. Shipper Supplies Ltd.

Specialty Containers Inc.

605681 N.B. Inc.

Francobec Company

Stone Container Finance Company of Canada II

**SCHEDULE "B"**

Smurfit-MBI

SLP Finance General Partnership

**SCHEDULE "C"**

1. Instrument number 042 472 790, being a mortgage registered October 28, 2004;  
and
2. Instrument number 042 483 005, being a caveat regarding assignment of rents  
registered November 3, 2004

**SCHEDULE "D"**

1. Instrument number 4738TV, being a covenant regarding restrictive covenant registered June 26, 1973.
2. Any subsisting reservations, exceptions, limitations, provisos and conditions (including royalties) contained in any original grant from the Crown of the said lands or any interest therein.
3. Any liens, accruing but not yet due for unpaid taxes, rates, assessments and other governmental charges or levies (including, without limitation, charges for municipal services and utilities and charges for local improvements) and all liabilities in respect thereto, including interest and penalties and irrigation and drainage district rates.
4. Any public highway or right-of-way or other public easement, howsoever created, on over or in respect of the said lands.
5. Any right of expropriation that may by statute be vested in any person or corporation or the Crown.
6. Any permit, right-of-way, condition, reservation, lease, easement, right in the nature of an easement, prohibition, limitation, encroachment, profit à prendre, royalty, licence, servitude, restriction or other similar right or privilege (including, without limitation, any permit, right-of-way, condition, reservation, lease, easement, right in the nature of an easement, prohibition, limitation, encroachment, profit à prendre, royalty, licence, servitude, restriction or other similar right or privilege for sewers, drains, gas and water, mains and electric light, power, telephone and telegraph conduits, poles, wires and cables) upon, over, under, through or in respect of the said lands, which is granted or acquired under any act or law in force in the Province of Alberta.
7. Any encumbrances constituted by encroachments by buildings or any other improvements constructed on the said lands or any facilities used in connection with the buildings or other improvements constructed on the said lands on, over or under adjacent properties, and any encumbrances constituted by encroachments by improvements constructed on properties adjacent to the said lands on, over or under the said lands.
8. Any by-law infractions or encroachments which might be disclosed by an up-to-date survey or real property report, or by a review of such survey or real property report and the locations of the improvements to the said lands evidenced thereon by Strathcona County in respect of the said lands.

9. The exceptions, reservations, conditions and qualifications set forth in Section 61 of the *Land Titles Act* (Alberta), to the extent not already set out herein.

**SCHEDULE "E"**

PLAN 3328TR

BLOCK 3

LOT 7

Excepting there out all mines and minerals

**Exhibit 1 - Form of Monitor's Certificate**

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**ONTARIO  
SUPERIOR 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**

**AND IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C.  
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LISTED ON SCHEDULE "A"**

**MONITOR'S CERTIFICATE**

**RECITALS**

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

B. Pursuant to an Order of the Court dated December 1, 2009, the Court approved a transaction (the "**Transaction**") contemplated by the offer to purchase and agreement made as of November 4, 2009 (the "**Sale Agreement**") between MBI and General Realty Group or Nominee (the "**Purchaser**") and provided for the vesting in the Purchaser of MBI's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming receipt of written confirmation from MBI that (i) the Purchaser has paid and MBI has received the purchase price for the Purchased Assets; (ii) the conditions to Closing as set out in section 6 of the Sale Agreement have

been satisfied or waived by MBI and/or the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE MONITOR CERTIFIES** the following:

1. MBI has advised the Monitor that the Purchaser has paid and MBI has received the purchase price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. MBI has advised the Monitor that the conditions to Closing set out section 6 of the Sale Agreement have been satisfied or waived by MBI and/or the Purchaser, as applicable; and
3. MBI has advised the Monitor that the Transaction has been completed to the satisfaction of MBI.
4. This Certificate was delivered by the Monitor at \_\_\_\_ [TIME] on \_\_\_\_ [DATE].

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

By: \_\_\_\_\_

Name:

Title:

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

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

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Proceeding commenced at Toronto

**ORDER**

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