

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re : **Chapter 11**
:
NEWPAGE CORPORATION, et al., : **Case No. 11-12804 (KG)**
:
Debtors.¹ : **Jointly Administered**
:
-----x **Related Docket No. 164**

**ORDER PURSUANT TO SECTIONS 327(a) AND 328(a)
OF THE BANKRUPTCY CODE, BANKRUPTCY RULE 2014(a), AND
LOCAL RULE 2014-1, AUTHORIZING THE EMPLOYMENT AND RETENTION OF
FTI CONSULTING, INC. AS FINANCIAL ADVISORS TO THE DEBTORS,
NUNC PRO TUNC TO THE COMMENCEMENT DATE**

Upon the application dated as of September 20, 2011 (the "Application"),² of NewPage Corporation ("NewPage") and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively with NewPage, the "Debtors"), pursuant to sections 327(a) and 328(a) of title 11 of the United States Code (the "Bankruptcy Code"), Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 2014-1 of the Local Rules of Bankruptcy Practice and Procedure for the District of Delaware (the "Local Rules"), for authorization to employ and retain FTI Consulting Inc. ("FTI") as financial advisors to the Debtors, *nunc pro tunc* to the date on which the Debtors commenced their chapter 11 cases, all as more fully described in the Application; and upon consideration of the *Affidavit of David J.*

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.



Beckman in Support of Debtors' Application for Authorization to Employ and Retain FTI Consulting, Inc. as Financial Advisors to the Debtors, Nunc Pro Tunc to the Commencement Date (the "Beckman Affidavit"); 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 or examiner 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 record of the Hearing, and all of the proceedings had before the Court; and any objections to the Application having been withdrawn or overruled; 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 establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefore, it is

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

ORDERED that pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, Bankruptcy Rule 2014, and Local Rule 2014-1, the Debtors are authorized to employ and retain FTI in accordance with the terms and conditions set forth in the engagement letter, dated as of and effective as of January 4, 2011 (the "Engagement Letter"), as may be modified herein, effective *nunc pro tunc* to the date on which the Debtors commenced their chapter 11 cases,

however, FTI will not invoice nor will the Debtors pay the 6% allocated expenses described in the fee section of the Engagement Letter; and it is further

ORDERED that FTI shall be compensated in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, this Order and any other applicable orders of this Court; and it is further

ORDERED that the terms and conditions of the Engagement Letter, as may be modified by this Order, are approved; and it is further

ORDERED that the indemnification provisions set forth in the Engagement Letter, as modified in this Order, are approved, subject during the pendency of these cases to any other modifications herein and the following:

- a. FTI shall not be entitled to indemnification, contribution or reimbursement pursuant to the Engagement Letter for services other than those described in the Engagement Letter, unless such services and indemnification therefore are approved by the Court;
- b. The Debtors shall have no obligation to indemnify FTI, or provide contribution or reimbursement to FTI, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from FTI's gross negligence or willful misconduct; (ii) for a contractual dispute in which the Debtors allege the breach of FTI'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 FTI should not receive indemnity, contribution or reimbursement under the terms of the Engagement Letter as modified by this Order; and
- c. 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, FTI 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 Engagement Letter (as modified by this Order),

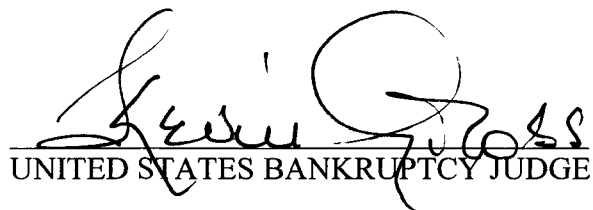
including without limitation the advancement of defense costs, FTI must file an application therefore in this Court, and the Debtors may not pay any such amounts to FTI before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by FTI for indemnification, contribution or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify FTI. All parties in interest shall retain the right to object to any demand by FTI for indemnification, contribution or reimbursement; and

- d. There shall be no postpetition limitation of liability under these indemnification provisions; and it is further

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

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

Dated: October 4, 2011
Wilmington, Delaware


UNITED STATES BANKRUPTCY JUDGE