

**ONTARIO
SUPERIOR COURT OF JUSTICE - COMMERCIAL LIST**

BETWEEN:

G.E. CANADA EQUIPMENT FINANCING G.P.

Applicant

- AND -

ATIKOKAN FOREST PRODUCTS LTD.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY
ACT, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF
JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED

**SIXTH REPORT OF
PRICEWATERHOUSECOOPERS INC.
AS RECEIVER OF
ATIKOKAN FOREST PRODUCTS LTD.**

August 11, 2011

BACKGROUND

1. On January 4th, 2011, by Order of this Honourable Court (the “**Atikokan Receivership Order**”) PricewaterhouseCoopers Inc. (“PwC”) was appointed as receiver (the “**Receiver**”), pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), over all the assets, undertakings and properties (the “**Atikokan Property**”) of Atikokan Forest Products Ltd. (“**Atikokan**”).
2. On the same date, by Order of this Honourable Court (the “**Northern Receivership Order**”), PwC was also appointed as receiver (the “**Northern Receiver**”), pursuant to section 243(1) of the BIA and section 101 of the CJA, over all the assets, undertakings and properties (the “**Northern Property**”) of Northern Sawmills Inc. (“**Northern**”).
3. By Order of this Honourable Court also made on January 4th, 2011 (the “**Atikokan Sale Process Order**”), which is attached to the Receiver’s Fifth Report (defined below) as Appendix “B”, the Receiver was authorized and directed to carry out and conduct a sale process in respect of the Atikokan Property, or any material portions thereof, substantially in accordance with the sale process (the “**Atikokan Sale Process**”) outlined in the Report of PwC as proposed receiver of Atikokan, dated December 30, 2010 (the “**Proposed Receiver’s Report**”), which is attached to the Receiver’s Fifth Report as Appendix “C”.
4. By Order of this Honourable Court also made on January 4th, 2011 (the “**Northern Sale Process Order**”), the Receiver was authorized and directed to carry out and conduct a sale process in respect of the Northern Property, or any material portions thereof, substantially in accordance with the sale process (the “**Northern Sale Process**”) outlined in the Report of PwC as proposed receiver of Northern, dated December 30, 2010.
5. On January 13, 2011, the Receiver filed its first report with this Honourable Court (the “**First Report**”), which, *inter alia*, requested this Honourable Court’s approval of the advertisement and the teaser to be used by the Receiver in the Atikokan Sale Process.

6. On April 18, 2011, the Receiver filed its second report with this Honourable Court (the “**Second Report**”), which, *inter alia*:
 - i) outlined the status of the Atikokan Sale Process; and
 - ii) sought an adjournment of the motion (the “**SFL Motion**”) brought by Her Majesty The Queen in Right of the Province of Ontario (the “**Province**”) seeking an Order authorizing the lifting of the stay of proceedings pursuant to the Atikokan Receivership Order, to allow the Ministry of Northern Development, Mines and Forestry (the “**MNDMF**”) to take steps to commence the termination of a Sustainable Forest License No. 542442 (the “**SFL**”) granted by the MNDMF to Atikokan and to provide the Receiver and G.E. Canada Equipment Financing, G.P. (“**GE**”), Atikokan’s primary secured creditor, with an opportunity to make representations to the MNDMF in connection with the wood allocation to the Atikokan mill site (the “**Wood Allocation**”).
7. On May 2, 2011, the Receiver filed its third report with this Honourable Court (the “**Third Report**”), which is attached to the Receiver’s Fifth Report as Appendix “F” and which, *inter alia*:
 - i) summarized the transaction (the “**EACOM Transaction**”) entered into on April 29, 2011, between the Receiver and EACOM Timber Corporation (“**EACOM**”), for the purchase and sale of substantially all of the Atikokan Property, subject to a number of conditions precedent that are more fully described in the Third Report;
 - ii) summarized discussions in which the Receiver engaged in an attempt to determine sources for obtaining the Wood Allocation; and
 - iii) described the Receiver’s activities with respect to the development of a plan for carrying out Atikokan’s obligations in maintaining the Sapawe Forest under the SFL.
8. On May 12, 2011, the Receiver filed its fourth report with this Honourable Court (the “**Fourth Report**”), which is attached to the Receiver’s Fifth Report as Appendix “G” and which, *inter alia*:

- i) provided this Honourable Court with an update on the SFL Motion and the Receiver's discussions with the MNDMF and commercial third parties in an attempt to determine sources for obtaining the Wood Allocation; and
- ii) advised this Honourable Court about the Receiver's alternative proposal to the lifting of the stay in the Atikokan receivership proceedings, in an effort to balance the interests of various parties with respect to the SFL, including the Receiver, GE, as Atikokan's primary secured creditor, and the MNDMF and to address concerns that were raised by Abibow Canada Inc. ("Abibow"), as described in the affidavit of Mr. Roger Barber, sworn and served on the Receiver on May 11, 2011.

9. On July 27, 2011, the Receiver filed its fifth report with this Honourable Court (the "**Fifth Report**", and collectively with the Proposed Receiver's Report, the First Report, the Second Report, the Third Report and the Fourth Report, the "**Reports**"), which, *inter alia*:

- i) described the outcome of the SFL Motion and the cancellation of the SFL;
- ii) advised this Honourable Court of the termination of the EACOM Transaction;
- iii) described the continuation of the Atikokan Sale Process, after the termination of the EACOM Transaction, and sought this Honourable Court's approval of the agency sale agreement (the "**Agency Sale Agreement**") between the Receiver and Maynards Industries Ltd. ("Maynards") relating to the liquidation of the Atikokan Property. In connection with the Fifth Report, the Receiver also filed its third report in respect of its activities as receiver of the Northern Property, which, *inter alia*, described the Agency Sale Agreement relating to the sale of the Northern Property (the "**Northern Receiver's Third Report**");
- iv) advised this Honourable Court of the results of the review conducted by the Receiver's counsel in respect of the security granted by Atikokan in favour of its secured creditors;

and provided this Honourable Court with information in support of the Receiver's motion to:

- v) extend the Atikokan Sale Process timeline for finalizing and executing an agreement up to and including July 22, 2011, *nunc pro tunc*, to allow the Receiver to complete the Atikokan Sale Process;
- vi) approve the Agency Sale Agreement, including authorizing the Receiver to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the transaction;
- vii) increase the Receiver's borrowing limit, as set out in paragraph 20 of the Atikokan Receivership Order, from \$300,000 to \$425,000; and
- viii) approve the Reports and the Receiver's activities as described therein.

10. The purpose of this, the Receiver's sixth report (the "**Sixth Report**") is to report to this Honourable Court with respect to:

- i) a meeting held on August 10, 2011, among the Receiver, the Town of Atikokan, and its consultants and legal counsel, EACOM and the Rainy Lake Tribal Council, to understand what efforts the Town and others had made, if any, with respect to determining whether an 'en bloc' sale of the Atikokan Property is currently available;
- ii) to summarize the Receiver's earlier efforts to determine whether a wood supply, acceptable to EACOM, as the then purchaser, was available to the Receiver or EACOM on the terms and conditions set out in the EACOM Transaction; and
- iii) the unfavourable impact of delaying the sale of the Atikokan Property pursuant to the Agency Sale Agreement.

11. In preparing the Sixth Report, the Receiver has relied on unaudited and draft, internal financial information of Northern and Atikokan provided to it by Northern, Atikokan or by GE. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information provided to it and expresses no opinion, or other form of assurance, in respect of the information contained therein.

12. All monetary amounts referred to herein are expressed in Canadian dollars. Capitalized terms not otherwise defined herein are as defined in the Reports.

THE AUGUST 10, 2011 MEETING (the “August 10 Meeting”)

BACKGROUND

13. On August 3, 2011, the Receiver brought a motion before this Honourable Court for the approval of the Agency Sale Agreement. The Town of Atikokan (the “Town”) asked this Honourable Court to, *inter alia*, adjourn the motion until after August 10, 2011, because the Town had scheduled a meeting with various parties to review efforts the Town had made in attempting to procure wood or fibre supply so that Atikokan’s operations may possibly be re-started if there were an interested purchaser for the Atikokan Property.
14. This Honourable Court granted the Town’s request for an adjournment until August 11, 2011. In addition, pursuant to the endorsement of the Honourable Mr. Justice Morawetz, the adjournment was also granted “on the basis that the Receiver and GE, if so advised, are invited to participate in the scheduled meeting on Aug. 10, 2011”. The August 3, 2011 endorsement also indicated that “no further adjournments are to be expected by any party”.

THE AUGUST 10 MEETING

15. On August 10, 2011 the Receiver attended a meeting in Atikokan, Ontario with:
 - i) representatives of the Town of Atikokan, including its Mayor, Mr. Dennis Brown and a representative of the Town’s Economic Development Office;
 - ii) a consulting firm engaged by the Town, GCK Consulting (the “Consultant”);
 - iii) the Town’s legal counsel;
 - iv) representatives of EACOM;
 - v) a representative of the labour union that represented unionized employees who were previously employed at Atikokan’s sawmill site; and

vi) Chief Earl Klyne on behalf of the Rainy Lake Tribal Council (the “**First Nations**”).

16. The Receiver attended the August 10 Meeting to better understand what efforts the Town and the Consultant had made with respect to obtaining a supply of sustainable wood or fibre to the Atikokan mill site, as well as to understand whether or not there was a reasonable basis for further deferring the Agency Sale Agreement as it pertained to the sale of the Atikokan Property.
17. In addition to discussing wood supply with the First Nations, the Receiver was advised that the Consultant had discussions with five commercial parties on behalf of the Town, all of whom have various allocations for the harvesting of certain of those species of trees that would be required in order to operate the Atikokan mill.
18. As a result of the Consultant’s work, the Town estimated that it may be able to enter into arrangements with certain third parties for the commercial supply of up to 330,000 cubic meters of sawlogs on an annual basis. The Receiver was also advised that there were no formal commitments in respect of wood supply, no details about the terms and conditions associated with this potential wood supply, including duration of supply, pricing and guarantees and there was no certainty with respect to supply quantities, as the Consultant was merely attempting to gather information and was not negotiating on the Town’s behalf or empowered to make commitments on behalf of the Town or any third-party. The Receiver notes that the quantity of potential commercial wood supply put forward by the Consultant would not have been adequate to satisfy the Wood Allocation Condition as defined in the EACOM Transaction.
19. In addition to commercial sources, the First Nations indicated that it may have a willingness to participate in a “re-start” of the Atikokan mill, including assisting with the procurement of wood supply, under the right conditions, which include, *inter alia*, an investment plan for revitalizing the mill site, including significant technological upgrades to the building and equipment. EACOM concurred with the First Nations’ assessment in this respect and indicated that no detailed designs, drawings or schematics had been undertaken by it in this respect.

20. EACOM advised the Receiver that it had been invited to the August 10 Meeting and was participating in the same capacity as the Receiver, i.e. as an observer. At no time during the August 10 Meeting did EACOM make any commitments to the Town or advise any of the attendees at the August 10 Meeting that the potential wood supply discussed by the Consultant would be satisfactory to EACOM.
21. Based on the information discussed at the August 10 Meeting, the Receiver advised all of the parties in attendance that, although it is clear that significant efforts continue to be expended by the Town and others, the Receiver is of the view that there remained numerous “moving parts” and significant uncertainty with respect to the ability to re-open the Atikokan mill site. Accordingly, the Receiver advised the participants at the August 10 Meeting that it was its intention to seek the approval of the Agency Sale Agreement on August 11, 2011, as scheduled.
22. Subsequent to the August 10 Meeting, the Receiver was verbally advised by legal counsel to the Town, that the Town did not plan on opposing the Receiver’s motion for the approval of the Agency Sale Agreement, as a result of the Receiver’s discussions with the Town and its representatives during the August 10 Meeting. On August 11, 2011, the Town’s legal counsel wrote to the Receiver’s counsel confirming that the Town would not oppose the motion before the Court for approval of the Agency Sale Agreement. A copy of the Town’s counsel’s letter is attached as **Appendix “A”** hereto.

THE RECEIVER’S PREVIOUS EFFORTS TO SOURCE WOOD SUPPLY

23. As set out in the Reports, on April 29, 2011, the Receiver and EACOM executed an asset purchase agreement in respect of the Atikokan Property (the “**Atikokan APA**”). The Atikokan APA contained various conditions precedent including, but not limited to, the confirmation by the Receiver of the availability of the Wood Allocation to recommence Atikokan’s sawmilling operations (the “**Wood Allocation Condition**”).
24. The Receiver previously had discussions with four of the five parties contacted by the Consultant, including AbiBow Canada Inc., as summarized in the Fourth Report. On the basis of those discussions, as well as subsequent discussions with those parties and its

dealings with the MNDMF, the Receiver ultimately determined that, although there appeared to be some wood supply potentially available to the Receiver, there was not a sufficient amount of fibre available to satisfy the Wood Allocation Condition. In addition, the Wood Allocation Condition provided that the fibre sourced for the Atikokan mill was required to be “crown fibre” or commercially sourced fibre subject to EACOM obtaining “necessary approvals from the Crown”, as summarized in the Fifth Report. Based on its investigations, the Receiver was also not able to satisfy the Wood Allocation Condition with respect to the nature of the wood supply available.

THE AGENCY SALE AGREEMENT PROVIDES CERTAINTY

25. As is described in more detail in the Fifth Report, the Receiver entered into the Agency Sale Agreement on July 22, 2011. The Agency Sale Agreement provides certainty to all stakeholders as follows:

- i) *Process:* The Agency Sale Agreement establishes a clear sale process that permits private sales as well as liquidation;
- ii) *Timeframe:* The Agency Sale Agreement was entered into in good faith, and establishes a credible timeframe within which the Atikokan Property will be sold, providing certainty to creditors and other stakeholders;
- iii) *Expenses:* Because the Agency Sale Agreement establishes a set deadline for the sale of the Atikokan Property, the stakeholders have more certainty about the expenses, including insurance premiums, payroll, utilities and legal and professional fees, the Receiver is likely to incur before the sale. In this respect, delaying the Agency Sale Agreement will give rise to increased costs and may require the Receiver to renegotiate certain terms and conditions of the Agency Sale Agreement with Maynards, in order to carry out the sale of the Northern Property, if the Agency Sale Agreement is not approved as a result of concerns over the sale of the Atikokan Property. In this respect, the Receiver has initiated discussions with Maynards and has been advised that if the Receiver has to bifurcate the sale of the Northern Property from the Atikokan Property to defer

the sale of the Atikokan Property, Maynards requires an increase of \$60,000 in the amount of the allowance for expenses that it had estimated, to account for duplication of various costs, including advertising, printing and travel costs for its staff.

- iv) *Guaranteed Value:* The Agency Sale Agreement establishes a net minimum guarantee (the “NMG”) of proceeds to the Receiver, with net proceeds of sale above the NMG and a provision for Maynards’ costs to be shared as between the Receiver and Maynards. This establishes a baseline recovery that is only slightly less than the cash purchase options available to the Receiver. Based on its discussions with Maynards, the Receiver has been advised that if the sale of the Atikokan Property is delayed significantly Maynards is not prepared to assume the risk of leaving the net minimum guarantee in place due to the potential for changing market conditions, which exposes the recoveries in respect of the Atikokan Property to greater uncertainty; and
- v) *Participation in Excess Value:* The Agency Sale Agreement permits the Receiver to receive a portion of the proceeds that Maynards generates above the Net Minimum Guarantee. As a result, if the auction is successful, the overall recovery for the benefit of the Atikokan’s estate and its stakeholders may in fact be greater than the cash offers received.

26. Maynards has advised the Receiver that if the Agency Sale Agreement is approved by this Honourable Court, and in the event the sale of the Atikokan Property occurs by way of public auction, the auction dates will be September 27 and 28, 2011. Because the Receiver structured the Agency Sale Agreement to permit private sales as well as liquidation, any interested party can make an offer to purchase the Atikokan Property as a going concern within the process established by the Agency Sale Agreement.

27. The Agency Sale Agreement was not binding after August 6, 2011. As a result of the adjournment of the Receiver’s motion on August 3, 2011, the Receiver and Maynards entered into an amending agreement, whereby the parties agreed to extend the

condition for Court approval of the Agency Sale Agreement to August 12, 2011. A copy of the Amending Agreement is attached as **Appendix "B"** hereto.

28. The Receiver has consulted with GE, Atikokan's primary secured creditor, and understands that GE supports the Receiver's motion to seek the approval of the Agency Sale Agreement.
29. Accordingly, based on the foregoing, the Receiver is seeking an approval of the Agency Sale Agreement as amended, by this Honourable Court and the authority to execute the Agency Sale Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the transaction contemplated thereby.

RECOMMENDATION

30. The Receiver respectfully requests and recommends for the reasons outlined above in this Sixth Report, and in the Fifth Report, that this Honourable Court make an Order, *inter alia*:
 - i) extending the Atikokan Sale Process timeline for finalizing and executing an agreement with the successful bidder up to and including July 22, 2011, *nunc pro tunc*; and
 - ii) approving the Agency Sale Agreement as amended and authorizing the Receiver to execute the Agency Sale Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the transaction contemplated thereby.

All of which is respectfully submitted this 11th day of August, 2011.

PricewaterhouseCoopers Inc.
In its capacity as Receiver of
Atikokan Forest Products Ltd.



Greg Prince
Senior Vice President



APPENDIX A

August 11, 2011

N.W.C. Ross
Partner
T: 416-947-5033
wross@weirfoulds.com

VIA E-MAIL

File 10694.00006

Tracy C. Sandler
Osler, Hoskin & Harcourt LLP
1 First Canadian Pl.
PO Box 50, Stn. 1st Can. Pl.
Toronto, ON, M5X 1B8

Dear Ms. Sandler:

Re: Atikokan Forest Products

At our meeting in Atikokan yesterday, Greg Prince informed me of the following with respect to the agency sale agreement between Maynards Industries Ltd. and PricewaterhouseCoopers:

1. The private sale permitted pursuant to Section 2(c) was inserted in an effort to assist the Town of Atikokan in the event that the town should be successful in finding a buyer who wished to operate the Atikokan Forest Products mill (the "Mill") as a going concern. While it will also be available to use for another potential purchaser, it would not be used unless an offer was received that was particularly attractive.
2. In the event of a sale by lot as contemplated by Section 2, the assets would be sold individually.

At the meeting in Atikokan, both representatives of EACOM and Mr. Prince indicated that progress made to date by Atikokan in putting together the elements of a potential purchase of the Mill as a going concern was greater than they had anticipated. The representatives of EACOM indicated in addition that they thought that Atikokan had been very "imaginative". EACOM has indicated that they are still interested in pursuing this opportunity but that they will require time to determine whether or not they wish to proceed.

It is Atikokan's intention to vigorously proceed in its endeavours to secure an attractive purchaser for the property, including continuing to conduct discussions with EACOM.

However, in light of the foregoing, we are instructed by our client not to oppose the application before the court for the approval of the Agency Sale Agreement with Maynards Industries Ltd.

Yours very truly,



N.W.C. Ross

NWCR/mc

cc: *Ken Prehogan*
3764341.1

APPENDIX B

AMENDING AGREEMENT

First amending agreement dated August 8, 2011 between Maynards Industries Ltd. ("Liquidator") and PricewaterhouseCoopers Inc., in its capacity as Court-appointed receiver of Atikokan Forest Products Ltd. and Court-appointed receiver of Northern Sawmills Inc. (the "Receiver").

RECITALS:

- (a) Liquidator and Receiver have entered into an Agency Sale Agreement dated July 22, 2011 (the "Original Agreement"); and
- (b) Liquidator and Receiver wish to amend the Original Agreement as provided in this amending agreement (the Agreement").

In consideration of the above and the mutual agreements contained in this Agreement (the receipt and adequacy of which are acknowledged), the parties agree as follows:

Section 1 Defined Terms.

Capitalized terms used in this Agreement that are not defined herein have the meanings given to them in the Original Agreement.

Section 2 Amendments to Section 6 "Deposit" of the Original Agreement.

Subsections 6(a) and 6(b) of the Original Agreement are amended as of the date of this Agreement, to replace all references to August 6, 2011 with August 12, 2011, such that Subsection 6(a) and 6(b) shall read:

- (a) A deposit of [REDACTED] has been paid by the Liquidator to the Receiver in advance of the date of this Agreement in respect of the NSI NMG. A deposit of [REDACTED] shall be payable to the Receiver in respect of the NSI NMG, upon execution of this Agreement. If the Receiver fails to obtain Court approval of this agreement in accordance with Section 20, by August 12, 2011, the deposit shall be promptly returned to Liquidator.
- (b) A deposit of [REDACTED] has been paid by the Liquidator to the Receiver in advance of the date of this Agreement in respect of the AFP NMG. A deposit of [REDACTED] shall be payable to the Receiver in respect of the AFP NMG, upon execution of this Agreement. If the Receiver fails to obtain Court approval of this agreement in accordance with Section 20, by August 12, 2011, the deposit shall be promptly returned to Liquidator.

Section 3 Amendment to Section 20 "Court Approval" of the Original Agreement.

Section 20 of the Original Agreement is amended as of the date of this Agreement, to replace all references to August 6, 2011 with August 12, 2011, such that Section 20 shall read:

The terms and conditions of this Agreement and the Receiver's execution hereof are expressly subject to approval by the Court ("Court Approval"). If Court Approval is

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not obtained by August 12, 2011, the parties agree that they will have no obligation to one another hereunder or otherwise.

Section 4 Reference to and Effect on the Original Agreement.

On and after the date of this Agreement, any reference to "this Agreement" in the Original Agreement and any reference to the Original Agreement will mean the Original Agreement as amended by this Agreement. Except as specifically amended by this Agreement, the provisions of the Original Agreement remain in full force and effect.

Section 5 Entire Agreement.

This Agreement constitutes the entire agreement between the parties with respect to the amendments contemplated in this Agreement and except to the extent restated in this Agreement, supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties, the purpose of which were to amend the Original Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in implementing the amendments contemplated by this Agreement.

Section 6 Successors and Assigns.

This Agreement becomes effective when executed by all of the parties. After that time, it is binding upon and enures to the benefit of the parties and their respective successors and permitted assigns.

Section 7 Governing Law.

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each party irrevocably attorns and submits to the exclusive jurisdiction of the Court for any action or proceeding arising under this Agreement.

Section 8 Counterparts.

This Agreement may be executed in any number of counterparts (including counterparts by facsimile) and all such counterparts taken together constitute one and the same instrument.

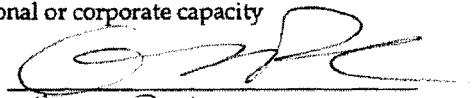
[signature page to follow]

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IN WITNESS WHEREOF The parties have executed this Agreement.

PRICEWATERHOUSECOOPERS INC, in
its capacity as Court-appointed Receiver of
Atikokan Forest Product Ltd., and not in its
personal or corporate capacity

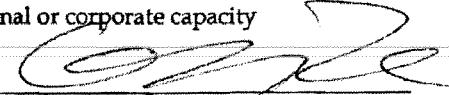
By:



Greg Prince
Senior Vice President

PRICEWATERHOUSECOOPERS INC, in
its capacity as Court-appointed Receiver of
Northern Sawmills Inc., and not in its
personal or corporate capacity

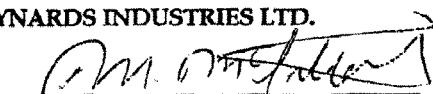
By:



Greg Prince
Senior Vice President

MAYNARDS INDUSTRIES LTD.

By:



M. M. Fletcher
Authorized Signing Officer