

1 Joseph F. Coyne, Jr. (CA Bar No. 93707)
Michelle Sherman (CA Bar No. 136799)
2 SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP
3 333 South Hope Street, 48th Floor
Los Angeles, California 90071-1448
4 Telephone: 213/620-1780
Facsimile: 213/620-1398

5 Attorneys for Defendants
6 Fort James Corporation and Related Entities

7 Leo R. Beus/Ariz. Bar No. 002687 (Pro hac vice)
Albert J. Morrison/Calif. Bar No. 198047
8 BEUS GILBERT PLLC
ATTORNEYS AT LAW
9 4800 North Scottsdale Road, Ste. 6000
Phoenix, Arizona 85251
10 Telephone (480) 429-3000
Facsimile: (480) 429-3100

11 Attorneys for Liquidating Trustee
12
13

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16

17 In re:
18 CROWN VANTAGE, INC.,
19 Debtor.
20 Employer I.D. #54-1752384

21 _____
22 CROWN PAPER LIQUIDATING TRUST,
23 Plaintiff,

24 v.

25 PRICEWATERHOUSECOOPERS LLP f/k/a/
COOPERS & LYBRAND, et al.

26 Defendants.
27 _____
28

) Case Nos.: C02-3836 MMC
) C02-3838 MMC
)
) **JOINT MOTION OF LIQUIDATING**
) **TRUSTEE OF CROWN TRUST AND**
) **FORT JAMES PURSUANT TO F.R.B.P.**
) **9019 TO APPROVE COMPROMISE**
) **OF CONTROVERSY;**
) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES, DECLARATION OF**
) **JEFFREY H. BECK IN SUPPORT**
) **THEREOF**
)
) Date: May 25, 2007
) Time: 9:00 a.m.
) Courtroom: 7 (19th Floor
) Judge: Hon. Maxine M. Chesney
)
) May 4, 2007: Deadline for Filing Opposition
) To Joint Motion
) May 11, 2007: Deadline for Filing
Reply to Opposition

1 CROWN PAPER COMPANY; CROWN)
 2 VANTAGE, INC., JEFFREY H. BECK, Liquidating)
 3 Trustee; and CROWN PAPER LIQUIDATING)
 TRUST,)

4 Plaintiffs,)

5 v.)

6 FORT JAMES CORPORATION, f/k/a JAMES)
 RIVER CORPORATION OF VIRGINIA;)
 7 FORT JAMES OPERATING COMPANY; FORT)
 JAMES FIBER COMPANY, f/k/a JAMES RIVER)
 8 TIMBER CORPORATION; and FORT JAMES)
 INTERNATIONAL HOLDINGS, LTD., f/k/a)
 9 JAMES RIVER INTERNATIONAL HOLDINGS,)
 LTD.,)

10 Defendants.)
 11)

12
 13 Plaintiffs Jeffrey H. Beck, Liquidating Trustee, Crown Paper Liquidating Trust, Crown
 14 Vantage, Inc, and Crown Paper Co, (collectively, the "Liquidating Trustee"), and defendants Fort
 15 James Corporation, Fort James International Holdings, Ltd., and Georgia-Pacific Consumer Products
 16 LP (f/k/a Fort James Operating Company) (collectively, "Fort James"), move this Court to (i)
 17 approve the Settlement Agreement entered into on March 6, 2007, between the Trustee and Fort
 18 James (the "Fort James Settlement Agreement") and the Settlement Agreement entered into between
 19 the Trustee and certain Liquidating Trust Case Defendants¹ (the "Liquidating Trust Settlement
 20 Agreement"); the Liquidating Trust Settlement Agreement, and the Fort James Settlement
 21 Agreement being collectively referred to as the "Settlement Agreements", and (ii) enter an Approval
 22 Order in the form attached hereto as Exhibit 1.

23 This Motion is based on the Notice of Motion, the Memorandum of Points and Authorities

24
 25 ¹ Defendants PricewaterhouseCoopers LLP, McGuireWoods LLP, Merrill Lynch & Co., Inc., Merrill Lynch, Pierce,
 26 Fenner & Smith, Salomon Smith Barney, Inc., Clifford A Cutchins, Stephen E. Hare, Robert C. Williams, Houlihan
 27 Lokey Howard & Zukin, E. Lee Showalter, William V. Daniel, Joseph T. Piemont, and Ernest Leopold (the "Liquidating
 28 Trust Case Defendants") are not signing parties to this motion but have authorized the Plaintiffs and Defendants to state
 that they join in the relief requested. Those defendants that are parties to the Liquidating Trust Settlement Agreement are
 listed in Exhibit "A" attached to the Fort James Settlement Agreement. Credit Suisse Securities (USA) and the Trustee
 have agreed in principle to exchange mutual releases. The form of the Agreement is attached as Exhibit 7 and the
 Trustee moves this Court to approve their Settlement Agreement which will be in the same form or substantially the
 same form as Exhibit 7 attached hereto.

1 set forth herein, the Declaration of Jeffrey H. Beck, the records and pleadings on file in these cases
2 and such further oral and documentary evidence as may be presented at or prior to any hearing on
3 this Motion.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **I.**

6 **FACTUAL AND PROCEDURAL BACKGROUND**

7 **A. The Bankruptcy Case and the Litigation**

8 On March 15, 2000, Crown Paper Company and Crown Vantage, Inc. (the “Debtors”) filed
9 voluntary Chapter 11 petitions in the United States Bankruptcy Court for the Northern District of
10 California. (the “Bankruptcy Court”).

11 On November 19, 2001, the Bankruptcy Court confirmed, with further amendments, the
12 Second Amended Disclosure Statement and Joint Liquidating Plan of Reorganization (the “Plan”) as
13 to which the Effective Date² was March 1, 2002 (Exhibit 2), and the Court retained jurisdiction over
14 the Plan and its administration.

15 Under the terms of the Plan, Jeffrey H. Beck is the Trustee for the Crown Paper Liquidating
16 Trust, with the rights, powers and duties as set forth in the Plan and the Liquidating Trust
17 Agreement. In addition, the Plan established the Liquidating Trust Committee consisting of three
18 members which are Beneficiaries of the Liquidating Trust. A true and correct copy of the
19 Liquidating Trust Agreement is attached as Exhibit 3. Among other things, the Trustee is charged
20 with the post-confirmation administration and prosecution against third parties of claims and causes
21 of action that, prior to the Effective Date, constituted property of the Debtors’ bankruptcy estates.
22 Under the terms of the Plan, the Trustee has all of the rights and powers of a bankruptcy trustee with
23 regard to the assertion and enforcement of claims of the Debtors. Pursuant to the Plan and the
24 Liquidating Trust Agreement, the Trustee has the authority to enter into the Settlement Agreements
25 with the consent of the Liquidating Trust Committee subject to approval of the Court.

26 Included in the Causes of Action which were assigned to the Liquidating Trust under the
27 Plan are certain claims and causes of action that had been or might be asserted against Fort James
28

² Unless otherwise specified herein, all capitalized terms shall have the meanings provided therefor in the Plan.

1 and the Liquidating Trust Case Defendants arising out of the August 1995 spin off transaction.

2 As anticipated in the Plan, the Trustee employed the law firms of Beus Gilbert PLLC (“Beus
3 Gilbert”) and Steyer, Lowenthal, Boodrookas, Alvarez & Smith LLP (“Steyer Lowenthal”) to
4 investigate and prosecute Causes of Action against Fort James and the Liquidating Trust Case
5 Defendants. The Trustee submits that Beus Gilbert and Steyer Lowenthal have substantial
6 experience and expertise in the representation of fiduciaries in bankruptcy cases.

7 The Trustee filed suit against Fort James in the case now known as *Crown Paper Co. v. Fort*
8 *James Corp.*, Case No. C 02-3838 MMC, and against the Liquidating Trust Case Defendants in
9 *Crown Paper Liquidating Trust v. PricewaterhouseCoopers LLP*, Case No. C 02-3836 MMC
10 (collectively, the “Litigation”). Although the Litigation was at one time pending in the Bankruptcy
11 Court, the reference was withdrawn and the Litigation was transferred to the United States District
12 Court for the Northern District of California (“District Court”) in August 2002, and consolidated
13 under C 02-3836 until judgment was entered against the Trustee on the Litigation against the
14 Liquidating Trust Defendants in C 02-3836, on July 12, 2004. The Ninth Circuit has affirmed that
15 judgment. 198 Fed. Appx. 597 (9th Cir. 2006), *reh’g denied* (Sept. 20, 2006). The Trustee filed a
16 Petition for Certiorari with the United States Supreme Court which was denied on February 26,
17 2007. Meanwhile, trial was scheduled for February 5, 2007 in C 02-3838 MMC.

18 Fort James is represented by Sheppard, Mullin, Richter & Hampton LLP, a nationally
19 recognized law firm with substantial experience and expertise in defending claims against
20 corporations. The Liquidating Trust Case Defendants are also represented by nationally recognized
21 law firms with similar experience and expertise.

22 Fort James and the Liquidating Trust Case Defendants deny that their conduct in any way
23 caused any damage to the Debtors.

24 **B. The Settlement Agreements and Request for Approval of Compromise and Settlement**

25 In an effort to resolve their disputes before trial, the attorneys for the Trustee and Fort James
26 and their respective clients engaged in extensive settlement discussions. These discussions included
27 multiple sessions with the Hon. Joseph Spero, Magistrate Judge of the District Court, and direct
28 negotiation between the parties and counsel.

1 The settlement discussions resulted in the Fort James Settlement Agreement to settle all
2 disputes by the payment by Fort James to the Trustee of the Settlement Amount (which is defined in
3 the Fort James Settlement Agreement as the sum of \$55 million, plus interest at the rate of 4.25% per
4 annum from February 12, 2007 until the time of payment upon Court approval of this settlement),
5 the execution of mutual releases between the Plaintiffs and the Fort James Released Parties (as such
6 term is defined in the Fort James Settlement Agreement) and the full and complete resolution of all
7 claims against the Fort James Released Parties arising out of their prior dealings with the Debtors.
8 As a result of the settlement between the Trustee and Fort James, settlement discussions ensued
9 between the Trustee the Liquidating Trust Case Defendants. Those negotiations resulted in the
10 Settlement Agreements. Exhibits 4 and 5 are true and correct copies of the Fort James Settlement
11 Agreement, and the Liquidating Trust Settlement Agreement respectively memorializing the
12 settlements.

13 The claims of the Trustee against the Fort James Released Parties, including the Liquidating
14 Trust Case Defendants, are disputed as to liability, causation and damages. Thus, the Settlement
15 Agreements expressly acknowledge that the Fort James Released Parties, including the Liquidating
16 Trust Case Defendants, deny any liability to the Debtors or to the Trustee and that the payment of
17 money and performance of other obligations set forth in the Settlement Agreements shall not be
18 construed as an admission of any allegation, fact, liability or any act of wrongdoing. The Fort James
19 Settlement Agreement provides the Fort James Released Parties with comprehensive, full and
20 complete finality with regard to any and all claims that could be asserted against the Fort James
21 Released Parties as a result of their prior dealings with the Debtors or their respective bankruptcy
22 estates. Indeed, the assurance, as would be evidenced by the Approval Order, that the Fort James
23 Released Parties are settling or having dismissed all claims against them arising from or relating to
24 their prior conduct and dealing with the Debtors or their respective bankruptcy estates is critical to
25 Fort James' decision to settle with the Trustee and pay the Settlement Amount for the benefit of the
26 Debtors' estates and to release their claims against the Crown Released Parties (as such term is
27 defined in the Settlement Agreements).

28 Beus Gilbert and Steyer Lowenthal were employed by the Trustee to prosecute the Litigation

1 on a contingent fee basis; however, the Trustee remains responsible for costs and expenses of the
2 Litigation, which the Trustee and counsel believe would be substantial if the case proceeded to trial.
3 The Trustee also believes that trial of the Litigation will be complex, protracted and time-consuming.
4 Moreover, McGuire Woods LLP, one of the Liquidating Trust Case Defendants, has asserted a claim
5 for substantial attorneys' fees and costs which it has agreed to waive under the Settlement
6 Agreements. Other Defendants, including Fort James, have asserted claims for costs, fees, and other
7 relief from the Trust. In view of these considerations, and taking into account the inherent
8 uncertainties of litigation, the Trustee believes that the receipt, by the Trustee, of the Settlement
9 Amount, and other consideration provided in the Settlement Agreements, in full satisfaction of
10 claims against the Fort James Released Parties, including the Liquidating Trust Case Defendants, is a
11 fair and reasonable compromise and that the proposed Settlement Agreements are in the best
12 interests of the Debtors, their estates and creditors.

13 This Court has conducted proceedings, is familiar with and has jurisdiction with respect to
14 the Litigation. As indicated above, this Court has proceeded in C-02-3838 MMC and C-02-3836
15 MMC pursuant to a withdrawal of reference from the Bankruptcy Court. Consideration of approval
16 of a compromise of a controversy is governed by the Bankruptcy Court as provided for under Fed.
17 R. Bankr. P. 9019. In light of the foregoing, the Trustee has moved this Court to withdraw the
18 reference to the Bankruptcy Court of consideration of the compromise and settlement which is the
19 subject of the Settlement Agreements. The Trustee and Fort James request that the Court approve
20 the Settlement Agreements and enter the Approval Order in the form attached as Exhibit 1 approving
21 the settlements on the terms and conditions set forth in the Settlement Agreements attached as
22 Exhibits 4 and 5.

23 Notice of this Motion has been served on all parties in the Litigation and on all parties who
24 are required to receive notice pursuant to Fed. R. Bankr. P. 2002(a)(3), Bankruptcy Local Rule 2002-
25 1, as the same have been modified by the Order Establishing Case Management Procedures and
26 Hearing Schedule, entered April 28, 2000 (Exhibit 6) ("Case Management Order").³ In addition,

27 _____
28 ³ Pursuant to the District Court's Order Granting Motion For Withdrawal Of Reference, dated April 17, 2007, a copy of
that Order is attached hereto as Exhibit 8 and was served on all parties required to receive notice pursuant to Rule
2002(a)(3) of the Federal Rules of Bankruptcy and Bankruptcy Local Rule 2002-1.

1 Sections 3.1(w) and 8.12 of the Liquidating Trust Agreement provide that notice to holders of
2 beneficial interests in the Crown Paper Liquidating Trust (the "Trust Beneficiaries") may be made
3 by posting notice to a web site established and maintained by the Trustee, at
4 www.crownpapertrust.com. The exhibits to this Motion are voluminous and most of them are
5 historic bankruptcy documents which have previously been served on or delivered to most parties
6 with an interest in this Motion. Thus, the Trustee submits that service of the Motion and exhibits
7 is sufficient as to Trust Beneficiaries if posted to the Trust's web site. In addition, the Trustee
8 believes that service of all of the exhibits to the Motion to all parties required to be served under
9 the Case Management Order is unduly costly and burdensome to the Trust and unnecessary to
10 provide adequate notice to such parties. The rules of procedure and Case Management Order
11 referred to above do not require service of each and every paper comprising a compromise and
12 settlement. In accordance with the Case Management Order, the Trustee has attached a page to the
13 service copy of the Motion that lists all exhibits and states that all such exhibits are available at
14 www.crownpapertrust.com or from Trustee's counsel upon written request. The Trustee requests
15 that the Court approve such notice as good and sufficient.

16 II.

17 LEGAL ARGUMENT

18 The authority granted a trustee to compromise a controversy is set forth in Rule 9019(a) of
19 the Federal Rules of Bankruptcy Procedure, which provides in pertinent part:

20 On motion by the trustee and after ... notice to creditors ... the Court
21 may approve a compromise or settlement.

22 Fed. R. Bankr. P. 9019(a). In passing on proposed settlements, the standard that courts applied
23 under the former Bankruptcy Act is also applicable under the Bankruptcy Code. *Matter of Carla*
24 *Leather, Inc.*, 44 B.R. 457, 466 (Bankr. S.D.N.Y. 1984). As stated by the Supreme Court in
25 *Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S.
26 414 (1968), under the Act, in order to approve a proposed settlement, a court must have found that
27 the settlement was "fair and equitable" based on an "educated estimate of the complexity, expense,
28 and likely duration of . . . litigation, the possible difficulties of collecting on any judgment which

1 might be obtained and all other factors relevant to a full and fair assessment of the wisdom of the
 2 proposed compromise." *Id.* at 435. The Supreme Court also stated that "[b]asic to this process in
 3 every instance, of course, is the need to compare the terms of the compromise with the likely
 4 rewards of litigation." *Id.* at 424.

5 More recently, the Ninth Circuit Court of Appeals has held that, in considering a proposed
 6 compromise, the Court must evaluate (i) the probability of success in the litigation; (ii) the
 7 difficulties, if any to be encountered in the matter of collection; (iii) the complexity of the litigation
 8 involved, and the expense, inconvenience and delay necessarily attending to it; and (iv) the
 9 paramount interest of the creditors and a proper deference to their reasonable views in the premises.
 10 *See Martin v. Kane (In re A&C Properties)*, 784 F.2d 1377, 1381 (9th Cir.), *cert. denied sub nom.*,
 11 *Martin v. Robinson*, 479 U.S. 854 (1986). *Accord, Woodson v. Fireman's Fund Insur. Co. (In re*
 12 *Woodson)*, 839 F.2d 610, 620 (9th Cir. 1988); *CAM/RPC Elecs. v. Robertson (In re MGS Mktg.)*,
 13 111 B.R. 264, 267 (Bankr. 9th Cir. 1990).

14 A court, however, should not substitute its own judgment for the sound business judgment
 15 of a trustee. *Matter of Carla Leather, Inc.*, *supra*, at 465. In reviewing a proposed settlement, the
 16 Court is not "to decide the numerous questions of law and fact ... but rather to canvass the issues and
 17 see whether the settlement falls below the lowest point in the range of reasonableness." *In re W. T.*
 18 *Grant & Co.*, 699 F.2d 599, 608 (2d Cir. 1983), *cert. denied, Cosoff v. Rodman*, 464 U.S. 822. A
 19 "mini-trial" on the merits of the underlying cause of action is not required and should not be
 20 undertaken by the Court. *In re Blair*, 538 F.2d 849 (9th Cir. 1976); *In re Walsh Construction, Inc.*,
 21 669 F.2d 1325 (9th Cir. 1982). Public policy favors the pretrial settlement of complex litigation.
 22 *Ahern v. Cent. Pac. Freight Lines*, 846 F.2d 47, 48 (9th Cir. 1988). The approval of a proposed
 23 compromise negotiated by a trustee "is an exercise of discretion that should not be overturned except
 24 in cases of abuse leading to a result that is neither in the best interest of the estate nor fair and
 25 equitable for the creditors." *In re MGS Mktg.*, 111 B.R. 264, 266-67 (Bankr. P. 9th Cir. 1990).⁴

26 1. Probability of Success

27 The probability of success in any litigation is uncertain. In this case, Fort James and the
 28

⁴ The attached Declaration of Jeffrey H. Beck details particular uncertainties in pursuing further litigation in this matter.

1 Liquidating Trust Case Defendants dispute the claims asserted by the Trustee, and have asserted
2 claims against the Liquidating Trust. Moreover, the District Court granted Fort James' (a) partial
3 summary judgment on Count I (Aug. 11, 2006 [Docket #152]) and (b) full summary judgment on (i)
4 Count II (Jan. 12, 2007 [Docket #249]) and (ii) in the related case of *Beck v. Fort James Corp.*, Case
5 No. 05-0798 MMC (Dec. 12, 2006 (Docket #59)). The District Court also granted Fort James'
6 motion to strike the jury demand regarding Count I (Jan. 18, 2007 [Docket #273]), which was set for
7 trial on February 5, 2007. Additionally, the Ninth Circuit affirmed the orders dismissing all claims
8 based on 11 U.S.C. § 541 on *in pari delicto* grounds. *Crown Paper Liquidating Trust v.*
9 *PricewaterhouseCoopers LLP*, 198 Fed. Appx. 597 (9th Cir. 2006).⁵

10 As a consequence of the foregoing, the Trustee's suit was reduced to one Count for
11 fraudulent transfer with actual intent which is ordinarily the most difficult sort of fraudulent transfer
12 claim to prosecute. Accordingly, in view of the highly significant uncertainty described above,
13 settlement was both desirable and prudent.

14 2. Difficulties with Collection

15 Although the Trustee believes that Fort James is financially sound, the large amount of
16 damages claimed in these actions could conceivably present collection problems.

17 3. Complexity of Litigation

18 As described above, resolution of the Litigation involves complex legal and factual issues.
19 The Litigation also involves numerous parties and claims that arise from conduct allegedly occurring
20 in multiple jurisdictions. Moreover, the proof of actual intent to obtain a fraudulent transfer is
21 exceedingly complex, as is proof of the value of the property transferred to and by the parties to the
22 spin-off transaction. As to the latter, proof would in large part be through the testimony of numerous
23 experts and complicated documentary evidence. Absent these Settlement Agreements, litigation to
24 prosecute the claims would cost millions of dollars and significantly impact judicial resources.
25 Moreover, the Litigation process, including any further appeals, could take years to conclude.
26 Accordingly, in view of the procedural and substantive complexity and the uncertainty involved,

27 _____
28 ⁵ While Case Nos. 02-3836 and 05-0798 are technically closed, there still remain outstanding motions for attorneys' fees against the Liquidating Trust. See Stipulation and Order Continuing Defendants' Motions for Attorneys' Fees Pending Documentation of Settlement (Case No. 02-0798; filed Feb. 12, 2007 ([Docket #66])).

1 resolution made particular sense here.

2 4. Interest of Creditors

3 Presently, there does not appear to be any certain prospect for a distribution to Trust
4 Beneficiaries absent the successful conclusion of the Litigation, whether by settlement or by
5 judgment in favor of the Trustee. By the Settlement Agreements, the Trustee will receive the
6 Settlement Amount which can be used in accordance with the Plan and Trust Agreement and should
7 be sufficient to pay all unpaid Administrative Claims and Trust expenses, as well as to make a
8 modest distribution to the Trust Beneficiaries. Moreover, the Trustee will receive releases from the
9 Liquidating Trust Case Defendants which include the release of potential liabilities for attorneys'
10 fees. For each of those reasons, the Settlement Agreements are in the best interest of Trust
11 Beneficiaries as is best evidenced by the consent of the Liquidating Trust Committee thereto.

12 **III.**

13 **CONCLUSION**

14 Given an assessment of the factors ordinarily warranting settlements and compromises, the
15 Court should approve the Settlement Agreements as reasonable and appropriate under the
16 circumstances.

17 Accordingly, the Trustee and Fort James respectfully request that this Court (i) approve the
18 Settlement Agreements, (ii) enter an Approval Order in the form attached hereto as Exhibit 1 hereto,
19 and (iii) grant such other and further relief as the Court may deem just and appropriate.

20 Dated: April 20, 2007

SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP

21
22 By /s/ Joseph F. Coyne, Jr.
Joseph F. Coyne, Jr.
23 Attorneys for Fort James Defendants

24
25 Dated: April 20, 2007

BEUS GILBERT PLLC

26 By /s/ Albert J. Morrison
Albert J. Morrison
27 Attorneys for Liquidating Trustee

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: April 20, 2007

STEYER, LOWENTHAL, BOODROOKAS
ALVAREZ & SMITH, LLP

By /s/ Allan Steyer
Allan Steyer
Attorneys for Liquidating Trustee

Crown Paper/Pleadings/NDCA/Joint Mot Approve Compromise 03-20-07

Leo R. Beus/Ariz. Bar No. 002687 (Pro hac vice)
Albert J. Morrison/Calif. Bar No. 198047
BEUS GILBERT PLLC
ATTORNEYS AT LAW
4800 North Scottsdale Road, Ste. 6000
Phoenix, Arizona 85251
Telephone (480) 429-3000
Facsimile: (480) 429-3100

Attorneys for Liquidating Trustee

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

In re:

CROWN VANTAGE, INC.,

Debtor.

Employer I.D. #54-1752384

CROWN PAPER LIQUIDATING TRUST,

Plaintiff,

v.

PRICEWATERHOUSECOOPERS LLP *f/k/a/*
COOPERS & LYBRAND, et al.

Defendants.

CROWN PAPER COMPANY; CROWN
VANTAGE, INC.; JEFFREY H. BECK,
Liquidating Trustee; and CROWN PAPER
LIQUIDATING TRUST,

Plaintiffs,

v.

FORT JAMES CORPORATION, *f/k/a* JAMES
RIVER CORPORATION OF VIRGINIA;
FORT JAMES OPERATING COMPANY;
FORT JAMES FIBER COMPANY, *f/k/a*
JAMES RIVER TIMBER CORPORATION;
and FORT JAMES INTERNATIONAL
HOLDINGS, LTD., *f/k/a* JAMES RIVER
INTERNATIONAL HOLDINGS, LTD.,

Defendants.

Case Nos. C 02-3836 MMC
C 02-3838 MMC

**DECLARATION OF JEFFREY H. BECK IN
SUPPORT OF JOINT MOTION OF
LIQUIDATING TRUSTEE OF CROWN
TRUST, FORT JAMES AND CERTAIN
LIQUIDATING TRUST DEFENDANTS
PURSUANT TO F.R.B.P. 9019 TO
APPROVE COMPROMISE OF
CONTROVERSY**

Jeffrey H. Beck declares under penalty of perjury:

1. I am Liquidating Trustee of the Crown Paper Liquidating Trust (the "Trust") and, except where it is indicated that my knowledge is based on information and belief, I have personal knowledge of the matters set forth herein. I submit this declaration in support of the *Joint Motion of Liquidating Trustee of Crown Trust, Fort James and Certain Liquidating Trust Defendants Pursuant to F.R.B.P. 9019 to Approve Compromise of Controversy; Memorandum of Points and Authorities, in Support Thereof* (the "Motion").¹

2. I have read the factual allegations of the Motion and am informed and believe that they are true and correct.

3. On November 19, 2001, the Bankruptcy Court confirmed the Plan and retained jurisdiction over the Plan and its administration. Under the terms of the Plan, I was appointed the Trustee for the Trust, with the rights, powers and duties as set forth in the Plan and the Liquidating Trust Agreement. Among other things, I am charged with the post-confirmation administration and prosecution against third parties of Causes of Action that, prior to the Effective Date, constituted property of the Debtors' bankruptcy estates. I represent that I have the authority to enter into the Settlement Agreements subject to approval of the Court.

4. Included in the property of the Debtors' bankruptcy estates are certain Causes of Action that the Trust has asserted against Fort James and the Liquidating Trust Case Defendants arising out of the August 1995 Spin-off transaction more particularly described in the Motion.

5. As Trustee, I filed suit against Fort James in the case now known as *Crown Paper Co. v. Fort James Corp.*, Case No. C 02-3838 MMC, and I filed suit against the Liquidating Trust Case Defendants in *Crown Paper Liquidating Trust v. PricewaterhouseCoopers LLP*, Case No. C 02-

¹ All capitalized terms not defined herein shall have the meaning ascribed thereto in the Motion.

3836 MMC (collectively, the "Litigation"). Judgment was entered against the Trust in Case No. C 02-3836 on July 12, 2004 and affirmed by the Ninth Circuit. I file a petition for *certiorari* with the United States Supreme Court, which was denied on February 26, 2007. In the meantime, trial in Case No. C 02-3838 MMC had been scheduled for February 5, 2007.

6. In an effort to resolve the disputes with Fort James before trial, I engaged in extensive, arm's length, settlement discussions. These discussions included multiple sessions with the Honorable Joseph Spero, Magistrate Judge of the District Court, as well as negotiation with counsel. The settlement discussions with Fort James resulted in the Fort James Settlement Agreement. As a result of reaching settlement with Fort James, the Liquidating Trust Case Defendants entered into extensive and arm's length negotiations with me that resulted in the Liquidating Trust Settlement Agreement. I believe all parties to the settlement negotiations acted in good faith.

7. The claims by the Trust against the Fort James Released Parties, including the Liquidating Trust Case Defendants, are disputed as to liability, causation and damages. Beus Gilbert was employed by the Trust to prosecute the claims in the Litigation on a contingent fee basis. Although counsel has prosecuted the claims on a contingent basis, the Trust remains responsible for costs and expenses of the Litigation, which I would be substantial if the case were to proceed to trial. I also believe that the Litigation would be complex, protracted and time-consuming. Moreover, McGuire Woods LLP, one of the Liquidating Trust Case Defendants, has asserted a claim for substantial attorneys' fees and costs which it has agreed to waive as part of the Settlement Agreements. Other Defendants also may have claims for costs, fees, and other relief from the Trust.

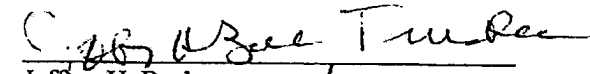
8. In view of the foregoing considerations, taking into account the inherent uncertainties of litigation and in the exercise of my reasonable business judgment, I believe that the consideration provided in the Settlement Agreements is a fair and reasonable compromise and that the proposed

Settlement Agreements are in the best interests of the Debtors, their estates, creditors and trust beneficiaries. As described in detail in the Motion, in reaching this conclusion, I considered many factors including the probability of success on the merits, difficulties with collection, and the complexity of the litigation.

9. Based on the foregoing, I request that the Court approve the Settlement Agreements. I propose to distribute the Settlement Amount in accordance with the Plan.

10. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

Dated: March 21, 2007



Jeffrey H. Beck
Liquidating Trustee of the Crown Paper Liquidating
Trust