

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

In re	§	
	§	
SCOTIA DEVELOPMENT LLC, et al.	§	Case No. 07-20027-C-11
	§	
	§	(Jointly Administered)
	§	
Debtors.	§	Chapter 11

DEBTORS’ MOTION FOR AN ORDER: (I) ESTABLISHING A BAR DATE FOR FILING PROOFS OF CLAIM; (II) APPROVING THE PROCEDURE FOR FILING PROOFS OF CLAIM; AND (III) APPROVING THE FORM AND MANNER OF SERVICE OF THE NOTICE OF BAR DATE

A HEARING WILL BE CONDUCTED ON THIS MATTER ON MAY 10, 2007 AT 2:00 P.M. BEFORE THE HONORABLE RICHARD S. SCHMIDT, 1133 NORTH SHORELINE, 2ND FLOOR, CORPUS CHRISTI, TEXAS 78471. IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING SPECIFICALLY ANSWERING EACH PARAGRAPH OF THIS PLEADING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY-THREE DAYS FROM THE DATE YOU WERE SERVED WITH THIS PLEADING UNLESS YOU DID NOT RECEIVE THIS NOTICE IN TIME TO DO SO. IN THAT SITUATION, FILE YOUR RESPONSE AS SOON AS POSSIBLE. IN ADDITION TO FILING YOUR RESPONSE WITH THE CLERK, YOU MUST GIVE A COPY OF YOUR RESPONSE TO THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED

Scotia Development LLC (“Development”), The Pacific Lumber Company (“Palco”), Britt Lumber Co., Inc. (“Britt”), Salmon Creek LLC (“Salmon Creek”), Scotia Inn Inc. (“Scotia Inn”) and Scotia Pacific Company LLC (“Scopac”, together, with Development, Palco, Britt, Salmon Creek and Scotia Inn, the “Debtors”) hereby file this Motion for an Order: (i) Establishing a Bar Date for the Filing of Proofs of Claim; (ii) Approving the Procedure for Filing Proofs of Claim; and (iii) Approving the Form and Manner of Service of the Notice of Bar Date and in support thereof, respectfully state as follows:

I.
JURISDICTION AND VENUE

1. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1334. This is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A) and (O). The relief requested herein is authorized under Sections 105, 501, and 1111(a) of the Bankruptcy Code and Rules 2002(a)(7), 3003(c)(3), 5005(a) and 9008 of the Federal Rules of Bankruptcy Procedure.

2. Venue of the Debtors' chapter 11 cases is proper in this district pursuant to 28 U.S.C. §§ 1408(1) and (2).

II.
BACKGROUND

3. On January 18, 2007 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are continuing to operate their businesses and manage their properties as debtors in possession.

4. The Pacific Lumber Company ("Palco"), which has been in continuous operation for more than 130 years, owns and/or manages, directly or through its subsidiaries, over 200,000 acres of virtually contiguous commercial timberlands (the "Timberlands") located in Humboldt County, along the northern California coast, an area which has very favorable soil and climate conditions for growing timber.¹ These Timberlands are located in close proximity to Palco's sawmill, and contain an extensive network of roads.

5. Scopac owns, conducts silvicultural activities on, and handles regulatory compliance and approvals for, approximately 200,000 acres of the Timberlands (the "Scopac

¹ Palco also sells energy generated from its cogeneration plant by utilizing wood byproducts from its milling operations. Such sales typically constitute less than 10% of Palco's revenue.

Timberlands”).² Scopac also has the exclusive right to harvest (the “Scopac Timber Rights”, and together with the Scopac Timberlands, the “Scopac Timber”) approximately 12,000 acres of Timberlands owned directly by Palco and Salmon Creek LLC, a wholly owned subsidiary of Palco. Palco and Scopac arrange for the harvest of standing Scopac Timber in connection with approved timber harvesting plans (“THPs”), as well as the transportation of the resulting logs. Palco also purchases from Scopac the logs harvested from the Scopac Timber. The sales from Scopac to Palco, as well as various related services that Palco and Scopac provide to each other and certain other inter-company matters, are the subject of several agreements between the parties entered into in conjunction with the issuance and sale of the Timber Notes.

6. The timber industry in general, and the Debtors’ operations specifically, have become increasingly unpredictable and negatively impacted by substantial and expanding regulatory constraints, ongoing litigation challenges, additional legislative impacts, negative judicial decisions, weather patterns, and low lumber and log prices.

7. The Debtors’ future annual cash flows from operations for at least the next several years will be substantially below the minimum levels necessary for the Debtors to meet their obligations under their respective secured credit facilities. Consequently, the Debtors commenced these chapter 11 cases.

8. Development filed its Schedules of Assets and Liabilities on February 14, 2007. Britt, Salmon Creek, Scotia Inn and Scopac filed their Schedules of Assets and Liabilities on March 5, 2007. Palco filed its Schedules of Assets and Liabilities on March 6, 2007.

² The predecessor of Scopac, Palco’s largest operating subsidiary, was established in 1993, in conjunction with a securitization transaction pursuant to which the vast majority of the Timberlands were transferred to Scopac, and Scopac issued certain Timber Collateralized Notes (the “Timber Notes”) secured by substantially all of Scopac’s assets, including such Timberlands. Pursuant to a 1998 refinancing transaction, Scopac issued Timber Notes in the aggregate principal amount of approximately \$867 million and received additional Timberlands and timber harvesting rights in respect of certain additional acreage. The outstanding principal amount of the Timber Notes is approximately \$714 million.

III.
RELIEF REQUESTED

9. The Debtors respectfully request the entry of an order (the “Bar Date Order”) pursuant to Sections 105, 501, and 1111(a) of the Bankruptcy Code, and Rules 2002(a)(7), 3003(c)(3), 5005(a) and 9008 of the Federal Rules of Bankruptcy Procedure establishing deadlines and procedures for filing proofs of claim in these Chapter 11 cases, and approving the form and manner of notice thereof.

IV.
LEGAL AUTHORITY

10. Rule 3003(c)(3) of the Federal Rules of Bankruptcy Procedure provides that the Court shall fix the time within which proofs of claim and interest must be filed in a chapter 11 case pursuant to Section 501 of the Bankruptcy Code. Rule 3003(c)(2) provides that any creditor whose claim is not scheduled or whose claim is scheduled as disputed, contingent or unliquidated must file a proof of claim within the time prescribed by Rule 3003(c)(3).

11. Further, Section 105 of the Bankruptcy Code and Rule 9007 of the Federal Rules of Bankruptcy Procedure together permit the Court to approve the proposed claim filing procedures and to approve the form, manner and sufficiency of notice.

A. MOTION TO ESTABLISH BAR DATE AND APPROVE PROCEDURE FOR FILING PROOFS OF CLAIM

(1) Bar Date

12. The Debtors request that the Court establish July 17, 2007 at 5:00 p.m., Prevailing Eastern Time, (the “Bar Date”) as the last day and time by which proofs of claim must be filed with Logan & Company, Inc. (“Logan” or the “Claims Agent”), the Debtors’ claims and noticing agent. The fixing of July 17, 2007 as the Bar Date will enable the Debtors to begin their initial analysis of creditors’ claims in a timely and efficient manner. In addition, the Bar Date and the

procedures set forth below will give creditors ample opportunity to prepare and file proofs of claim in these cases.

(2) **Proof of Claim Form**

13. The Debtors request that each person or entity that asserts a claim, as defined in Section 101(5) of the Bankruptcy Code, against one or more of the Debtors that arose prior to the Petition Date must file original, written proof of such claim that substantially conforms to the proposed proof of claim form described in this Motion and attached as Exhibit "A" to the Bar Date Order (the "Proof of Claim Form") or to Official Form No. 10.

(3) **Filing of Proofs of Claim**

14. The Debtors request that claimants file their proofs of claim on or before the Bar Date either by (a) mailing their original proof of claim to Logan & Company, Inc., Attn: Scotia Claims Processing Department, 546 Valley Road, Upper Montclair, New Jersey 07043, or (b) delivering the original proof of claim by messenger or overnight mail to Logan & Company, Inc. as Agent for the United States Bankruptcy Court, Attn: Scotia Claims Processing Department, 546 Valley Road, Upper Montclair, New Jersey 07043. Because the Claims Agent is not equipped to accept claims by facsimile, electronic mail or telecopy, such claims cannot be accepted. The Debtors also request that all proofs of claim be deemed timely filed only if actually received by the Claims Agent on or before the Bar Date.

(4) **Failure to Timely File Suitable Claim**

15. The Debtors request that any creditor who is required to file a proof of claim, but fails to do so in compliance with the Debtors' proposed procedures prior to the Bar Date:

- (a) shall not, with respect to any such claim, be treated as a creditor of the Debtors for the purpose of notice, voting and distribution under any plan of reorganization and/or liquidation; and

- (b) shall be forever barred from (i) filing a proof of claim with respect to such claim; (ii) asserting such claim against the Debtors or their estates or property; (iii) voting on any plan or plans of reorganization and/or liquidation filed in the Debtors' jointly administered cases; and (iv) participating in any distribution in these chapter 11 cases on account of such claim, except as otherwise provided pursuant to further Order of the Court.

(5) **Persons and Entities Exempt from Filing Proofs of Claim**

16. The Debtors request that the following persons and entities be exempt from filing a proof of claim on or before the Bar Date:

- (a) Any person or entity (i) whose claim is listed on the Debtors' Schedules of Assets and Liabilities filed with the Court (as may be amended from time to time) (the "Schedules"); (ii) whose claim is not described as "disputed," "contingent," or "unliquidated;" and (iii) who does not dispute the amount and manner of classification of their claim as set forth in the Schedules;
- (b) Any person or entity that has already properly filed, with the Clerk of the Court or the Claims Agent, a proof of claim against one or more of the Debtors, using a form which substantially conforms to the Proof of Claim Form proposed herein or to Official Form No. 10;
- (c) Any person or entity asserting a claim allowable under Section 503(b) and 507(a) of the Bankruptcy Code as an administrative expense of the Debtors' chapter 11 estates;
- (d) A Debtor having a claim against another Debtor; and
- (e) Any person or entity that holds a claim that has been allowed by an order of the Court entered on or before the Bar Date.

(6) **Government Claims**

17. The Debtor requests that August 17, 2007, a date that is more than 180 days after the Petition Date, be established as the deadline for all governmental units, as defined in Section 101(27) of the Bankruptcy Code, to file a proof of claim in these cases (the "Governmental Unit Bar Date").

(7) **Executory Contract/Unexpired Lease Rejection Claims**

18. The Debtors also request that any person or entity holding a claim that arises from the rejection of an executory contract or unexpired lease where the order authorizing such

rejection is dated on or before June 15, 2007 be required to file a proof of claim based on the rejection on or before the Bar Date. However, with respect to any person or entity holding a claim that arises from the rejection of an executory contract or unexpired lease where the order authorizing such rejection is dated after June 15, 2007, the Debtors request that such parties be required to file a proof of claim based on the rejection on the later of the Bar Date or thirty (30) days after the effective date of the order authorizing such rejection (or such date as may otherwise be provided for in such order) or forever be barred from doing so.

(8) Amended Schedules

19. In the event that the Debtors amend their Schedules subsequent to service of the Notice (as defined below), the Debtors shall give notice of such amendment to the holders of the claims affected thereby, and such holders shall be afforded the later of the Bar Date or thirty (30) days from the date of such notice (or such other time period as may be fixed by the Court) to file proofs of claim or forever be barred from doing so.

(9) Requirement to File Proofs of Claim Under Correct Debtor Case

20. The Debtors propose that all claimants asserting claims against more than one Debtor be required to file a separate proof of claim in the case of each such Debtor. If claimants are permitted to assert claims against more than one Debtor in a single proof of claim, the Debtors may have difficulty maintaining separate claim registers for each Debtor, and all of the Debtors will be required to object to claims that may only be applicable to one of the Debtors. Likewise, each claimant must identify the particular Debtor case and case number in which their claim is asserted on their proof of claim form. Requiring parties to identify the Debtor against which a claim is asserted will greatly expedite the review of claims in these cases.

B. MOTION TO APPROVE FORM OF NOTICE OF BAR DATE

21. Within five (5) days following the entry of an order approving this Motion, the Debtors, with the assistance of their Claims Agent, will serve by first class United States mail:

- (a) the Notice of Deadline for Filing Proofs of Claim (the "Notice"), substantially in the form attached as Exhibit "B" to the Bar Date Order on all known creditors of the Debtors; and
- (b) The Proof of Claim Form will state whether the creditors' claim is listed in the Schedules, the dollar amount of such claim as listed in the Schedules, the Debtor for which the creditor's Claim is scheduled and whether the claim is listed as disputed, contingent or unliquidated.

22. The Debtors also request that the Court require each proof of claim: (a) to be written in English; (b) to be denominated in United States dollars; (c) to be in an amount calculated as of the Petition Date; and (d) to conform substantially with the Proof of Claim Form or to Official Form 10.

23. The Debtors shall retain the right to: (a) dispute, or assert offsets or defenses against, any filed or submitted claim or any claim listed or reflected in the Schedules on any grounds, including nature, amount, liability, classification, or otherwise; or (b) subsequently designate any claim as disputed, contingent, or unliquidated subject to the additional notice requirements described above.

WHEREFORE, the Debtors respectfully request this Court to enter an order (a) establishing July 17, 2007 as the Bar Date for filing proofs of claim; (b) establishing August 17, 2007 as the Governmental Unit Bar Date; (c) approving the procedures for filing proofs of claim; (d) approving the form and manner of service of the notice of the Bar Date and (e) granting the Debtors such other and further relief as the Court deems just and proper.

Respectfully submitted on this 24th day of April 2007.

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