

Cause No. S/M/92/07

IN THE COURT OF QUEEN'S BENCH
OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT JOHN

BETWEEN:

**IN THE MATTER OF THE
COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c.
C-36, AS AMENDED**

-and -

**IN THE MATTER OF THE
APPLICATION OF ATLANTIC
YARNS INC., a body corporate and
ATLANTIC FINE YARNS INC., a
body corporate (the "Companies")**

**NOTICE OF MOTION
(Form 37A)**

TO:

All Secured Creditors and
The Trustee in Bankruptcy
of the Companies

The Court appointed Monitor,
PricewaterhouseCoopers Inc., will apply to
the Court of Queen's Bench, at the 4th Floor,
Provincial Building, 110 Charlotte Street,
Saint John, N.B., on the 23rd day of July,
2009, at 11:00 a.m. for the following relief:

COUR DU BANC DE LA REINE DU
NOUVEAU-BRUNSWICK

DIVISION DE PREMIERE
INSTANCE

CIRCONSCRIPTION JUDICIAIRE DE

ENTRE:

**AVIS DE MOTION
(Formule 37A)**

DESTINAIRE:

Le demandera à la Cour à

le , 200, à h , d'ordonner:

- (a) an Order, substantially in the form of the draft order attached hereto as Schedule "A" (the "Draft Order"), inter alia:
- i). abridging and validating the timing and method of service of the Notice of Motion and the Record on Motion, if necessary, so that this Motion is properly returnable and further service is dispensed with;
 - ii). approving the transaction (the "Transaction") contemplated by an agreement dated as of May 26, 2009 (the "Sale Agreement") between the Monitor and Sunflag Canada Inc. ("Sunflag"), a copy of which is attached to the Monitor's Eleventh Report (the "Report");
 - iii). authorizing and approving the execution by the Monitor of the Sale Agreement and any other additional steps or documents as may be necessary or desirable to complete the Transaction and to convey the purchased assets (the "Sale Assets") to the purchaser;
 - iv). declaring that upon the delivery of a Monitor's certificate or certificates to the purchaser substantially in the form attached as Schedule "A" to the Draft Order (the "Monitor's Certificate"), all of the Debtor's right, title and interest in and to the Sale Assets as described in the Sale Agreement shall vest absolutely in the purchaser free and clear of and from any and all other interests, claims or encumbrances other than as specifically set out in the Draft Order;
 - v). to the extent necessary, declaring that for the purposes of determining the nature and priority of claims, the net proceeds from the sale of the Sale Assets shall stand in the place and stead of the Sale Assets, and that from and after the delivery of the Monitor's Certificate all claims and encumbrances shall attach to the net proceeds from the sale of the Sale Assets with the same priority as they had with respect to the Sale Assets immediately prior to the sale;
- (b) such further and other relief as may be just.

The grounds upon which the Monitor relies are as follows:

1. The relief sought by the Monitor is appropriate in the circumstances and is in accordance with the jurisdiction of the Court under the *Companies' Creditors Arrangement Act* (the "CCAA") and the inherent jurisdiction of the Court;
2. The Court ordered on January 15, 2009 that possession of all of the Companies'

assets and undertaking (the “Property”) be given to the Monitor and gave those powers, responsibilities and duties to the Monitor as set out therein in order to allow for the proper management of the Property and to realize the most possible benefit for all of the Companies’ stakeholders in an orderly manner (the “Monitorship Order”);

3. As set out in the Report, the Monitor, in accordance with terms of the Monitorship Order, has conducted a full and complete sales and marketing process (the “Sales Process”);
4. The Sale Agreement is the result of the Monitor’s efforts under the Sales Process and the Monitor is of the view that the approval of the Sale Agreement and the related transactions and other requested relief as set out in the Draft Order is in the best interests of the stakeholders of the Companies and will lead to a quicker resolution of the role of the Monitor;
5. Sunflag has a first charge in the Sale Assets and is entitled to the proceeds from the Transaction;
6. The Monitor relies on Rules 1.03, 2.01, 2.02 and 3.02 of the *Rules of Court* and on the CCAA, including paragraph 11.7(3)(d); and
7. Such further and other grounds as counsel for the Monitor may advise and this Honourable Court may permit.

UPON the hearing of the motion the following affidavit or other documentary evidence will be presented:

A l'audition de la motion, les affidavits ou les autres preuves littérales suivantes seront présentées:

- (1) Eleventh Report of the Monitor dated July 13, 2009; and
- (2) Such further and other affidavits or documentary evidence as counsel for the Monitor may advise and this Honourable Court may permit.

You are advised that:

Sachez que:

- (a) you are entitled to issue documents and present evidence at the hearing in English or French or both;

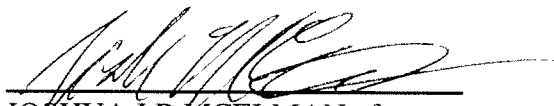
- (a) vous avez le droit d'émettre des documents et de présenter votre preuve à l'audience en français, en

- (b) the Plaintiff intends to proceed in the English language; and
- (c) if you intend to proceed in the other official language, an interpreter may be required and you must so advise the Clerk at least 7 days before the hearing.
- anglais ou dans les deux langues;
- (b) le à l'intention d'utiliser la langue anglais; et
- (c) si vous avez l'intention d'utiliser l'autre langue officielle, les services d'un interprète pourront être requis et vous devrez un aviser le greffier au moins 7 jours avant l'audience.

DATED at Saint John, New Brunswick, this 13th day of July 2009.

COX & PALMER
One Germain Street
Suite 1500
Saint John, N. B. E2L 4H8

Telephone: (506) 632-8900



JOSHUA J.B MCELMAN of
COX & PALMER
Solicitors for the Monitor
PricewaterhouseCoopers Inc.

Schedule A

Cause No.: S/M/92/07

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
TRIAL DIVISION
JUDICIAL DISTRICT OF SAINT JOHN

BETWEEN:

IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c.C-36, AS AMENDED

and

IN THE MATTER OF THE APPLICATION OF
ATLANTIC YARNS INC., a body corporate and
ATLANTIC FINE YARNS INC., a body corporate

APPROVAL AND VESTING ORDER

UPON READING the Notice of Motion of PricewaterhouseCoopers Inc., in its capacity as Court appointed monitor (the "Monitor") of the undertaking, property and assets of Atlantic Yarns Inc. and Atlantic Fine Yarns Inc. (collectively the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale dated as of May 26, 2009 (the "Sale Agreement") between the Monitor and the purchaser, or its designate (the "Purchaser") a redacted copy of which is appended as Exhibit "A" to the Eleventh Report to the Court of the Monitor dated July __, 2009 (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Sale Assets");

UPON READING the consent of the Province of New Brunswick;

UPON HEARING Joshua J.B. McElman, Counsel for the Monitor;

AND UPON HEARING Robert C. Smith, of PricewaterhouseCoopers Inc., the Monitor;

IT IS ORDERED THAT:

Defined Terms

1. All terms not otherwise defined in this Order shall have the meanings ascribed to them in the Order of this Court sanctioning the Amended Consolidated Plan of Compromise and Arrangement of the Debtor.

Service

2. The time for any required service or notice of the Motion be and it is hereby abridged and validated such that the Motion is properly returnable today.
3. There has been good and sufficient notice, service, and delivery of the within Notice of Motion and Record on Motion and further service on any interested party is hereby dispensed with.

Approval of Sale Agreement

4. The Sale Agreement and Transaction are hereby approved, and the Sale Agreement is commercially reasonable and in the best interests of the Debtor and its stakeholders. The execution of the Sale Agreement by the Monitor is hereby authorized and approved, and the Monitor is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Sale Assets to the Purchaser. The Monitor may agree to such amendments to the Sale Agreement related to the time of closing and costs if necessary provided such changes do not negatively impact the substantive terms of the Transaction.

Vesting

5. Upon the delivery of a Monitor's certificate or certificates to the Purchaser substantially in the form attached as Schedule "A" hereto (the "Monitor's Certificate"), all of the Debtor's right, title and interest in and to the Sale Assets described in the Sale

Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all claims, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, conditional sales contracts or title retention agreements, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, judgments, orders, executions, levies, charges, or other financial or monetary claims, whether or not they have attached, been perfected, registered or filed and whether secured, unsecured or otherwise and whether created by or pursuant to the orders made in these proceedings, or the bankruptcy proceedings of the Debtor having Court No. 14824 and Estate No. 51-124894 (the "Bankruptcy Proceedings"), (collectively, the "Claims") save and except:

- (i) the security interest of Sunflag Canada Inc. ("Sunflag") as the DIP Lender;
- (ii) the debenture of First Treasury Financial Inc., registered as document number 16441785 against PID 50257997, as assigned; and
- (iii) the real property taxes remaining due and payable with respect to PID 50257997 after the Bankruptcy Proceedings,

including, without limiting the generality of the foregoing all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (New Brunswick) or the *Personal Property Security Act* (Ontario) or the *Land Titles Act* (New Brunswick), unless enumerated above, or any other registry system (all of which are collectively referred to as the "Encumbrances"); and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Sale Assets are hereby expunged and discharged as against the Sale Assets.

Proceeds of Sale

6. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Sale Assets shall stand in the place and stead of the Sale Assets, and that from and after the delivery of the Monitor's Certificate or certificates all Claims and Encumbrances shall attach to the net proceeds from the sale of the Sale Assets with the

same priority as they had with respect to the Sale Assets immediately prior to the sale, as if the Sale Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. The Monitor is authorized and directed to deliver the net proceeds of the Transaction to Sunflag on closing upon being satisfied with all adjustments and all other terms and conditions.

7. On payment to Sunflag in accordance with this Order, all interests of Sunflag in the Debtor's undertaking, property and assets subject to the Transaction shall be satisfied and discharged with the exception of the security interests enumerated in paragraph 5 of this Order.

General

8. The Monitor shall file with the Court a copy of the Monitor's Certificate or certificates, forthwith after delivery thereof. The Monitor shall not be required to file, register or record this Order, notice thereof or any financing statement with respect thereto but may take such steps as it deems necessary or appropriate to register or record this Order, notice thereof or any financing statement with respect thereto, if it deems it advisable to do so. The Monitor is further authorized to execute and register discharges of any registered security interest extinguished by this Order after the closing of the Transaction.
9. There are no and shall be no commissions, break fees, broker, arranger or agent fees or other reward compensation payable by the Monitor to any third party in respect of or in connection with this Transaction.
10. Notwithstanding
 - (a) the pendency of these proceedings; and
 - (b) the Bankruptcy Proceedings or any order issued pursuant to the Bankruptcy Proceedings;

the vesting of the Sale Assets in the Purchaser pursuant to this Order shall be binding on all Persons and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

11. The Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
12. Any interested party may apply to this Court for direction in respect of the proper execution of this Order or to vary or amend this Order on not less than seven (7) days' notice to the Monitor and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
13. This Order and any other Orders in these proceedings shall have full force and effect in all provinces and territories in Canada and abroad and as against all Persons against whom it may otherwise be enforceable.
14. This Court requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada pursuant to Section 17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
15. The Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

16. For the purposes of seeking the aid and recognition of any court or any judicial, regulatory or administrative body outside of Canada, the Monitor shall act and be deemed to be the foreign representative of the Debtor.

DATED at Saint John, New Brunswick this ____ day of July, 2009.

Judge of the Court of Queen's Bench
of New Brunswick

SCHEDULE "A"

Cause No.: S/M/92/07

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
 TRIAL DIVISION
 JUDICIAL DISTRICT OF SAINT JOHN

BETWEEN:

IN THE MATTER OF THE COMPANIES'
 CREDITORS ARRANGEMENT ACT, R.S.C.
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and

IN THE MATTER OF THE APPLICATION OF
 ATLANTIC YARNS INC., a body corporate and
 ATLANTIC FINE YARNS INC., a body corporate

MONITOR'S CERTIFICATE**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Glennie of the New Brunswick Court of Queen's Bench (the "Court") dated January 15, 2009, PricewaterhouseCoopers Inc. (the "Monitor") was granted possession of the undertaking, property and assets (the "Property") of Atlantic Yarns Inc. and Atlantic Fine Yarns Inc. (collectively the "Debtor") was granted those obligations and duties as set out therein to dispose of the Property.

B. Pursuant to an Order of the Court dated July _____, 2009, the Court approved the agreement of purchase and sale dated as of May 26, 2009 (the "Sale Agreement") between the Monitor and the purchaser or its designate (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Sale Assets, which vesting is to be effective with respect to the Sale Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Sale Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or

waived by the Monitor and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Purchaser has paid and the Monitor has received the Purchase Price for the Sale Assets payable on the applicable Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Monitor and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

PricewaterhouseCoopers Inc., in its capacity as the Monitor of the undertaking, property and assets of Atlantic Yarns Inc. and Atlantic Fine Yarns Inc., and not in its personal capacity

Per: _____

Name:

Title: