

Akin Gump Strauss Hauer & Feld LLP

IRA S. DIZENGOFF
+1 212.872.1096/fax: +1 212.872.1002
idizengoff@akingump.com

July 10, 2012

VIA ELECTRONIC FILING AND HAND DELIVERY

The Honorable Kevin Gross
United States Bankruptcy Court for the District of Delaware
824 N. Market Street, Sixth Floor
Wilmington, DE 19801

Re: *In re NewPage Corp., et al.*, Case No. 11-12804 (KG)

Dear Chief Judge Gross:

As you are aware, we are counsel to certain unaffiliated creditors (the “Informal Second Lien Group”) who are holders of the (i) 10% senior secured notes due 2012 and (ii) floating rate senior secured notes due 2012 (collectively, the “Second Lien Notes”) issued by NewPage Corporation (“NewPage” and, together with its affiliated debtors and debtors in possession, the “Debtors”). The Informal Second Lien Group submits this letter to the Court consistent with Your Honor’s remarks during the hearing held on June 22, 2012 (the “June 22 Hearing”)¹ to apprise the Court of the status (or lack thereof) of discussions between the Debtors and the Informal Second Lien Group regarding the Debtors’ restructuring efforts and to urge the Court to appoint a mediator to oversee mandatory, good-faith plan negotiations to explore whether a fully consensual chapter 11 plan among the Debtors and their primary creditor constituencies can be achieved in these cases. The Informal Second Lien Group respectfully submits that, absent a good-faith attempt at Court-ordered mediation, these cases are likely to be embroiled in complex, time-consuming and expensive litigation that may jeopardize the Debtors’ successful emergence from chapter 11.

¹ During the June 22 Hearing, the Court opined as follows:

But I was really leaning, quite strongly, in favor of mediation, but having listened to the parties I think that the debtors should have an opportunity to serve as an honest broker here to the extent possible and to get parties to move. ***And I would not be at all offended were someone to notify me in three or four weeks that those discussions have not been fruitful and that I should undertake the appointment of a mediator at that time and I would certainly take that into consideration.***

June 22 Hr’g Tr. 36:6-15 (emphasis added).



The Honorable Kevin Gross
July 10, 2012
Page 2

The Informal Second Lien Group's views in this regard are informed by, among other things, the Debtors' conduct since the June 22 Hearing. Indeed, it is the belief of the Informal Second Lien Group that since that day in Court, the Debtors have disregarded the Court's admonitions that they "serve as an honest broker" and facilitate discussions among all of the creditor parties in order to work towards a successful reorganization.² Specifically, during the June 22 Hearing, the Court granted the Debtors' request for a second extension of their exclusive periods to file chapter 11 plans and solicit acceptances thereof, but cautioned as follows: "I want to give the debtors the opportunity and ***I want to see some evidence that they are, in fact, hard at work towards as much of a consensus as possible.***"³ Rather than advance this laudable goal and "bring[] all parties to the negotiation table,"⁴ during the last three weeks the Debtors have stymied all efforts by the Informal Second Lien Group to participate in a consensual restructuring including by, among other things, (i) refusing to enter into fair and equitable confidentiality agreements with members of the Informal Second Lien Group on the same terms as agreements entered into with holders of the Debtors' first lien notes and (ii) unilaterally terminating discussions with Verso Paper Corp. ("Verso") regarding a potential combination transaction that would have provided the holders of Second Lien Notes with at least \$124 million of value in connection with the Debtors' restructuring.⁵ In fact, since the June 22 Hearing, Debtors' counsel has not had a single conversation with counsel for the Informal Second Lien Group regarding the terms of a consensual plan of reorganization. Rather, the Debtors' wholly unacceptable proposal for a "stand-alone" plan of reorganization became known to the Informal Second Lien Group only through the Debtors' issuance of a press release on July 3, 2012. For the foregoing reasons and those set forth below, the Informal Second Lien Group reasserts its request for the appointment of a mediator to assist the parties in bringing these cases to a successful conclusion.

² June 22 Hr'g Tr. 36:6-10.

³ June 22 Hr'g Tr. 36:16-19 (emphasis added).

⁴ *Debtors Motion for an Order Pursuant to Section 1121(d) of the Bankruptcy Code for Order Extending Their Exclusive Periods to File Chapter 11 Plans and to Solicit Acceptances Thereof*, dated May 3, 2012 [ECF No. 1518], at 9.

⁵ The salient terms of the Verso Proposal (defined below) were made public on July 2, 2012 and are discussed in further detail below. See Verso Paper Corp., Current Report (Form 8-K) (July 2, 2012), at Exs. 99.2, 99.3 (setting forth the terms of the Verso Proposal, as presented to certain holders of NewPage's first lien notes (the "First Lien Noteholders") on May 30, 2012 and as superseded by a second proposal presented to such First Lien Noteholders on June 18, 2012.

I. The Debtors Refused to Enter Into a Plan-Related NDA with Second Lien Noteholders

Over two weeks before the June 22 Hearing, counsel for the Informal Second Lien Group advised the Debtors that certain holders of the Second Lien Notes (the “Second Lien Noteholders”) had expressed interest in entering into a non-disclosure agreement (a “Second Lien NDA”) with the Debtors, which would allow such Second Lien Noteholders to undertake diligence with respect to, and participate in, chapter 11 plan-related discussions with the Debtors, the Official Committee of Unsecured Creditors (the “Creditors’ Committee”) and certain holders of the Debtors’ first lien notes (the “First Lien Noteholders”) that had also entered into an NDA with the Debtors (the “First Lien NDA”). After repeated efforts by counsel to the Informal Second Lien Group, the Debtors ultimately agreed to negotiate and then to enter into a Second Lien NDA on the same terms as the First Lien NDA, which provided for, among other things, a restriction period that would terminate on July 2, 2012 unless each party executing a non-disclosure agreement agreed to extend such date.

However, shortly after the Debtors confirmed that they approved of the terms of the Second Lien NDA (including the July 2, 2012 termination date) and counsel for the Informal Second Lien Group provided an executed Second Lien NDA to the Debtors, the Debtors reversed course. Indeed, the Debtors had determined that, although the First Lien NDA had a July 2, 2012 termination date, they would enter into the Second Lien NDA only if the Second Lien Noteholders would agree to be bound by any extension of the termination date agreed to by the First Lien Noteholders. Thus, the Debtors would only permit the Second Lien Noteholders to participate in confidential plan-related diligence and discussions if they agreed to be bound by confidentiality for an indefinite period of time, as dictated by the First Lien Noteholders. The Debtors, however, did not require a corresponding “drag along” provision for the First Lien Noteholders. This blatant discrimination against the Second Lien Noteholders was obviously not acceptable nor an appropriate attempt by the Debtors to act as an honest broker in these cases. As such, the Debtors’ refusal to enter into the Second Lien NDA on the same terms as the First Lien NDA resulted in the Debtors preventing the Second Lien Noteholders from directly engaging in plan-related discussions. Indeed, as noted above, during the period between the June 22 Hearing and July 3, 2012, counsel for the Informal Second Lien Group and the Debtors did not have a single substantive conversation regarding the terms of a consensual restructuring for the Debtors either through a stand-alone plan or a potential merger between NewPage and Verso.

The Honorable Kevin Gross
July 10, 2012
Page 4

II. The Debtors Unilaterally Terminated Negotiations Regarding a Potential Merger with Verso that would have Maximized Recoveries to All Creditor Constituencies

Despite the fact that not a single plan-related discussion was held among the Debtors and the Informal Creditor Group following the June 22 Hearing, on July 3, 2012, the Debtors disingenuously announced in a press release (the “July 3 Press Release”) that they had been engaged in “a series of discussions with [their] various constituents, including first lien note holders, second lien note holders and the Unsecured Creditors’ Committee, in an effort to finalize a consensual Chapter 11 plan.”⁶ In connection with this misleading announcement, the Debtors also disclosed materials that outlined the terms of the Debtors’ proposed stand-alone plan (the “Debtors’ Proposal”) ⁷ and an earlier proposal made by the indenture trustee for NewPage’s first lien notes (the “First Lien Proposal”).⁸ Neither of which provided the value to the Second Lien Noteholders that they are entitled to receive on account of their claims.

Also on July 3, 2012, Verso filed a Form 8-K with the Securities Exchange Commission that disclosed the terms of proposals made by Verso to certain of the First Lien Noteholders—one made on May 30, 2012 and a second proposal presented on June 18, 2012 (the “Verso Proposal”), which superseded the earlier proposal.

The terms of the First Lien Proposal, the Debtors’ Proposal and the Verso Proposal are compared below:

⁶ Press Release, NewPage Corporation, *NewPage Announces Restructuring Update* (July 3, 2012), available at <http://www.newpagerestructuring.com/news-updates>.

⁷ Note that the Debtors’ Proposal is described as the NewPage “Consensual” Proposal in the below chart.

⁸ www.NewPageRestructuring.com.

COMPARISON USING ASSUMPTIONS CONTAINED IN JUNE 18, 2012 VERSO TERM SHEET⁽¹⁾

	Original First Lien Advisor Proposal	NewPage "Consensual" Proposal ⁽²⁾	Verso Merger Proposal
First Lien Noteholders	<ul style="list-style-type: none"> ■ Potential \$1,100 - \$1,350 million recovery (64% - 79%)⁽³⁾⁽⁴⁾⁽⁵⁾⁽⁶⁾ <ul style="list-style-type: none"> • 100% of the equity of reorganized NewPage (58% - 73%) • \$100 million of cash⁽⁶⁾ (6%) 	<ul style="list-style-type: none"> ■ Potential \$1,060 - \$1,310 million recovery (62% - 76%)⁽³⁾⁽⁴⁾⁽⁵⁾⁽⁶⁾ <ul style="list-style-type: none"> • 100% of the equity of reorganized NewPage⁽⁷⁾ (56% - 70%) • \$100 million of cash⁽⁶⁾ (6%) 	<ul style="list-style-type: none"> ■ Potential \$1,425 - \$1,463 million recovery (83% - 85%)⁽⁴⁾⁽⁵⁾⁽⁶⁾ <ul style="list-style-type: none"> • \$1,075 million of new first lien notes (63%) • \$150 million of common stock⁽⁸⁾ (9% - 11%) • \$200 million of cash⁽⁶⁾ (12%) ■ Recovery enhanced via substantial new value provided by: <ul style="list-style-type: none"> • \$200 million cash infusion from equity rights offering • New first liens granted on substantially all Verso PP&E in addition to existing liens on NewPage assets • Additional equity cushion and value from significant synergies
Second Lien Noteholders	<ul style="list-style-type: none"> ■ No recovery 	<ul style="list-style-type: none"> ■ Pro rata value equivalent of less than \$40 million to be shared with the General Unsecured Claims (form of consideration TBD; less than 3% recovery)⁽⁹⁾ 	<ul style="list-style-type: none"> ■ At least \$124 million recovery (12%)⁽⁹⁾ <ul style="list-style-type: none"> • \$90.9 million of common stock⁽¹⁰⁾ (9%) • Opportunity to participate in the \$200 million equity rights offering at a 33.3% discount to plan equity value (3%)
General Unsecured Claims	<ul style="list-style-type: none"> ■ No recovery 	<ul style="list-style-type: none"> ■ Pro rata value equivalent of less than \$40 million to be shared with the Second Lien Noteholders (form of consideration TBD; less than 3% recovery)⁽⁹⁾, inclusive of: <ul style="list-style-type: none"> • Litigation trust created and funded from the \$40 million to investigate certain actions (excluding 2007 SENA merger or other current investigations) • Payment of reasonable fees and expenses of the indenture trustee and individual UCC members 	<ul style="list-style-type: none"> ■ TBD

Source: NewPage Restructuring Update released July 3, 2012 and June 18, 2012 Verso Term Sheet filed publicly through an 8-K on July 3, 2012

- (1) Valuation and recovery percentages are based on metrics contained in the June 18, 2012 Verso Term Sheet and do not necessarily reflect the view of the Informal Second Lien Group or its advisors
- (2) Based on limited disclosure it is not clear if this proposal has the full support of the First Lien Noteholders
- (3) Valuation and recovery percentages are based on metrics (including assumed trading multiple and range therefrom) contained in the June 18, 2012 Verso Term Sheet and do not necessarily reflect the view of the Informal Second Lien Group or its advisors
- (4) Assumes June and December 2012 cash payments are not made on the first lien notes
- (5) Based on accreted value of first lien notes as of June 30, 2012 of \$1,717 million
- (6) Includes \$100 million cash payment received January 2012
- (7) Reduced by \$40 million allocated to Second Lien Noteholders and General Unsecured Claims
- (8) Range reflects 0% - 20% discounted exchange price to equity value per June 18, 2012 Verso Term Sheet (20% favorable price break was offered)
- (9) Calculated as a percent of estimated claim amount as of the petition date. Valuation and recovery percentages are based on metrics contained in the June 18, 2012 Verso Term Sheet and do not necessarily reflect the view of the Informal Second Lien Group or its advisors
- (10) Based on equity value in June 18, 2012 Verso Term Sheet

As evidenced by the foregoing illustrative chart, the Verso Proposal represents a viable and realistic opportunity for the Debtors' creditors to obtain significantly greater recoveries on account of their claims than they would receive under either the First Lien Proposal or the Debtors' Proposal. Specifically, the Verso Proposal provides a 9%-38% greater recovery to the First Lien Noteholders than they would receive under the Debtors' Proposal and a 6%-33% greater recovery as compared to the First Lien Proposal. Similarly, the Verso Proposal provides the Second Lien Noteholders with much greater value than either the Debtors' Proposal or the First Lien Proposal. Indeed, the recovery to the Second Lien Noteholders under the Verso Proposal is more than 270% greater than under the Debtors' Proposal. The Second Lien Noteholders would recover no value on account of their claims under the First Lien Proposal.

Notably, the virtues of the Verso Proposal have been touted by independent analysts without a stake in the outcome of these chapter 11 cases. Indeed, a recent J.P. Morgan analyst report (the "JPM Report") highlighted the benefits of the Verso Proposal as compared to the Debtors' Proposal and ultimately concluded that, given the potential upside, a merger similar to the Verso Proposal "*is the best outcome for . . . NewPage bondholders.*"⁹ Specifically, the JPM Report noted that the terms of the Verso Proposal seem "surprisingly reasonable" and found that, based on a par value of the Debtors' first lien notes, the Verso Proposal "*equates to a recovery of 80.5% in the aggregate.*"¹⁰

Shifting its analysis to the Debtors' Proposal, the JPM Report concluded that "[s]tand-alone NewPage appears to be a less attractive outcome."¹¹ Under the Debtors' Proposal, the First Lien Noteholders would own 100% of the equity of the reorganized Debtors, with no cash component of recovery. Based on the Debtors' implied forecasts, the stand-alone recovery value for the first lien notes is 40%-63%, entirely in equity. Accordingly, the JPM Report concluded that, as compared to the Verso Proposal, the Debtors' Proposal "implies materially higher downside and lower upside as part of a stand-alone plan."¹² The JPM Report further noted that the most likely range of recovery for the First Lien Noteholders under the Debtors' Proposal would be "*just 48-54%*" and that this range is likely aggressive, since it implies no equity leakage to the Second Lien Noteholders or the Creditors' Committee, and no equity is reserved

⁹ J.P. Morgan analyst report, *Verso Paper: Now Things Get Really Interesting*, North America Credit Research, at 1 (July 3, 2012) (emphasis added), available at https://mm.jpmorgan.com/stp/t/c.do?i=987A345&u=a_p*d_887016.pdf*h_-2kggta4%0d%0a.

¹⁰ *Id.* (emphasis added).

¹¹ *Id.* (emphasis added).

¹² *Id.*

for management.¹³ In sum, the JPM Report provides an important independent analysis that underscores the benefits of the Verso Proposal over the Debtors' Proposal.

It is beyond dispute that the Verso Proposal is clearly superior to the Debtors' July 3, 2012 stand-alone proposal and would allow all of the Debtors' creditor constituencies to recover significantly more value than they would otherwise receive under a stand-alone plan. Yet, without analysis or detailed commentary, in their July 3 Press Release, the Debtors stated that "after thoroughly evaluating [the Verso Proposal], NewPage determined that the combination posed significant risks to its stakeholders, employees and business."¹⁴ None of these concerns, however, were expressed by the Debtors to counsel for the Informal Second Lien Group prior to the issuance of the July 3 Press Release. Indeed, it appears that the Debtors have failed to afford the Verso Proposal its due consideration and, thus, have failed in their efforts to maximize creditor recoveries.¹⁵

Despite the fact that, by all accounts, the Verso Proposal provides a much greater recovery to all of the Debtors' creditors, the Informal Second Lien Group remains committed to working in good faith toward a consensual restructuring for the Debtors and would willingly participate in Court-ordered mediation without a pre-determined view on whether the Debtors should reorganize through a stand-alone plan or through the transaction outlined by the Verso Proposal. In that regard, on July 9, 2012, at the request of the Creditors' Committee (which unlike the Debtors, has taken initiative to act as an honest broker in these cases), the Informal Second Lien Group advised the Creditors' Committee of a range of terms upon which a majority of its members would support a stand-alone plan for the Debtors. These terms were based on, among other things: (i) the value of the Verso Proposal to the Second Lien Noteholders; (ii) the value of the Debtors' significant unencumbered assets; (iii) the viable claims and causes of action that have been asserted by the Creditors' Committee regarding the allowance of the First Lien Noteholders' claims and liens, and the characterization of a specialty coated paper machine, known as "Paper Machine 35"; (iv) the value of third-party releases that would likely be

¹³ See *id.* at 5 (emphasis added).

¹⁴ See July 3 Press Release at 1.

¹⁵ The only concern the Debtors even tangentially expressed in connection with the Verso Proposal was their ability to obtain requisite Hart-Scott-Rodino approval ("HSR Approval"). However, as Judge Walrath noted in *In re American Safety Razor Company, LLC*, there are ways to protect against this unknown, and such concern does not constitute a sufficient basis to reject an otherwise superior proposal. See *In re American Safety Razor Company, LLC*, No. 10-12351, October 8, 2012 Hr'g Tr. 33:3-34:10 (finding that the debtors' refusal to select a sale proposal as the "winning bid" because it was contingent [upon] HSR approval, but superior in all other respects" to be inappropriate, noting that appropriate protections were already in place to ensure that the estate would not be harmed).

expected in connection with a consensual chapter 11 plan; and (v) additional claims that the Second Lien Noteholders possess.

However, at this time, the Informal Second Lien Group believes that there is a “polarization of positions” with respect to the terms of a chapter 11 plan, which clearly necessitates Court appointment of a third-party, neutral mediator.¹⁶ As foreshadowed above, absent progress through mediation, the Informal Second Lien Group believes that the Debtors’ chapter 11 cases will become embroiled in costly, time-consuming and complex litigation regarding, among other matters, the following: (i) the motions filed by the Creditors’ Committee seeking standing to commence and prosecute, among other things, (x) fraudulent-transfer claims in respect of the First Lien Notes, (y) claims to recharacterize that certain “lease agreement” governing the use of Paper Machine 35 as a financing arrangement and a determination by the Court that the PM35 Parties’¹⁷ interest in Paper Machine 35 is unperfected and (z) other claims and causes of action for the benefit of the Debtors’ estates; (ii) litigation regarding the amount of the Bankruptcy Code section 507(b) claim in favor of the Second Lien Noteholders arising from the substantial diminution of the value of their collateral during the pendency of the Debtors’ chapter 11 cases; (iii) state court litigation between the Second Lien Noteholders and the First Lien Noteholders regarding the circumstances that resulted in the apparent violation of the terms of the indenture governing the Second Lien Notes issued in 2005; (iv) the pending appeal by the Creditors’ Committee of the Final DIP Order;¹⁸ (v) the value of the Debtors’ unencumbered assets; and (vi) disclosure statement and plan-related discovery and litigation.

In view of the circumstances discussed above, namely, (i) the Debtors’ refusal to facilitate negotiations among all parties, (ii) the Debtors’ failure to fully consider a proposal that appears to provide superior recoveries to their creditors and (iii) the litigation that will likely ensue absent a consensual resolution of these cases, Court-ordered mediation is not only appropriate, but necessary. Further, the Informal Second Lien Group requests that any mediator appointed by this Court be a currently-presiding bankruptcy judge to further ensure that the mediation is

¹⁶ June 22, 2012 Hr’g Tr. 13:20 (M. Bienenstock for the Debtors, noting the “polarization of positions” among the parties).

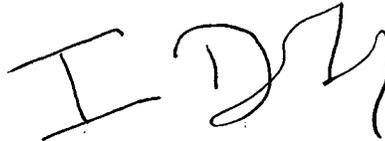
¹⁷ The “PM 35 Parties” are defined as Cerberus Capital Management LP, together with its affiliates, Wilmington Trust Company and CPI 1997, against whom the Creditors’ Committee seeks to bring, among other claims, preferential and fraudulent-transfer claims. *See Motion for Order Under Bankruptcy Code Sections 105, 1103, and 1109 Authorizing Official Committee of Unsecured Creditors to Commence and Prosecute Certain Claims on Behalf of Debtors’ Estates Against (A) Cerberus and (B) the PM35 Parties* [ECF No. 1862].

¹⁸ *Final Order (I) Authorizing Debtors (A) to Obtain Post-Petition Financing Pursuant to 11 U. S. C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1) and 364(e) and (B) to Utilize Cash Collateral Pursuant to 11 U. S. C. § 363 and (II) Granting Adequate Protection to Pre-Petition Secured Parties Pursuant to 11 U. S. C. §§ 361, 362, 363 and 364* [ECF No. 358].

The Honorable Kevin Gross
July 10, 2012
Page 9

conducted with the utmost good faith. To be clear, the Informal Second Lien Group is not wedded to the Verso Proposal and is fully committed to negotiate a stand-alone plan of reorganization provided that it offers a fair and reasonable recovery to the Second Lien Noteholders. Accordingly, the Informal Second Lien Group respectfully requests that the Court appoint a mediator to facilitate plan negotiations in the hope that such mediation will produce a plan that has the full support of all of the Debtors' major creditor constituencies, and prevent parties from needing to engage in costly litigation to ensure that their rights are protected and that they receive their just and equitable recoveries in connection with the Debtors' chapter 11 cases.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "I DIZ", written in a cursive style.

Ira S. Dizengoff

cc: All counsel of record