

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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<i>In re</i>	:	Chapter 11
	:	
NEWPAGE CORPORATION, et al.,	:	Case No. 11-12804 (KG)
	:	
Debtors.¹	:	Joint Administration Requested
	:	
	:	Related Docket No. 7

**ORDER (I) AUTHORIZING THE EMPLOYMENT AND RETENTION OF
KURTZMAN CARSON CONSULTANTS LLC AS CLAIMS & NOTICING AGENT
FOR THE DEBTORS AND (II) APPOINTING KURTZMAN CARSON
CONSULTANTS LLC AS AGENT OF THE BANKRUPTCY COURT**

Upon the application dated as of September 7, 2011 (the “Application”),² of NewPage Corporation and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the “Debtors” or “NewPage”), pursuant to section 156(c) of title 28 of the United States Code, Rule 2002 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2002-1(f) of the Local Rules of Bankruptcy Practice and Procedure for the District of Delaware (the “Local Rules”), for an order (i) authorizing the employment and retention of Kurtzman Carson Consultants LLC (“KCC”) as noticing and claims agent for the Debtors and (ii) appointing KCC as agent of the Court, as more fully described in the Application; and upon consideration of the *Declaration of Albert Kass in Support of the Application to Employ and Retain KCC as Claims and Noticing Agent for the*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Chillicothe Paper Inc. (6154), Escanaba Paper Company (5598), Luke Paper Company (6265), NewPage Canadian Sales LLC (5384), NewPage Consolidated Papers Inc. (8330), NewPage Corporation (6156), NewPage Energy Services LLC (1838), NewPage Group Inc. (2465), NewPage Holding Corporation (6158), NewPage Port Hawkesbury Holding LLC (8330), NewPage Wisconsin System Inc. (3332), Rumford Paper Company (0427), Upland Resources, Inc. (2996), and Wickliffe Paper Company LLC (8293). The Debtors’ corporate headquarters is located at 8540 Gander Creek Drive, Miamisburg, OH 45342.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Application.



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Debtors, attached to the Application as Exhibit B; and the Court having jurisdiction to consider the Application and the relief requested therein in accordance with 28 U.S.C. § 1334; and consideration of the Application and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and no trustee, examiner, or statutory creditors' committee having been appointed in these chapter 11 cases, and due and proper notice of the Application having been provided; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Application (the "Hearing"); and upon the *Declaration of George F. Martin, in Support of the Debtors' First Day Motions and Applications*, and upon the record of the Hearing, and all of the proceedings had before the Court; and the Court being satisfied that KCC represents or holds no interest adverse to the Debtors or their estates and is disinterested under section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code; and any objections to the Application having been overruled or withdrawn; and the Court having found and determined that the relief sought in the Application is in the best interests of the Debtors, their estates and creditors, and all parties in interest, and that the legal and factual bases set forth in the Application is in the best interests of the Debtors, their estates and creditors, and all parties in interest, and that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefore, it is

ORDERED that the Application is hereby granted as may be modified herein; and it is further

ORDERED that the Debtors are authorized to retain and employ KCC as claims and noticing agent in these chapter 11 cases for the purposes set forth in the Application and the

Retention Agreement, effective as of the date of commencement of these chapter 11 cases; and it is further

ORDERED that KCC is appointed as agent for the Clerk and custodian of court records and, as such, is designated as the authorized repository for all proofs of claim filed in these chapter 11 cases and is authorized and directed to maintain official claims registers for each of the Debtors and to provide the Clerk with a certified duplicate thereof on a weekly basis unless otherwise directed by the Clerk; and it is further

ORDERED that the terms of the Retention Agreement are approved as provided herein subject to the terms of this Order; and it is further

ORDERED that in addition to the services set forth in the Application and the Retention Agreement, KCC is authorized to provide other noticing, claims processing, solicitation and administrative services the Debtors may request from time to time; provided, however, that KCC shall not provide disbursement services under any plan prior to the effective date of such plan absent further order of the Court; provided further, that the services to be provided by KCC that are not specifically described in the Application shall be limited to ministerial services incident to the firm's role as claims and noticing agent; and it is further

ORDERED that KCC is authorized to take such other action as is reasonably necessary to comply with all duties set forth in the Application and this Order; and it is further

ORDERED that without further order of the Court, the Debtors are authorized to compensate KCC in accordance with the terms and conditions of the Retention Agreement, upon KCC's submission to the Debtors of invoices summarizing in reasonable detail the services and expenses for which compensation is sought; provided, however, that KCC shall provide copies

of such invoices to the Office of the United States Trustee and any official committee of creditors appointed in these chapter 11 cases; and it is further

ORDERED that pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC incurred pursuant to the Retention Agreement shall be an administrative expense of the Debtors' estates; and it is further

ORDERED that KCC may hold its retainer under the Retention Agreement during the chapter 11 cases as security for the payment of expenses only (and not fees) under the Retention Agreement; and it is further

ORDERED that KCC shall not cease providing claims processing services during the chapter 11 cases for any reason without prior order of this Court authorizing KCC to do so; provided, however, that KCC may seek such an order on expedited notice by filing a request with the Court with notice of such request to be served on the Debtors, the Office of the United States Trustee and any official committee of creditors appointed in these cases by facsimile or overnight delivery; provided further, that except as expressly provided herein, the Debtors and KCC may otherwise terminate or suspend other services as provided under the Retention Agreement; and it is further

ORDERED that Article XVII of the Services Agreement is hereby deleted in its entirety; and it is further

ORDERED that notwithstanding any provision in the Retention Agreement, the Debtors shall indemnify KCC solely to the extent set forth below:

- b. KCC shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Retention Agreement for services other than those described in the Retention Agreement, unless such services and indemnification therefore are approved by the Court;
- c. Notwithstanding anything to the contrary in the Retention Agreement, the Debtors shall have no obligation to indemnify

KCC, or provide contribution or reimbursement to KCC, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from KCC's gross negligence or willful misconduct; (ii) for a contractual dispute in which the Debtors allege the breach of KCC's contractual obligations unless the Court determines that indemnification, contribution, or reimbursement would be permissible pursuant to *In re United Artists Theatre Co.*, 315 F.3d 217 (3d Cir. 2003); or (iii) settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by the Court, after notice and a hearing, to be a claim or expense for which KCC should not receive indemnity, contribution, or reimbursement under the terms of the Retention Agreement as modified by this Order; and


- d. If, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these cases (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing these chapter 11 cases, KCC believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, and/or reimbursement obligations under the Retention Agreement (as modified by this Order), including without limitation the advancement of defense costs, KCC must file an application therefore in this Court, and the Debtors may not pay any such amounts to KCC before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by KCC for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify KCC. All parties in interest shall retain the right to object to any demand by KCC for indemnification, contribution, or reimbursement; and it is further
- e. Notwithstanding anything contained in Section IX of the Retention Agreement to the contrary, KCC's liability shall not be limited to (i) the total amount billed or billable to the Debtors for the portion of the particular work which gave rise to the loss or damage or (ii) the total amount billed to the Debtors and paid to KCC for the services contemplated under the Retention Agreement.

ORDERED that to the extent that there may be any inconsistency between the terms of the Application, the Retention Agreement, and this Order, the terms of this Order shall govern; and it is further

ORDERED that the Debtors and KCC are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application; and it is further

ORDERED that this Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Dated: September 8, 2011
Wilmington, Delaware



The Honorable Kevin Gross
Chief Judge, United States Bankruptcy Court