

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

BETWEEN:

G.E. CANADA EQUIPMENT FINANCING G.P.

Applicant

- and -

NORTHERN SAWMILLS INC.

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.

**COMPENDIUM**

November 7, 2012

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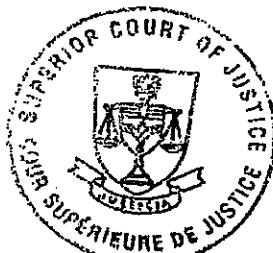
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# **TAB 1**



Court File No. CV10-9042-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE MR

)

TUES DAY, THE 4<sup>th</sup> DAY

JUSTICE MORAWETZ

)

OF JANUARY, 2011

G.E. CANADA EQUIPMENT  
FINANCING G.P.

Applicant

- and -

NORTHERN SAWMILLS INC.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c.C-36, as amended, AND SECTION 101 OF THE  
COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, as amended.

**ORDER**

THIS MOTION made by the Applicant for an Order 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") appointing PricewaterhouseCoopers Inc. ("PwC") as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Northern Sawmills Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Christopher Rankin sworn December 23, 2010 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant and counsel for the Debtor and on reading the consent of PwC to act as the Receiver,

**SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

**APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, PwC is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property").

**RECEIVER'S POWERS**

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical

inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;

- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$200,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages*

Act, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (m) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to assign the Debtor into bankruptcy;
- (s) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and

(t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

4. THIS COURT ORDERS that (i) the Debtor, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

9. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all wood supply arrangements and commitments, sustainable forestry licenses, forest management services, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names,

provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

#### **RECEIVER TO HOLD FUNDS**

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

#### **EMPLOYEES**

13. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, or as employer under the *Pension Benefits Act*, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### **PIPEDA**

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal

information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation,

unless it is actually in possession. Nothing in this Order shall derogate from the protection afforded to the Receiver by section 14.06 of the BIA or other applicable legislation.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

17. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

18. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in

its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$300,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### GENERAL

24. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

25. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

26. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

27. THIS COURT ORDERS that the Receiver 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, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

28. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the

Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

29. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver 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.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

JAN 4 - 2011

PER / PAR: 

**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that PricewaterhouseCoopers Inc. ("PwC"), the receiver (the "Receiver") of the assets, undertakings and properties of Northern Sawmills Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 4<sup>th</sup> day of January, 2011 (the "Order") made in an action having Court file number \_\_-CL-\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of \_\_\_\_\_ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.
7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED December ●, 2010.

PricewaterhouseCoopers Inc., solely in its capacity as Receiver of the Property, and not in its personal capacity

Per: \_\_\_\_\_

Name:

Title:

G.E. Canada Equipment Financing G.P. and Northern Sawmills Inc.

Court File No: CV10-9042-00CL

Applicant Respondent

ONTARIO  
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER

STIKEMAN ELLIOTT LLP  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9

Elizabeth Pillon LSUC#: 35638M  
(416) 869-5623  
Jordana Bergman LSUC#: 55762W  
Tel: (416) 869-5510  
Fax: (416) 947-0866

Lawyers for the Applicant

G.E. Canada Equipment Financing G.P. and Northern Sawmills Inc.

Applicant Respondent

Es: Pillon for Plaintiff.

J. Kugler for CEP

J. Noller for Lucky Star + Northern Star

+ Agent for Northern Star

I consent to Respondent + Plaintiff.

+ Northern Star + Plaintiff + Plaintiff  
West Jordan

T. Sneller for Plaintiff.

The motion to appoint Plaintiff as a Plaintiff  
was with Plaintiff. ~~the Plaintiff~~  
Plaintiff was advised by Plaintiff  
in the capacity as Agent for Plaintiff  
Plaintiff advised to the Plaintiff  
Plaintiff remained the Plaintiff  
Plaintiff advised Plaintiff

January 4, 2011

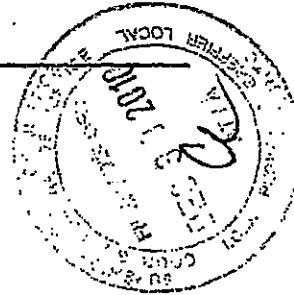
ONTARIO  
SUPERIOR COURT OF JUSTICE  
Proceeding commenced at Toronto

APPLICATION RECORD  
(RETURNABLE JANUARY 4, 2011)

STIKEMAN ELLIOTT LLP  
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Lawyers for the Applicant



are satisfied that the circumstances justify  
the appointment of PvC as Receiver  
in order to protect the interests.

¶ 62. The argument in my view  
is both just and convenient. The  
specific circumstances that justify the  
appointment are set out at 2(k)  
of the Notice of <sup>Prohibition</sup> - the  
objection is under Rule 243 of the  
SIS and s 101 of the CFA.  
An order shall issue = the  
form presented.

The Second Law commits a the Proposed  
Sale Powers - As the law was  
also not opposed. I - stated  
that the Proposed Sale Powers  
is appropriate = the circumstances  
and PvC is authorized + directed  
to ~~conduct~~ conduct a sale process  
in the terms set forth = the  
Second Law.

An order shall issue = the  
form presented.

Unofficial Transcript of the Endorsement of Justice Morawetz - January 4, 2011

Court File No. CV-10-9042-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

BETWEEN:

G.E. CANADA EQUIPMENT FINANCING G.P.

Applicant

- and -

NORTHERN SAWMILLS INC.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c.C-36, as amended, AND SECTION 101 OF THE  
COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, as amended.

January 4, 2011

E. Pillon for Applicant

J. Kugler for CEP

J. Moher for Lucky Star and Buchanan Sales, and Agent to Weiler, Maloney, counsel to  
Respondent and Atikokan and Buchanan Northern Hardwood and Great West Timber  
T. Sandler for PwC

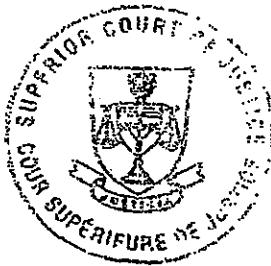
The motion to appoint PwC as Receiver was not opposed. The Respondents' position was confirmed by Ms. Moher, in her capacity as Agent for Weiler, Maloney counsel to the Respondent. Having reviewed the Record and hearing submissions, I am satisfied that the circumstances justify the appointment of PwC as Receiver in order to protect the interests of GE. The appointment in my view is both just and convenient. The specific circumstances that justify the appointment are set out at 2(k) of the Notice of Application. The appointment is under both s. 243 of the BIA and s. 101 of the CJA. An order shall issue in the form presented.

The Record also comments on the Proposed Sales Process. This motion was also not opposed. I am satisfied that the Proposed Sales Process is appropriate in the circumstances and PwC is authorized and directed to conduct a sales process on the terms set forth in the Record.

An order shall issue in the form presented.

"Morawetz J."

## **TAB 2**



Court File No. CV10-9042-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE MR.

TUES DAY, THE 4<sup>th</sup> DAY

JUSTICE MORAWETZ.

OF JANUARY, 2011

## **G.E. CANADA EQUIPMENT FINANCING G.P.**

**Applicant**

- and -

## **NORTHERN SAWMILLS INC.**

### Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c.C-36, as amended, AND SECTION 101 OF THE  
COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, as amended.

## ORDER

THIS MOTION, made by G.E. Canada Equipment Financing G.P. (the "Applicant") was heard on January 4, 2011, at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion and the Report of PricewaterhouseCoopers Inc. as Proposed Receiver of Northern Sawmills Inc., dated December 30, 2010 (the "Proposed Receiver's Report", and together with the Notice of Motion, the "Motion Record"), filed, and on hearing the submissions of the Applicant's counsel, and counsel for Northern Sawmills Inc.,

1. THIS COURT ORDERS that the time for service and filing of the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that PricewaterhouseCoopers Inc. (the "Proposed Receiver") is hereby authorized and directed to carry out and conduct a sales process in respect of all of the assets, undertakings, and properties (collectively, the "Property") of Northern Sawmills Inc., or any material portions thereof, substantially in accordance with the sales process outlined in the Proposed Receiver's Report (the "Sales Process"), and such Sales Process is hereby approved.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

JAN 4 - 2011

PER / PAR: 

G.E. Canada Equipment Financing G.P. and Northern Sawmills Inc.

Applicant Respondent

Court File No: CV10-9042-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

ORDER

STIKEMAN ELLIOTT LLP  
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5300 Commerce Court West  
199 Bay Street  
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Elizabeth Pilon LSUC#: 35638M  
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Jordana Bergman LSUC#: 55762W  
Tel: (416) 869-5510  
Fax: (416) 947-0866

Lawyers for the Applicant

G.E. Canada Equipment Financing G.P. Northern Sawmills Inc.

and

Respondent

Applicant

Court File No: CV10-9042-00CL

Jan 4/11

7th and 8th  
the instant in Remond, Ont.  
Signature

ONTARIO  
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto



MOTION RECORD  
(RETURNABLE JANUARY 4, 2011)

STIKEMAN ELLIOTT LLP

Barristers & Solicitors  
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Lawyers for the Applicant

Unofficial Transcript of the Endorsement of Justice Morawetz – January 4, 2011

Court File No. CV-10-9042-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

BETWEEN:

G.E. CANADA EQUIPMENT FINANCING G.P.

Applicant

- and -

NORTHERN SAWMILLS INC.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c.C-36, as amended, AND SECTION 101 OF THE  
COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, as amended.

January 4, 2011

Motion granted. See endorsement on Receivership's Motion.

"Morawetz J."

## **TAB 3**

Court File No. CV10-9042-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST



G.E. Canada Equipment Financing G.P.

Applicant

- and -

Northern Sawmills Inc.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c.C-36, as amended, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c.C.43, as amended.

THE HONOURABLE MR.  
JUSTICE MORAWETZ

)  
)  
)

FRIDAY, THE 14<sup>TH</sup>  
DAY OF JANUARY, 2011

**O R D E R**

*(Approval of Sale Process Forms of Advertisement and "Teaser")*

THIS MOTION, made by PricewaterhouseCoopers Inc., in its capacity as court appointed receiver (the "Receiver") of Northern Sawmills Inc. was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the First Report of the Receiver dated January 13, 2011 (the "Receiver's First Report"), and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the Service List although properly served as appears from the affidavit of service of Jessica Parker sworn on January 13, 2011,

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this Motion is properly returnable today and any further service of the Notice of Motion and the Motion Record is hereby dispensed with.
2. THIS COURT ORDERS that the form of advertisement and the form of teaser (to be used by the Receiver under the Sale Process approved by this Honourable Court pursuant to an Order made January 4, 2011), as attached as Appendices "B" and "C" to the Receiver's First Report, respectively are hereby approved.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

JAN 14 2011

PER / PAR:



G.E. Canada Equipment Financing G.P.

Northern Sawmills Inc.

and

Applicant  
Respondent

Court File No. CV10-9042-00CL

*Ontario*  
**SUPERIOR COURT OF JUSTICE**  
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

**ORDER**

OSLER, HOSKIN & HARcourt LLP  
P.O. Box 50, First Canadian Place  
Toronto, ON M5X 1B8

Tracy C. Sandler (LSUC # 32443N)  
(416) 862-4908  
(416) 862-6666 (fax)

Artem Miakichev (LSUC # 51366C)  
(416) 862-5673  
(416) 862-6666 (fax)

Solicitors for PricewaterhouseCoopers  
Inc., in its capacity as Receiver of  
Northern Sawmills Inc.

G.E. Canada Equipment Financing G.P.

Northern Sawmills Inc.

and

Applicant  
Respondent

Court File No: CV10-9042-00CL

Jan 4/11

Plaintiff  
the Plaintiff in the action,

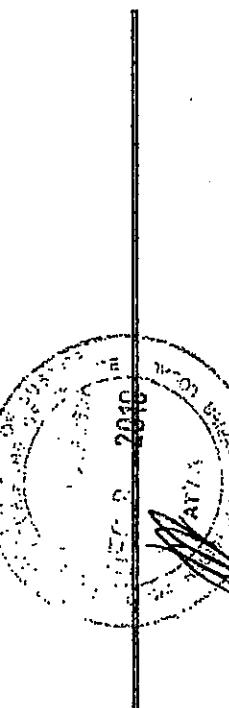
Plaintiff in the action,  
Plaintiff in the action,

Plaintiff in the action,  
Plaintiff in the action,

Jan 4, 2011

ONTARIO  
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto



MOTION RECORD  
(RETURNABLE JANUARY 4, 2011)

STIKEMAN ELLIOTT LLP

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Lawyers for the Applicant

Unofficial Transcript of the Endorsement of Justice Morawetz - January 4, 2011

Court File No. CV-10-9042-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

BETWEEN:

G.E. CANADA EQUIPMENT FINANCING G.P.

Applicant

- and -

NORTHERN SAWMILLS INC.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c.C-36, as amended, AND SECTION 101 OF THE  
COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, as amended.

January 4, 2011

Motion granted. See endorsement on Receivership's Motion.

"Morawetz J."

## **TAB 4**



## SUPERIOR COURT OF JUSTICE

Judges' Administration  
Court House  
361 University Avenue  
TORONTO, ONTARIO M5G 1T3  
Tel: 327-5284 Fax: 327-5417

## FAX COVER SHEET

**DATE:** July 25, 2011

**TO:** John MacDonald  
Sven Poya  
Fax No. (416) 862-6666

Jesse Kugler  
Fax No. (416) 366-3293

Lawrence Swartz  
Fax No. (416) 445-7989

**FROM:** Justice Paul Perell

**TOTAL PAGES (INCLUDING COVER PAGE):** 8

**RE:** G.E. Canada Equipment Financing G.P. and  
Northern Sawmills Inc.  
Court File No.: 10-CV-9042CL

---

**Note:** Please contact Fleurette Lee at (416) 327-5230 if transmission not complete.

*The Information contained in this facsimile message is confidential information. If the person actually receiving this facsimile or any other reader of the facsimile is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address*

Original will NOT follow. If you do not receive all pages, please telephone us immediately at the above number.

**CITATION:** G.E. Canada Equipment Financing G.P. v. Northern Sawmills Inc., 2011  
ONSC 4511  
**COURT FILE NO.:** Court File No. 10-CV-9042CL  
**DATE:** July 25, 2011

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**G.E. Canada Equipment Financing G.P.**

Applicant

- and -

**Northern Sawmills Inc.**

Respondent

**COUNSEL:**

- John MacDonald and Sven Poya for PricewaterhouseCoopers Inc., Receiver of Northern Sawmills Inc.
- Jesse Kugler for the Communications, Energy and Paperworker Union of Canada
- Lawrence Swartz for Morneau Shepell, Pension Plan Administrator

**HEARING DATE:** July 21, 2011

**PERELL, J.**

**REASONS FOR DECISION**

**A. INTRODUCTION**

[1] The preamble of the *Wage Earner Protection Act*, S.C. 2005, C.47, s. 1 ("WEPPA") states that it is an Act "to establish a program for making payments to individuals in respect of wages owed to them by employers who are bankrupt or subject to a receivership."

[2] PricewaterhouseCoopers Inc. is the court-appointed Receiver of Northern Sawmills Inc., a corporation in bankruptcy. It applies to the court for directions about the "end" date of the employment of the unionized former employees of Northern Sawmills. The date that their employment ended is critical to determining whether some or all of 232 former employees of the bankrupt will obtain benefits under WEPPA, which provides that Service Canada will pay eligible unionized employees "eligible wages" owed to them by their former employer up to a maximum of \$3,000 each.

[3] Based on its interpretation of the factual and legal background, it is the Receiver's opinion that 54 former employees are entitled to WEPPA benefits. In contrast, it is the opinion of the former employees' union, the Communication, Energy and Paperworkers Union of Canada ("CEP") that all the employees have WEPPA entitlements.

[4] For the Reasons that follow, I agree with CEP's position.

#### **B. FACTUAL BACKGROUND AND LEGAL ANALYSIS**

[5] In my opinion, for the Reasons that follow, all of the former unionized employees of Northern Sawmills, none of whom have received severance or termination pay, are entitled to benefits under WEPPA.

[6] The Receiver and the Union agree that the deemed termination provisions of Ontario's *Employment Standards Act, 2000*, S.O. 2000, c. 41 are not helpful for resolving the question before the court, which concerns the meaning and operation of different legislation. I agree, and, therefore, I will say nothing more about the *Employment Standards Act*.

[7] The explanation for my conclusion may be best achieved by describing the history of Northern Sawmills from around 2004 to July 2011 (when Rene Lindquist, the National Representative of CEP who worked closely with the former unionized employees of National Sawmills, swore his affidavit) and by interspersing the factual background with the legal analysis.

[8] Northern Sawmills was an Ontario corporation that was located in Thunder Bay, Ontario. It manufactured lumber products. With two union locals and two identical collective agreements, CEP was the statutory bargaining agent for the following bargaining unit:

All employees engaged in the plan and yard of the Company with the exception of the office staff, superintendents, persons above the rank of sub-foreman, any party who has the right to hire or lay off or discharge men and engineers and hoisting men belonging to the Operating Engineers' Union.

[9] On October 31, 2004, CEP ratified a collective bargaining agreement with Northern Sawmills. The collective bargaining agreement included a letter of understanding about recall rights; that is, the rights of an employee who had been laid off to return to work without termination of employment or loss of seniority.

[10] The Letter of Understanding stated:

*Letter of Understanding Between Northern Sawmills Inc. and Communication, Energy and Paperworkers Union, Local 38X [38.02]*

##### **Re. RECALL RIGHTS**

1. Regular full-time employees as of the date of ratification will have general recall rights until August 31, 2008. An agreed upon list of such employees will be prepared.

2. If such employees have not been recalled to a permanent vacancy before August 31, 2008, their seniority will be lost and their employment terminated

[11] In the summer of 2007, Northern Sawmills began to wind down its operations. Layoffs began, and the layoffs continued until the fall of 2008, when Northern Sawmills permanently ceased operations.

[12] Under the collective bargaining agreement, as it existed in the fall of 2008, employees would have 24 months of recall rights after which their employment would be deemed to have been terminated if they had not been recalled. Based on this state of affairs, the Receiver's analysis is that employees laid off before July 4, 2008 have no WEPPA entitlements. There were 54 employees laid off after July 4, 2008, who, in the opinion of the Receiver, would have WEPPA entitlements.

[13] Mr. Lindquist deposes, however, that neither Northern Sawmills nor its unionized employees wished the cessation of operations to be the end of the company or for the lapsing of recall rights. During the fall of 2008 and thereafter, there were regular discussions about restarting operations. These discussions produced an oral agreement between the union and the employer that the recall rights would be extended until the signing of a new collective agreement. The purpose of the oral agreement was to provide Northern Sawmills with financial breathing space by avoiding it having to pay severance and termination pay and this indulgence, in turn, could allow employees the opportunity to have employment.

[14] The Receiver submits, however, that the oral agreement extending recall rights was ineffective because it was not reduced to writing in accordance with the formalities of the Ontario *Labour Relations Act, 1995*, S.O., 1995, c.l, Sch. A, s. 1(1), which requires a collective agreement between the employer and a trade union to be in writing. For reasons that will become apparent, it is not necessary to decide whether the Receiver's position that the oral agreement was ineffective, is correct.

[15] Following the oral agreement to extend recall rights, Northern Sawmills continued to be inoperative, but the employees did not receive severance or termination pay, and apparently most employees continued to hope that a start-up would eventually happen.

[16] The evidentiary record for this motion reveals that had severance and termination pay been paid: 6 employees would have received between \$3,000 to \$9,999; 13 employees would have received between \$10,000 and \$19,999; 137 employees would have received between \$20,000 and \$29,999; and 48 employees would have received between \$30,000 and \$38,000. They, in fact, received nothing.

[17] Hope lasted until the beginning of 2010, when the Union decided that it was unlikely that Northern Sawmills would restart its operations. The Union now turned its mind to collecting severance and termination pay on behalf of its members. It filed a grievance.

[18] On or about July 6, 2010, Northern Sawmills and CEP entered into a Memorandum of Settlement. For present purposes, the following provisions of the Memorandum of Settlement are pertinent:

1. The parties agree that the Employees are employees whose employment has terminated and who have no recall rights either because:

(a) they are employees whose recall rights expired and whose employment terminated on the date they lost their recall rights; or

(b) they are employees who forfeited their right to recall and elected to terminate their employment and claim termination and severance pay, whose employment terminated on the date of their election.

3. [Northern Sawmills] acknowledges its obligation to pay the Employees the amounts set out in Schedule A (less statutory withholdings and remittances and any repayment to Human Resources and Social Development Canada regarding any employment insurance payments they may have received) in full and final satisfaction of their termination pay and severance pay claims regardless of when notice of termination was or is deemed to have been given.

4. In the event that any Employee listed in Schedule A is subsequently rehired by [Northern Sawmills] that Employee shall commence employment as a new employee.

5. The Union agrees to settle Grievance #07970 (08-O3) on the terms set out herein ...

[19] In my opinion, the Memorandum of Settlement is part of the collective agreement between CEP and Northern. It is in an agreement in writing, and it is signed by both the union and the employer. It informed a consent grievance award.

[20] Further, it is my opinion that, in its effect, the Memorandum of Settlement acknowledges and confirms the oral agreement between CEP and Northern Sawmills that the employees had recall rights that were being extended so that Northern Sawmills' obligation to pay severance and termination payments would be deferred. I interpret the words "employees whose recall rights expired and whose employment terminated on the date they lost their recall rights" in the Memorandum of Settlement to mean "employees whose recall rights expired on July 6, 2010."

[21] In other words, interpreting the words of the Memorandum of Agreement in their factual nexus, I interpret this part of the collective agreement between CEP and Northern Sawmills to recognize that the employees - save those who had forfeited their right to recall and who had elected to terminate their employment and to claim termination and severance pay - as having recall rights up to July 6, 2010, which is the date that the Memorandum of Settlement was signed terminating those recall rights.

[22] July 6, 2010, was the date that the layoffs became a termination or ending of the employment of the unionized employees, except those who had already elected to terminate their employment by executing waivers. Of these 66 employees, I will have more to say below.

[23] In reaching this conclusion about the interpretation of the Memorandum of Settlement, I do not rely on the letter of April 11, 2011, recently written by Mr. Wolfe Gericke, who had been a representative of the employer, Northern Sawmills. His letter purports to confirm the oral agreement of the fall of 2008. I rely only on the

interpretation of the Memorandum of Settlement, which, in my opinion, forms part of the collective agreement between the union and the employer.

[24] This analysis makes July 6, 2010, the date on which the employees' employment ended for the purposes of WEPPA.

[25] Turning to WEPPA, for present purposes, the relevant provisions of WEPPA are the definition of "wages" and the definition of "eligible wages." Under WEPPA, employees whose employers are subject to a receivership are entitled to "eligible wages" up to a maximum of \$3,000.

[26] Under s. 2 (1) of WEPPA, wages is defined as follows:

*Wages*

Includes salaries, commissions, compensation for services rendered, vacation pay, severance pay, termination pay and any other amounts prescribed by regulation.

[27] Under s. 2 (1) of WEPPA, eligible wages is defined as follows:

*Eligible Wages*

(a) wages other than severance pay and termination pay that were earned during the six month period ending on the date of the bankruptcy or the first day on which there was a receiver to the former employer; and

(b) severance pay and termination pay that relate to the employment that ended during the period referred to in paragraph (a).

Thus, under WEPPA, a former employee is entitled to unpaid severance pay and termination pay for employment that ended within six months before the receivership.

[28] On January 4, 2011, two days before the six months referred to in the definition of eligible wages would expire, PricewaterhouseCoopers Inc. was appointed Receiver of Northern Sawmills Inc. Thus, except perhaps the 66 employees who had signed waiver forms ending their recall rights, in my opinion, all the unionized employees are entitled to WEPPA benefits.

[29] Turning to the employees who signed waiver forms, the July 6, 2010, Memorandum of Settlement recognizes that there were employees who had forfeited their right to recall and elected to terminate their employment and claim termination and severance pay, whose employment terminated on the date of their election.

[30] The standard form waiver, which is under the letterhead of the employer stated:

I, \_\_\_\_\_, confirm that I have elected to receive any termination pay and severance pay to which I may be entitled in accordance with the Employment Standards Act and/or the Collective Agreement. I understand that in making this election, I am waiving any recall rights to which I might be otherwise entitled and that my employment with Northern Sawmills will be terminated effective immediately.

[31] It is interesting to note that 23 waivers were signed in 2008, 26 waivers were signed in 2009, and 20 waivers were signed in 2010. This confirms that the employer,

the union, and the employees understood that recall rights had been extended beyond August 2008, else no purpose would be served by the employees waiving non-existent recall rights.

[32] The employees waiving their existing recall rights did so in consideration of receiving termination pay "in accordance with the *Employment Standards Act* and/or the *Collective Agreement*."

[33] The 66 employees, however, like their fellow employees, never did receive any severance or termination pay. Thus, in my opinion, there was a total failure of consideration, and the waivers of recall rights are ineffective and are null and void. It follows that this group of employees should be treated in the same fashion as the others who did not sign waivers.

### C. CONCLUSION

[34] An order should issue in accordance with these Reasons for Decision.

[35] If the parties cannot agree about the matter of costs, they may make submissions in writing beginning with the submissions of CEP within 15 days of the release of these Reasons for Decision followed by the Receiver's submissions within a further 15 days.

Perell, J.

Perell, J.

Released: July 25, 2011

**CITATION: G.E. Canada Equipment Financing G.P. v. Northern Sawmills Inc., 2011 ONSC  
4511**  
**COURT FILE NO.: Court File No. 10-CV-9042CL**  
**DATE: July , 2011**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**G.E. Canada Equipment Financing G.P.**

Applicant

- and -

**Northern Sawmills Inc.**

Respondent

---

**REASONS FOR DECISION**

---

**Percell, J.**

**Released: July 25, 2011**

## **TAB 5**



Court File No. CV10-9042-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.  
JUSTICE MORAWETZ

)  
)  
)

WEDNESDAY, THE 3RD  
DAY OF AUGUST, 2011

BETWEEN:

G.E. Canada Equipment Financing G.P.

Applicant

- and -

Northern Sawmills Inc.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. C-36, as amended, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, as amended.

**ORDER**

THIS MOTION, made by PricewaterhouseCoopers Inc. ("PwC"), in its capacity as court-appointed receiver (the "Receiver") of Northern Sawmills Inc. ("Northern") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Third Report of the Receiver dated July 27, 2011 (the "Receiver's Third Report"), and on hearing the submissions of counsel for the Receiver, and counsel for G.E. Canada Equipment Financing G.P., no one appearing for any other person on the Service List although properly served as appears from the affidavit of service of Robin Goodyear sworn on July 28, 2011,

- 2 -

1. **THIS COURT ORDERS** that the capitalized terms in this Order bear the same meaning as they are defined to have in the Receiver's Third Report.

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is hereby abridged so that this Motion is properly returnable today and any further service of the Notice of Motion and the Motion Record is hereby dispensed with.

3. **THIS COURT ORDERS** that the ~~Agency Sale Agreement between the Receiver and Maynards Industries Ltd. relating to the liquidation of the Northern Property, a redacted copy of which is attached as Appendix "G" to the Receiver's Third Report, is hereby approved and authorizes 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.~~ *(Signature)*

4. **THIS COURT ORDERS** that the deadline for finalizing an APA in the Northern Sale Process, as described in paragraph 12(k) of the Proposed Receiver's Report dated December 30, 2010, and approved in the Northern Sale Process Order, be extended to July 22, 2011, *nunc pro tunc.* *(Signature)*

5. **THIS COURT ORDERS** that paragraph 20 of the Northern Receivership Order made by Mr. Justice Morawetz dated January 4, 2011, which permits the Receiver to borrow monies for the purpose of funding the exercise of its powers and duties, is amended to delete "\$300,000" and replace it with "\$400,000".

6. **THIS COURT ORDERS** that the Receiver's First Report dated January 13, 2011; the Second Report dated July 14, 2011; and the Third Report dated July 27, 2011, and the activities of the Receiver described therein be and are hereby approved.

- 3 -

7. **THIS COURT ORDERS** that confidential Appendix "F" attached to the Receiver's Third Report, containing a summary of the bids in respect of the Northern Property from Prospective Purchasers (as these terms are defined in the Receiver's Third Report) shall be sealed, kept confidential and shall not form part of the public record but shall be placed in a sealed envelope in the Court file and be kept separate from all other contents of the Court file to be opened only after the closing of a transaction for the sale of the Northern Property or upon further Order of this Honourable Court.

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

AUG - 3 2011



PER/PAR:

G.E. Canada Equipment Financing G.P. - and - Northern Sawmills Inc.  
Applicant Respondent

Court File No: CV10-9042-00CL

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c. C-36, as amended, AND SECTION 101 OF THE  
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, as amended.

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

Proceeding commenced at Toronto

**ORDER**

**OSLER, HOSKIN & HARCOURT LLP**  
P.O. Box 50, 1 First Canadian Place  
Toronto, ON M5X 1B8

Tracy Sandler (LSUC # 32443N)  
(416) 862-5890  
Mary Paterson (LSUC # 51572P)  
(416) 862-4924  
(416) 862-6666 (fax)

Lawyers for PricewaterhouseCoopers Inc., in  
its capacity as Receiver of Northern Sawmills  
Inc.

F. 1127320

G.E. Canada Equipment Financing G.P.

- and - Northern Sawmills Inc.  
Applicant Respondent

Court File No: CV10-9042-00CL

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c. C-36, as amended, AND SECTION 101 OF THE  
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, as amended.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Aug 13, 2011

M. Pattern for Receiver.  
K. Dubagan for Town of Pickering.  
K. Sherry for the near  
to L. P. Inc for LPE.  
J. Kinsler for Chas Lini.

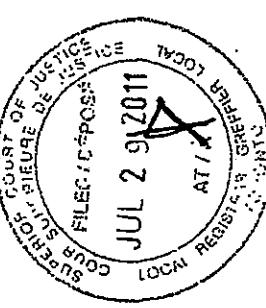
I am satisfied, based on Receiver's counsel  
submissions and the record that it  
is appropriate to propose the  
Receiver's Report to the court for  
as requested.

The cause of the C.C. Accounts  
(e) is the Receiver's 17th E

Proceeding commenced at Toronto  
MOTION RECORD  
OSLIER, HOSKIN & HARCOURT LLP  
P.O. Box 50, 1 First Canadian Place  
Toronto, ON M5X 1B8

Tracy Sandler (LSUC # 32443N)  
(416) 862-5890  
Mary Patterson (LSUC # 51572P).  
(416) 862-4924  
(416) 862-6666 (fax)

Lawyers for PricewaterhouseCoopers Inc., in  
its capacity as Receiver of Northern  
Sawmills Inc.



adjourned to a date to be set.

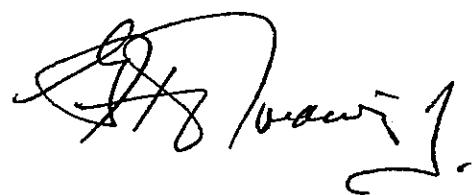
The Reeves request to increase the  
borrowing limit to from 300k to 400k  
is approved.

It is noted that counsel to the reeve,  
who was unable to render a cost  
at this hearing, take the position  
that the Reeve Administrator intends  
to rely on Indalex (C.A.) as its  
gravel agent.

Mr. Pether, representing the Town  
of Atikokan requested an adjournment  
~~4 weeks~~ on a public interest basis and  
for the reeves set out in  
Mayor Brown's affidavit that the  
approval of the Mayor shall  
be given. Since this request

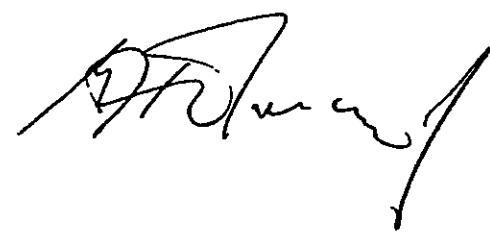
is granted on the basis that  
the Receiver at GE, if so  
advised, are invited to  
participate in the scheduled  
meeting on Aug 10, 2011.

The reply in respect of  
the Agency Sale Agent ~~and~~ is  
adjoined to August 11, 2011.  
No further adjournments are to  
be expected by any party



It is recognized by the parties  
that extensions to the Sale Period  
are necessary and that the  
Lenders expects to have a  
written or ~~such~~ approval  
of such extension, on a non-c  
pro ~~time~~ time basis

Finally the Bd Survey ~~and~~  
~~test~~ will be retained by me  
under protective order pending  
The return of the m/s on  
Aug 11, 2011.

A handwritten signature in black ink, appearing to read "D. A. Murray".

## **TAB 6**

Court File No. CV10-9042-00CL

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

THE HONOURABLE *Mr.*  
JUSTICE MORAWETZ  
)

WEDNESDAY, THE 4th  
DAY OF AUGUST, 2011

BETWEEN:



G.E. Canada Equipment Financing G.P.

Applicant

- and -

Northern Sawmills Inc.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. C-36, as amended, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, as amended.

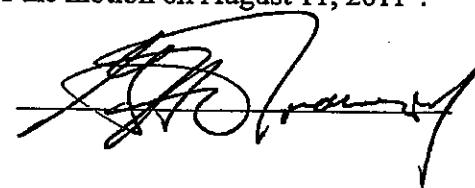
**AMENDING ORDER**

THIS MOTION, made by PricewaterhouseCoopers Inc. ("PwC"), in its capacity as court-appointed receiver (the "Receiver") of Northern Sawmills Inc. ("Northern") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Third Report of the Receiver dated July 27, 2011 (the "Receiver's Third Report"), and on hearing the submissions of counsel for the Receiver,

1. THIS COURT ORDERS that paragraph 7 of the Order of Mr. Justice Morawetz dated August 3, 2011, containing a sealing order, is deleted and replaced with the following:

"THIS COURT ORDERS that the confidential Appendix "F" attached to the Receiver's Third Report, containing a summary of the bids in respect of the Northern Property from Prospective Purchasers (as these terms are defined in the Receiver's Third Report) will be retained by Mr. Justice Morawetz under protective order pending the return of the motion on August 11, 2011".



ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE RÉGISTRE NO.:

AUG - 4 2011

PER/PAR:



G.E. Canada Equipment Financing G.P. - and - Northern Sawmills Inc. Court File No: CV10-9042-00CL  
Applicant Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c. C-36, as amended, AND SECTION 101 OF THE  
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, as amended.

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER**

**OSLER, HOSKIN & HARCOURT LLP**  
P.O. Box 50, 1 First Canadian Place  
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(416) 862-5890  
Mary Paterson (LSUC # 51572P)  
(416) 862-4924  
(416) 862-6666 (fax)

Lawyers for PricewaterhouseCoopers Inc., in  
its capacity as Receiver of Northern Sawmills  
Inc.

F. 1127320

## **TAB 7**



Court File No. CV10-9042-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.  
JUSTICE MORAWETZ

)  
)  
)

THURSDAY, THE 11TH  
DAY OF AUGUST, 2011

BETWEEN:

G.E. Canada Equipment Financing G.P.

Applicant

- and -

Northern Sawmills Inc.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. C-36, as amended, AND SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, as amended.

**ORDER**

THIS MOTION, made by PricewaterhouseCoopers Inc. ("PwC"), in its capacity as court-appointed receiver (the "Receiver") of Northern Sawmills Inc. ("Northern") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Third Report of the Receiver dated July 27, 2011 (the "Receiver's Third Report"), and on hearing the submissions of counsel for the Receiver, counsel for G.E. Canada Equipment Financing G.P., no one appearing for any other person on the Service List although properly served as appears from the affidavit of service of Robin Goodyear sworn on July 28, 2011,

1. **THIS COURT ORDERS** that the capitalized terms in this Order bear the same meaning as they are defined to have in the Receiver's Third Report.

2. **THIS COURT ORDERS** that the Agency Sale Agreement between the Receiver and Maynards Industries Ltd. relating to the liquidation of the Northern Property, a redacted copy of which is attached as Appendix "G" to the Receiver's Third Report, is hereby approved <sup>At the</sup> ~~and as Appendix "G" to~~ <sup>the</sup> ~~the~~ <sup>Receiver's</sup> ~~the~~ <sup>Sixth</sup> ~~Report~~ <sup>Report</sup> and the Receiver is hereby authorized 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.

3. **THIS COURT ORDERS** that the deadline for finalizing an APA in the Northern Sale Process, as described in paragraph 12(k) of the Proposed Receiver's Report dated December 30, 2010, and approved in the Northern Sale Process Order, be extended to July 22, 2011, *nunc pro tunc*.

4. **THIS COURT ORDERS** that confidential Appendix "F" attached to the Receiver's Third Report, containing a summary of the bids in respect of the Northern Property from Prospective Purchasers (as these terms are defined in the Receiver's Third Report) shall be sealed, kept confidential and shall not form part of the public record but shall be placed in a sealed envelope in the Court file and be kept separate from all other contents of the Court file to be opened only after the closing of a transaction for the sale of the Northern Property or upon further Order of this Honourable Court.

5. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of

- 3 -

this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

AUG 11 2011

PER/PAR:

4  
G.E. Canada Equipment Financing G.P. - and - Northern Sawmills Inc.  
Applicant Respondent

Court File No: CV10-9042-00CL

**APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c. C-36, as amended, AND SECTION 101 OF THE  
COURTS OF JUSTICE ACT, R.S.O. 1990, c. C.43, as amended.**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER**

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(416) 862-6666 (fax)

Lawyers for PricewaterhouseCoopers Inc., in  
its capacity as Receiver of Northern Sawmills  
Inc.

F. 1127320

Finally the Bid Summary ~~submitted~~  
~~submitted~~ will be retained by me  
 under protective order pending  
 The return of the m/s on  
 Aug 11, 2011.

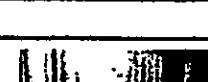
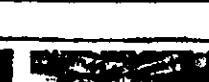
- M. Paterson + T. Holt  
 to PwC.
- L. Pittman for GE Canada.
- L. Swayze for Norcan.

Aug 11, 2011

Following from the edict on Aug 3, 2011,  
 a meeting was held in Atikokan, the  
 purpose of which was to have  
 discussions relating to the feasibility  
 of a transfer of the assets of  
 Atikokan ~~Brokers~~. The details of the  
 meeting, as well as the

## **NORTHERN SAWMILL, INC. - THUNDER BAY**

1998-185-EM

ITEM #	QTY	DESCRIPTION	FAIR MARKET VALUE	OPENLY LISTED VALUE
27	1	WELDING SHOP		
		<p>Describes composed of:</p> <ul style="list-style-type: none"> <li>- 2 work benches</li> <li>- 1 press drill</li> <li>- lot of hand tools</li> <li>- 2 fume collectors</li> <li>- 1 storage cabinet</li> <li>- 3 tool boxes</li> </ul>	 	

Recevis recommendations are set out in the 6<sup>th</sup> Report of R.C.

The discussions did not result in a ~~single~~ proposed sale, nor did they advance matters to the point where it was likely to produce a forecast in the near future.

Consequently, no party approves the  
note to approve the Treaty.  
In addition, the acceptance date  
for which has been extended to

Aug 12, 2011

Is it a satisfied that a search  
process to be followed and the  
London principals have been alerted  
to. The proposed timeline is  
reasonable in the circumstances and  
is approved

Mr. Reeser has requested that  
Appendix F to the Rec. 3rd  
report be sealed until such  
time as the rest of order has  
been received. His request is  
made in the bases that the  
document contains sensitive commercial  
information, the disclosure of which  
could be harmful to stakeholders.  
I accept the submission. In  
my view it is appropriate to  
grant the requested sealing  
order. I make this determination

## **NORTHERN SAWMILL INC. - THUNDER BAY**

1003-105-EM

MCC

ITEM #	QTY	DESCRIPTION	FARM MARKET VALUE ESTIMATE	PROPERTY LIQUIDATION VALUE
28	1	LOT OF MCC		
		Year 2002 Description composed of:		
			FARM MARKET VALUE ESTIMATE	PROPERTY LIQUIDATION VALUE

I am satisfied that the Score Card principle have been followed  
Finally, please add the data to finalize  
the APA - BPA. This process  
and in 10-9041-0001 is extended  
one year from to July 22, 2011  
~~2006~~  
~~2010~~

This endorsement is also applicable to GE/Atikokan

CV+0-9041 -00 CC.

John D. Boenig

## **TAB 8**

Court File No. CV10-9042-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE MR. ) TUESDAY, THE 20<sup>TH</sup> DAY  
 )  
JUSTICE MORAWETZ ) OF MARCH, 2012



G.E. CANADA EQUIPMENT FINANCING G.P.

Applicant

- and -

NORTHERN SAWMILLS INC.

Respondent

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c.C-36, as amended, AND SECTION 101 OF THE  
COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, as amended.

APPROVAL AND VESTING ORDER

THIS MOTION, made by PricewaterhouseCoopers Inc. in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of Northern Sawmills Inc. (the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and 2308703 Ontario Inc. (the "Purchaser") dated March 9, 2012 and appended to the Report of the Receiver dated March 9, 2012 (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 "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, G.E. Canada Equipment Financing G.P., the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Kathryn Esaw sworn March 16, 2012, filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver 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 Purchased Assets to the Purchaser.
2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Morawetz dated January 4, 2011; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances

affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Registry Office for the Land Titles Division of Thunder Bay (No.55) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased 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.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

7. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a ~~settlement~~<sup>332</sup> fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, 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.

8. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

9. **THIS COURT ORDERS** that, subject to further order of this Court, the unredacted Sale Agreement shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of this Court and not before the closing of the transaction contemplated in the Sale Agreement.

10. **THIS COURT ORDERS** that the fourth report of the Receiver dated March 9, 2012 and the activities of the Receiver described therein are hereby approved.

11. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

MAR 20 2012



**Schedule A - Form of Receiver's Certificate****Court File No. CV10-9042-00CL****ONTARIO****SUPERIOR COURT OF JUSTICE****COMMERCIAL LIST****BETWEEN:****G.E. CANADA EQUIPMENT FINANCING G.P.****Plaintiff****- and -****NORTHERN SAWMILLS INC.****Defendant****RECEIVER'S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable Justice Morawetz of the Ontario Superior Court of Justice (the "Court") dated January 4, 2011, PricewaterhouseCoopers Inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of Northern Sawmills Inc. (the "Debtor").

B. Pursuant to an Order of the Court dated March 20, 2012, the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver and 2308703 Ontario Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that

the conditions to Closing as set out in Article 8 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in Article 8 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**PRICEWATERHOUSECOOPERS INC., in  
its capacity as Receiver of the undertaking,  
property and assets of NORTHERN  
SAWMILLS INC., and not in its personal  
capacity**

Per:

Name:

Title:

**Schedule B - Purchased Assets**

490 Maureen Street, Thunder Bay, Ontario

**FIRSTLY:** PIN 62264-0453 (LT) PT WATER LOT IN FRONT OF THE NE 1/4 OF SEC 51 MCINTYRE PT 7 55R11375 EXCEPT PT 1 55R11631; THUNDER BAY

**SECONDLY:** PIN: 62264-0233 (LT) PCL 25233 SEC TBF; PT WATER LOT IN FRONT OF THE SE SUBDIVISION OF SEC 51 MCINTYRE PARTS 5,6 & 7, 55R9572; S/T F39878; THUNDER BAY

**THIRDLY:** PIN: 62264-0112 (LT) PT WATER LOT IN FRONT OF NORTH-EAST QUARTER OF SECTION 51 MCINTYRE; PT WATER LOT IN FRONT OF SOUTH-EAST SUBDIVISION OF SECTION 51 MCINTYRE; PT 66 FT RDAL MCINTYRE IN FRONT OF SE 1/4 SEC 51MCINTYRE (AKA ORIGINAL SHORE RDAL); PT SE1/4 SEC 51 MCINTYRE; PT UNNAMED ST PL 8 MCINTYRE BEING MAUREEN ST FORMERLY UNNAMED ST; PT BROKEN FRONT IN FRONT OF BLOCK 41 PL 8 MCINTYRE; LT 13-14 BLK 32 PL 8 MCINTYRE; PT LT 15-21 BLK 32 PL 8 MCINTYRE; PT LANE BLK 32 PL 8 MCINTYRE; LT 1-9, 13-21 BLK 41 PL 8 MCINTYRE; PT LT 10, 22-23 BLK 41 PL 8 MCINTYRE; PT LANE BLK 41 PL 8 MCINTYRE; PT THIRD AV, KING ST PL 8 MCINTYRE BEING KIRKLAND ST FORMERLY KING ST PARTS 1, 3, 4, 8 TO 14, 17, 18 & 19, 55R9572; S/T TBR352775; S/T TBR352729; THUNDER BAY

**Schedule C - Claims to be deleted and expunged from title to Real Property**

1. Instrument No. F108142 registered January 11, 2002 being a charge in the original principal amount of \$15,000,000 in favour of Lucky Star Holdings Inc. ("Lucky Star") in respect of PIN: 62264-0453(LT) and 62264-0233(LT);
2. Instrument No. TBR421827 registered January 11, 2002 being a charge in the original principal amount of \$15,000,000 in favour of Lucky Star in respect of PIN: 62264-0112 (LT);
3. Instrument No. TY42208 registered March 22, 2007 being a charge in the original principal amount of \$13,500,000 in favour of General Electric Canada Real Estate Finance Inc. ("GE");
4. Instrument No. TY42210 registered March 22, 2007 being a postponement by Lucky Star of F108142 to GE in TY42208 in respect of PIN: 62264-0453(LT) and 62264-0233(LT);
5. Instrument No. TY42212 registered March 22, 2007 being a postponement by Luck Star of TBR421827 to GE of TY42208 in respect of PIN: 62264-0112(LT);
6. Instrument No. TY58262 registered January 22, 2008 being a charge in the original principal amount of \$5,000,000 in favour of Buchanan Lumber Sales Inc. ("Lumber");
7. Instrument No. TY60980 registered March 31, 2008 being an application to change name whereby Lumber changed its name to Buchanan Sales Inc. ("Buchanan");
8. Instrument No. TY74960 registered November 28, 2008 being a charge in the original principal amount of \$5,000,000 in favour of Lucky Star;
9. Instrument No. TY80063 registered March 30, 2009 being a notice of agreement amending charge between GE and Northern Sawmills Inc. ("Northern");
10. Instrument No. TY80064 registered March 30, 2009 being a postponement by Lucky Star of F108142 to GE of TY42208 in respect of PIN: 62264-0453(LT) and 62264-0233(LT);
11. Instrument No. TY80065 registered March 30, 2009 being a postponement by Buchanan of TY58262 to GE of TY42208;
12. Instrument No. TY80066 registered March 30, 2009 being a postponement by Lucky Star of TY74960 to GE of TY42208;
13. Instrument No. TY80067 registered March 30, 2009 being a postponement by Lucky Star of TBR421827 to GE of TY42208.

14. Writ of Execution issued August 12, 2009 and filed with the Sheriff of the Territorial District of Thunder Bay as No. 09-0000376 in favour of Workplace Safety and Insurance Board, as creditor, for the amount of \$1,389,314.10 plus costs and interest.

**Schedule D - Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

**A. General Encumbrances**

1. Registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including (without limitation) subdivision agreements, development agreements, engineering, grading or landscaping agreements and similar agreements.
2. Easements and servitudes (collectively, the "Easements"), including those registered on title, provided that:
  - (a) the Easements do not materially and adversely impair the use of the subject Property for the purpose for which it is presently held or used; or
  - (b) the Vendors have made satisfactory arrangements for relocation so that the Easements will not materially and adversely impair the use of the subject Property for the purpose for which it is presently held or used.
3. Registered easements for the supply of utilities or telephone services to the properties and for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services and all licences, easements, rights-of-way, rights in the nature of easements and agreements with respect thereto not registered on title to the properties, including without limitation, agreements, easements, licences, rights-of-way and interests in the nature of easements for sidewalks, public ways, sewers, drains, utilities, gas, steam and water mains or electric light and power, or telephone telegraphic conduits, poles, wires and cables.
4. Registered easements or rights-of-way for the passage, ingress and egress of persons and vehicles over parts of any Property.
5. Any easements or rights of way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner.
6. Minor encroachments and illegal views by the Lands over neighbouring lands which do not materially and adversely impair the use of the subject Property.
7. Any statutory liens or levies.

8. Title defects or irregularities which are of a minor nature and either individually or in aggregate do not and will not materially impair the value, use or marketability of any Property.
9. Any minor title defects, irregularities or encroachments, rights of way or other discrepancies in title or possession relating to any Property, as would be disclosed by any up-to-date plan of survey of such Property and the improvements noted thereon.
10. Any rights of expropriation, access or user or any other similar rights conferred or reserved by or in any statutes of Canada or the Province of Ontario.
11. The reservations, limitations, provisos, conditions, restrictions and exceptions (including, without limitation, royalties, reservation of mines, mineral rights, access to navigable waters and similar rights) expressed in the letters patent or grant from the Crown, as varied by statute, of the lands of which the properties form a part and any statutory limitations, exceptions, reservations and qualifications.
12. With respect to instruments registered via Teraview Electronic Registration System ("TER System"), any error or omission in the receipt, transmission or recording of such instrument, or of any of the particulars contained in such instruments, subsequent to creation and electronic delivery of same to Teranet Land Information Services Inc. via the TER System.
13. Zoning, land use and building restrictions, bylaws, regulations and ordinances of federal, provincial, municipal or other governmental bodies or regulatory authorities, including, without limitation, municipal by-laws and regulations and airport zoning regulations.

**B. Applicable to Ontario Land Titles Absolute Properties**

1. Those additional matters constituting statutory exceptions or reservations pursuant to the *Land Titles Act* (Ontario) (save and except Subsection 44 (1) paragraph 11 (*Planning Act*)).

**C. Applicable to Ontario Land Titles Qualified Conversion Properties**

1. On first registration, those additional matters constituting statutory exceptions or reservations pursuant to Subsection 44 (1) of the *Land Titles Act* (Ontario) (save and except Subsection 44 (1) paragraph 11 (*Planning Act*), paragraph 14 (Dower Rights), Provincial succession duties and escheats or forfeiture to the Crown); the rights of any person who, but for the *Land Titles Act* (Ontario), would be entitled to the land or any part of it through length of possession, prescription, misdescription or boundaries settled by convention; and any lease to which Subsection 70 (2) of the *Registry Act* (Ontario) applies.

**D. Specific Encumbrances**

1. Provincial Officer's Order, issued pursuant to section 157.1 of the *Environmental Protection Act* relating to the Land, and associated Certificate of Requirement.

**PIN: 62264-0453 (LT)**

1. Instrument No. F397999 registered October 7, 1998 being an agreement.

**PIN: 62264-0233 (LT)**

1. Instrument No. F39878 registered October 25, 1993 being an easement in favour of The Corporation of the City of Thunder Bay;

**PIN: 62264-0112 (LT)**

1. Instrument No. TBR352729 registered October 25, 1993 being an easement in favour of The Corporation of the City of Thunder Bay;
2. Instrument No. TBR352775 registered October 26, 1993 being a transfer containing easements and rights-of-way;
3. Instrument No. TBR400496 registered February 9, 1999 being a notice of claim of easements in favour of The Corporation of the City of Thunder Bay;
4. Instrument No. RY97903 registered March 9, 2010 being a certificate of requirement under s. 197(2) of the *Environmental Protection Act*.

G.E. Canada Equipment Financing G.P.

and

Applicant

Northern Sawmills Inc.

Court File No: CV10-9042-00CL

Respondent

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER**

STIKEMAN ELLIOTT LLP  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9

Elizabeth Pillon LSUC#: 35638M  
Tel: (416) 869-5623  
Kathryn Esaw LSUC#: 58264F  
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Fax: (416) 947-0866

Lawyers for the Applicant

## **TAB 9**

Court File No. CV-10-9042-00CL

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

BETWEEN:

G.E. CANADA EQUIPMENT FINANCING G.P.

Applicant

- AND -

NORTHERN SAWMILLS INC.

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

**REPORT OF PRICEWATERHOUSECOOPERS INC.  
AS PROPOSED RECEIVER OF  
NORTHERN SAWMILLS INC.**

**December 30, 2010**

## INTRODUCTION

1. PricewaterhouseCoopers Inc. ("PwC" or the "Proposed Receiver") understands that an application will be made before the Ontario Superior Court of Justice (Commercial List) (the "Court") by G.E. Capital Equipment Financing G.P. ("GE" or the "Lender") for an order (the "Receivership Order") appointing a 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 over all the assets, undertakings and properties (the "Property") of Northern Sawmills Inc. and its subsidiaries ("Northern" or the "Company").
2. PwC is a licensed trustee within the meaning of section 2 of the BIA. PwC has consented to act as Receiver in these proceedings in the event that this Honourable Court grants the Receivership Order.
3. This report has been prepared by the Proposed Receiver in support of an application to be brought by the Lender, for an order approving a sales and marketing process (the "Sale Process") as hereinafter described, in respect of the Property, which if appointed as receiver, the Proposed Receiver would implement.
4. In preparing this report, the Proposed Receiver has relied upon unaudited and draft, internal financial information of the Company provided to it by the Lender. The Proposed 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 in this report. The Proposed Receiver reserves the right to refine or amend its comments and findings as further information is obtained or brought to its attention subsequent to the date of this report.
5. Unless otherwise noted, all currency amounts contained in this report are expressed in Canadian dollars.
6. Capitalized terms not defined herein are as defined in the Affidavit of Christopher Rankin dated December 23, 2010 (the "Rankin Affidavit") or in the proposed Receivership Order sought by GE.

## BACKGROUND

7. As further described in the Rankin Affidavit, Northern was engaged in the business of producing a range of structural and dimensional softwood lumber, utility poles, and specialty lumber products, wood chips and wood byproducts for customers in Canada and United States. The Proposed Receiver understands that Northern has not been operating, in the normal course, since the fall of 2008, when

its operations were idled. The Proposed Receiver also understands that all, or virtually all, of Northern's employees were laid off following the cessation of normal course operations

8. As described in the Rankin Affidavit, a Notice of Intention to Enforce Security pursuant to section 244 of the BIA was issued by the Lender on or about April 2, 2010, whereby GE demanded payment from Northern of all obligations owing to it. Despite GE's demand for payment, the Proposed Receiver understands that the Company has failed to make payment or enter into a satisfactory arrangement with GE to rectify the default. The Proposed Receiver understands that the Company owes GE \$9,172,308.66, as at October 22, 2010.
9. In order to maintain the Property, the Proposed Receiver understands that Northern incurs ongoing, monthly costs associated with payroll in respect of two individuals who are maintaining and overseeing the Property, insurance, utilities, security and other basic maintenance and preservation costs (the "Costs"). The Proposed Receiver understands that GE has reviewed the estimated Costs and understands that GE has agreed to provide initial funding for the Costs, as well as professional fees associated with the receivership proceedings. However, the Proposed Receiver understands that the Lender is only prepared to fund the Costs for a limited period of time, so that the Receiver is able to undertake the Sale Process. Accordingly, the Receiver's borrowings will be limited to an amount not to exceed \$300,000. Funding of the receivership will be achieved by advances to the Receiver, if appointed, under Receiver's Certificates, which amounts would be secured by a charge over the Property.

#### **SALE PROCESS AND THE PROPOSED RECEIVER'S RECOMMENDATION**

10. The Proposed Receiver understands that, in connection with its application to this Honourable Court for the appointment of a receiver, GE will make an application to the Court for the approval of a sale process in respect of the Property.
11. In September 2010, GE engaged PricewaterhouseCoopers Corporate Finance Inc. ("PwCCF") to informally 'canvass the market' in respect of the Company and the Property. As a result of the response to the enquiries made by PwCCF, the Proposed Receiver understands that GE has determined that there may be sufficient interest in the marketplace to justify a formal sale process in respect of the Property.
12. In the event this Honourable Court grants the Receivership Order, the Proposed Receiver seeks this Honourable Court's approval of a sale process in respect of the Property (the "Sale Process"), the principal elements of which are as follows:

- a) Not later than ten business days after the Sale Process is approved by this Honourable Court the Receiver will:
  - i) advertise the Company and the Property and the Sale Process in the national edition of the *Globe & Mail* (the "**Advertisement**"); and
  - ii) send a teaser (the "**Teaser**") and a non-disclosure agreement ("**NDA**") to all parties identified by PwC as potentially having an interest in the Company and / or the Property.
- b) If requested by this Honourable Court, the Proposed Receiver will provide the Court a copy of the Advertisement and the Teaser for approval, prior to finalizing same.
- c) Not later than fifteen business days after the Sale Process is approved by this Honourable Court, the Receiver will establish an electronic data room containing information in respect of the Company and the Property;
- d) Parties expressing an interest in participating in the Sale Process (the "**Prospective Purchasers**") will be required to execute the NDA, upon which Prospective Purchasers will receive available information in respect of the Company, including access to the Receiver's data room, once established.
- e) The Receiver will arrange site visits to allow Prospective Purchasers the opportunity to visit the Company's premises in order to assist Prospective Purchasers with their due diligence efforts.
- f) The Receiver will offer the Property for sale on an "as-is, where-is" basis, without representations or warranties with respect to the Company and / or the Property. Detailed terms and conditions of sale will be as set out in the form of asset purchase agreement ("**APA**") provided by the Receiver to Prospective Purchasers. The Receiver will make a copy of the APA available in the data room by not later than January 28, 2011.
- g) Prospective Purchasers will have until 5 p.m. Eastern Standard time, on Wednesday, March 9, 2011 (the "**Bid Deadline**") to submit a binding offer ("**Offer**"), which must include a cash deposit equal to 5% of the total purchase price for the Company and/or the Property subject to the Offer (the "**Deposit**"). The Deposit will be refunded in the event an Offer, as submitted, is not accepted by the Receiver.
- h) Offers are to be made using the APA as a template and are to be without conditions, other than a condition for Court Approval. Offers shall remain open for acceptance by the Receiver until at least

2:00 p.m. Eastern Standard Time, Tuesday March 15, 2011.

- i) Concurrent with undertaking the Sale Process, the Proposed Receiver will solicit offers from professional liquidators in respect of the Property. The deadline for the submission of definitive, binding and unconditional (other than a condition for Court Approval) offers to liquidate the Property (the “**Liquidation Offers**”) is the Bid Deadline. Liquidation Offers must include a cash deposit equal to 5% of the total purchase price or guaranteed payment amount in respect of the Property subject to the Liquidation Offer(s), which amount will be refunded in the event a Liquidation Offer(s), as submitted, is not accepted by the Receiver. Liquidation Offers shall remain open for acceptance by the Receiver until at least 2:00 p.m. Eastern Standard Time, Tuesday March 15, 2011.
- j) Following the Bid Deadline, the Proposed Receiver will review and assess all Offers and Liquidation Offers received, if any, including reviewing same with GE, or any creditor with a prior ranking security interest in the Property, if any, other than creditors enjoying a statutory priority in respect of the Property (a “**Prior Creditor**”).
- k) Based on its review of both the Offers and the Liquidation Offers, the Receiver will determine the most favourable outcome and will proceed to finalize an APA(s) with the successful offering party or parties, subject only to the approval of this Honourable Court, by March 25, 2011. If the Receiver is unable to finalize the APA with the successful offering party or parties, the Receiver shall be at liberty to finalize an APA with such other offering party or parties as it deems appropriate, subject to consulting first with GE and / or Prior Creditors.
- l) The Receiver shall have the right to extend the timelines set forth in the Sale Process and described herein, only with the support of GE and / or Prior Creditors, and only if such extensions are for a period of time not exceeding ten business days from the date(s) contemplated under the Sale Process. All other extensions or modifications of the Sale Process shall require the approval of this Honourable Court.
- m) In the event one or more APAs are approved by this Honourable Court, the Receiver will work with the successful purchaser(s) to close the transaction(s) forthwith thereafter.

13. The Proposed Receiver understands that Lucky Star Holdings Inc. (“**Lucky Star**”), an entity related to the Company, has advised GE that it has a prior ranking secured interest in and to certain of Northern’s property, including Northern’s rolling stock (the “**Disputed Collateral**”). If this Honourable Court makes the Receivership Order, the Receiver will review the competing

security interests in and to the Disputed Collateral and will work with Lucky Star and GE, and their legal counsel, to either attempt to resolve the issue consensually or, in the alternative, to seek the advice and direction of this Honourable Court in resolving this matter. The Proposed Receiver is of the view that the issue of priority in respect of the Disputed Collateral will need to be determined before the completion of the Sale Process, so that appropriate consultation with economically interested parties takes place during the Sale Process.

14. The Disputed Collateral will be marketed during the Sale Process, along with all of the Property. In the event that priority in and to the Disputed Collateral has not been agreed by GE and Lucky Star or determined by this Honourable Court prior to closing a transaction in respect of the Disputed Collateral, the Receiver will segregate the proceeds of sale related to the Disputed Collateral, to the extent such proceeds are readily determinable (the “**Carve Out**”). In the event of a sale of all of the Property ‘en bloc’, the Receiver will provide its best estimate of the amount of the Carve Out, based on all Offers and Liquidation Offers received. If the value of the Disputed Collateral is not determinable based on the results of the Sale Process, the Receiver will obtain an independent appraisal of the Disputed Collateral to establish the amount of the Carve Out. In the event GE and Lucky Star are unable to agree on the amount of the Carve Out, the Receiver will seek this Honourable Court’s advice and direction with respect to same.
15. Concurrent with its application to appoint PwC as receiver of the Property of Northern, GE is seeking the appointment of PwC as receiver of Atikokan Forest Products Ltd. (“**Atikokan**”) in respect of the assets, undertakings and properties of Atikokan (the “**Atikokan Property**”). If this Honourable Court grants the Lender’s application for an order appointing PwC as receiver in respect of Atikokan, and if the Court approves the proposed sales process in respect of the Atikokan Property, the Proposed Receiver intends to coordinate the sale process for Northern with an identical sale process for Atikokan, as:
  - a) similar Property is being offered for sale in respect of both Northern and Atikokan;
  - b) potential purchasers for the Property and the Atikokan Property are very likely to be the same;
  - c) reduced professional costs will result, by minimizing the duplication of effort with respect to, among other things, preparing marketing materials and identifying potential purchasers and preparing sale documents, including the APA.
16. While efficiencies will be maximized where possible, if appointed as receiver of both Northern and Atikokan, the Receiver will ensure that costs associated with the sale of the Northern Property and the

Atikokan Property are segregated and accounted for separately.

## CONCLUSION

17. The Proposed Receiver is of the view that the Sale Process is reasonable in the circumstances. Northern's operations have been idled since sometime in 2008. Accordingly, there is no "going concern" business available to a Prospective Purchaser. Rather, a Prospective Purchaser may view the opportunity to purchase all of the Company's Property on an 'en bloc' basis, as being strategically attractive. The alternative to an 'en bloc' sale to a Prospective Purchaser is a liquidation of the Property. Under either scenario, the Proposed Receiver is of the view that the Sale Process should provide interested parties with sufficient time to evaluate the Property and to make an offer in respect of the Company and / or the Property, if interested.
18. The Proposed Receiver is filing this report in support of the Lender's application for the approval of the Sale Process.

All of which is respectfully submitted on this 30<sup>th</sup> day of December, 2010.

**PricewaterhouseCoopers Inc.**  
as Proposed Receiver of the Company



Greg Prince  
Senior Vice President

## **TAB 10**

Court File No. CV-10-9042-00CL

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

BETWEEN:

**G.E. CANADA EQUIPMENT FINANCING G.P.**

**Applicant**

**- AND -**

**NORTHERN SAWMILLS INC.**

**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**

**FIRST REPORT OF  
PRICEWATERHOUSECOOPERS INC.  
AS RECEIVER OF  
NORTHERN SAWMILLS INC.**

**January 13, 2011**

## BACKGROUND

1. On January 4, 2011, pursuant to an Order of this Honourable Court (the "Northern Receivership Order") PricewaterhouseCoopers Inc. ("PwC") was appointed as receiver (the "Northern 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 "Northern Property") of Northern Sawmills Inc. ("Northern").
2. On the same date, pursuant to an Order of this Honourable Court (the "Atikokan Receivership Order"), PwC was also appointed as receiver (the "Atikokan Receiver" and, collectively with the Northern Receiver, the "Receiver") pursuant to section 243(1) of the BIA and Section 101 of the CJA over all the assets, undertakings and properties (the "Atikokan Property" and, collectively with the Northern Property, the "Property") of Atikokan Forest Products Ltd. ("Atikokan" and, collectively with Northern, the "Company").
3. Copies of the Northern Receivership Order and the Atikokan Receivership Order made on January 4, 2011 are attached as Appendix "A" hereto.
4. Pursuant to an Order of this Honourable Court also made on January 4, 2011 (the "Northern Sale Process Order"), the Receiver was specifically authorized and directed to carry out and conduct a sales process in respect of the Northern Property, or any material portions thereof, substantially in accordance with the sales process (the "Sale Process") outlined in the Report of PwC as Proposed Receiver of Northern Sawmills Inc. dated December 30, 2010 ("Proposed Receiver's Report").
5. This is the first report (the "First Report") of the Receiver in support of a motion by the Receiver for an order approving the Receiver's newspaper advertisement (the "Advertisement") and teaser (the "Teaser") necessary to give effect to the Sales Process (collectively, the "Documents"), as these Documents are more particularly described in the Proposed Receiver's Report.

6. In preparing this First Report and the Documents, the Receiver has relied upon unaudited and draft, internal financial information of the Company provided to it by the Company or by G.E. Canada Equipment Financing G.P. ("GE") as the lender to the Company. 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 in the Documents.
7. Capitalized terms not defined herein are as defined in the Affidavit of Christopher Rankin of GE, dated December 23, 2010 (the "**Rankin Affidavit**"), the Northern Receivership Order or the Atikokan Receivership Order.

#### **SALE PROCESS AND THE RECEIVER'S RECOMMENDATION**

8. As more particularly described in the Proposed Receiver's Report, the Sale Process provides for the following principal elements in connection with advertisement of the Company and the Property for sale and soliciting offers from prospective purchasers or liquidators in connection with the proposed sale:
  - a) Not later than ten (10) business days after the Sale Process is approved by this Honourable Court (January 18, 2011), the Receiver will:
    - i) advertise the Company and the Property and the Sale Process in the national edition of the *Globe & Mail* and
    - ii) send a teaser and a non-disclosure agreement ("NDA") to all parties identified by PwC as potentially having an interest in the Company and / or the Property.
9. Notwithstanding paragraph 8 a) ii), The Receiver advises this Honourable Court that if approved, the Advertisement is scheduled to first appear on January 19, 2011.
10. As requested by this Honourable Court on January 4, 2011, the Receiver hereby provides a copy of the Advertisement (attached as Appendix "B" hereto) and the Teaser (attached as Appendix "C" hereto) for this Honourable Court's approval.

11. Similarly, the Atikokan Receiver also obtained an Order from this Honourable Court on January 4, 2011 approving a sales process for the Atikokan Property (the "Atikokan Sale Process"). Concurrent with its application to approve the Documents, PwC is seeking the same approval in its capacity as Atikokan Receiver in respect of an advertisement and teaser in connection with the Atikokan Sale Process.
12. While efficiencies will be maximized where possible, as PwC has been appointed as receiver of each of Northern and Atikokan, the Receiver will ensure that costs associated with the sale of the Northern Property and the Atikokan Property are segregated and accounted for separately.

## **CONCLUSION**

13. The Receiver respectfully submits the Documents to this Honourable Court for its approval.

All of which is respectfully submitted on this 13<sup>th</sup> day of January, 2011.

**PricewaterhouseCoopers Inc.**

In its capacity as Receiver of the Northern Sawmills Inc.



Greg Prince  
Senior Vice President

## **TAB 11**

Court File No. CV-10-9042-00CL

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

BETWEEN:

G.E. CANADA EQUIPMENT FINANCING

Applicant

- AND -

NORTHERN SAWMILLS INC.

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

**SECOND REPORT OF  
PRICEWATERHOUSECOOPERS INC.  
AS RECEIVER OF  
NORTHERN SAWMILLS INC.**

**July 14, 2011**

## BACKGROUND

1. On January 4<sup>th</sup>, 2011 ("the "Appointment Date") pursuant to an Order of this Honourable Court (the "Northern Receivership Order") PricewaterhouseCoopers Inc. ("PwC") was appointed as receiver (the "Northern 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 "Northern Property") of Northern Sawmills Inc. ("Northern").
2. On the same date, pursuant to an Order of this Honourable Court (the "Atikokan Receivership Order"), PwC was also appointed as receiver (the "Atikokan Receiver") pursuant to section 243(1) of the BIA and Section 101 of the CJA over all the assets, undertakings and properties (the "Atikokan Property") of Atikokan Forest Products Ltd. ("Atikokan").
3. Pursuant to an Order of this Honourable Court also made on January 4<sup>th</sup>, 2011 (the "Northern Sale Process Order"), the Northern 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 Sawmills Inc. dated December 30, 2010 ("Proposed Northern Receiver's Report").
4. On the same date, pursuant to an Order of this Honourable Court also made on January 4<sup>th</sup>, 2011 "Atikokan Sale Process Order" and together with the Northern Sale Process Order, the "Sale Process Orders"), the Atikokan 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 Sawmills Inc. dated December 30, 2010 ("Proposed Atikokan Receiver's Report", and collectively with the Proposed Northern Receiver's Report, the "Proposed Receivers' Reports").
5. The purpose of this second report (the "Second Report") of the Northern Receiver is to seek this Honourable Court's advice and direction with respect to the applicability of the *Wage*

*Earner Protection Program Act* ("WEPPA") to Northern's former unionized employees, and in particular regarding:

- a) the determination of the applicable employment termination date (the "**Employment Termination Date**") of Northern's former unionized employees who claim or may claim entitlements under WEPPA, and specifically:
  - i) the impact, if any, of the deemed termination of the former unionized employees under section 56(2) of the Ontario *Employment Standards Act* (the "**ESA**");
  - ii) the impact, if any, and duration of, recall rights of the former unionized employees under the applicable collective bargaining agreement;
  - iii) the impact, if any, of the Termination Letters (as hereinafter defined) executed by certain former unionized employees; and
- b) if any Employment Termination Date occurred prior to July 4, 2010, being more than six months prior to the Appointment Date, seek an order from the Court that the Northern Receiver has no responsibilities or obligations under WEPPA with respect to such former employee.

## **EMPLOYEE INFORMATION**

6. During the fall of 2008, after earlier temporary closures, Northern permanently ceased operations at its sawmill and virtually all of its former unionized employees were indefinitely laid off.
7. Following its appointment, the Northern Receiver established that a number of Northern's former unionized employees, were laid off as early as December 2006. However, most were laid off between June and November 2007. Thereafter, some unionized employees were recalled by Northern in the summer of 2008 for a short period of time, and were again laid off by September 2008.
8. Pursuant to Northern's payroll records, the only amounts owed to Northern's former unionized employees are for statutory termination pay and severance pay, and no

amounts are outstanding for other wages, including vacation pay. As a result, no amounts are owed to any of Northern's former unionized employees pursuant to section 81.4 of the BIA.

#### **WEPPA INFORMATION**

9. WEPPA was proclaimed into force on July 7, 2008, and amended on January 27, 2009 and was enacted to provide a timely payment, by Service Canada (the government agency responsible for evaluating, administering and paying employee claims under the program), to eligible employees for eligible wages (as hereinafter defined) owed to them by their former employer within six months of the employer's bankruptcy or receivership.
10. In order to assess the application of WEPPA to Northern's former employees, for whom either their Employment Termination Date is unclear, the Northern Receiver has reviewed WEPPA and relevant employment standards legislation, with a particular focus on the following sections of WEPPA:

**Section 2 (1) "eligible wages" means:**

- "(a) wages other than severance pay and termination pay that were earned during the 6 month period ending on the date of bankruptcy or the first day on which there was a receiver in relation to the former employer; and*
- "(b) severance pay and termination pay that relate to employment that ended during the period referred to in paragraph (a)."*

**Section 5**

*"An individual is eligible to receive a payment if:*

- (a) the individual employment ended for a reason prescribed by regulation;*
- (b) the former employer is bankrupt or subject to a receivership; and*
- (c) the individual is owed eligible wages by the former employer."*

### Section 21 (1)

*"For the purposes of this Act, a trustee or receiver, as the case may be, shall:*

- (a) identify each individual who is owed eligible wages;*
- (b) determine the amount of eligible wages owed to each individual;*
- (c) inform each individual other than one who is in a class prescribed by regulation of the existence of the program established by section 4 and of the conditions under which payments may be made under this Act;*
- (d) provide the Minister and each individual other than one who is in a class prescribed by regulation with the information prescribed by regulation in relation to the individual and with the amount of eligible wages owing to the individual; and*
- (e) inform the Minister of when the trustee is discharged or the receiver completed their duties, as the case may be."*

11. Service Canada's website<sup>1</sup> notes that employees laid off (as opposed to terminated) more than 6 months prior to a bankruptcy or receivership may still have entitlements under the program:

*"There is a distinction between lay-offs and terminations. An individual who is laid-off with a right of recall may be eligible for the WEPP only when the lay-off becomes a termination. The determination of when a lay-off becomes a termination may be found in relevant provincial, territorial or federal employment/labour standards legislation, in relevant collective agreement or employment contacts. It may also be triggered by bankruptcy or receivership. Once a termination date is determined for a laid-off employee, if that termination date falls within the six month period ending on the date of bankruptcy or receivership, the individual may be entitled to termination and severance pay*

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<sup>1</sup> <http://www.servicecanada.gc.ca/eng/sc/wepp/trustees/faq.shtml>.

*under WEPP."*

12. As such, to determine whether Northern's former unionized employees are eligible for a WEPPA claim, and therefore, whether the Northern Receiver is obligated to provide Service Canada with the prescribed information relating to such employees, it is necessary to establish the unionized employees' Employment Termination Date, and, in particular whether the Employment Termination Date occurred in the six month period prior to the Appointment Date, being July 4, 2010 or later. This in turn requires consideration of the impact, if any, of:
  - (i) relevant provincial employment standards legislation;
  - (ii) the collective bargaining agreement (the "CBA") between the Communication, Energy and Paperworkers Union, Local 38X (the "CEP") and Northern and any recall rights thereunder; and
  - (iii) any agreements between Northern and the union or employees, including the Termination Letters.
13. This motion does not concern Northern's former non-union employees as such workers each have a clear Employment Termination Date. The former unionized employees were indefinitely laid-off (rather than terminated) because the CBA does not permit the summary termination of unionized employees other than for just cause.

#### **ONTARIO EMPLOYMENT STANDARDS ACT**

14. The employees were located in Ontario. The *Ontario Employment Standards Act, 2000* (the "ESA") deems laid-off employees to be terminated if their lay off exceeds a "temporary layoff". Section 56(2) defines a temporary lay-off as:

##### ***Section 56(2)***

*"...a temporary layoff is,*

*(a) a lay-off of not more than 13 weeks in any period of 20 consecutive weeks;*

- (b) a lay-off of more than 13 weeks in any period of 20 consecutive weeks, if the lay-off is less than 35 weeks in any period of 52 consecutive weeks [and certain prescribed conditions are met]; or
- (c) in the case of an employee represented by a trade union, a lay-off longer than a lay-off described in clause (b) where the employer recalls the employee within the time set out in an agreement between the employer and the trade union.

15. Section 67 of the ESA provides for an election regarding termination pay and recall rights in defined circumstances:

*Section 67(1) - This section applies if an employee who has a right to be recalled for employment under his or her employment contract is entitled to,*

- a) termination pay under section 61 because of a lay-off of 35 weeks or more; or
- b) severance pay.

...

*(3) - The employee may elect to be paid the termination pay or severance pay forthwith or to retain the right to be recalled.*

16. The Northern Receiver is aware of the Court of Appeal decision in *London Machinery Inc. v. CAW-Canada* which it believes to be instructive on the interplay between Section 67 and Section 56(2)(c).

17. Pursuant to Section 56(5) of the ESA, once a termination is triggered by a lay-off that exceeds the period of a temporary lay-off, the termination is deemed to have occurred on the very first day of the lay-off.

#### **COLLECTIVE BARGAINING AGREEMENT**

18. The Northern Receiver obtained and reviewed with its counsel a copy of the CBA between Northern and CEP, a copy of which is enclosed as Appendix A hereto. Unfortunately, the general seniority and recall rights provisions contained in the CBA are ambiguous and do not provide clear guidance on the expiry date of member's recall rights. Pursuant to:

**Section 5.05 (4)(a) of the CBA:**

*"If an employee is not recalled to his regular classification within one year of the date of layoff from that classification, his recall rights to that classification will expire and he will be deemed to have a new regular classification which will be the classification he is in at the one year date; and*

**Section 5.05 (4)(b) of the CBA:**

*"... if the employee is not actively working on the anniversary date of the lay off from his regular classification he will be deemed to hold a labourer classification. This does not apply to tradesmen and apprentices."*

19. The CBA also contains a Letter of Understanding regarding recall rights, which states:

- 1. Regular full-time employees as of the date of ratification will have general recall rights until August 31, 2008. An agreed upon list of such employees will be prepared.*
- 2. If such employees have not been recalled to a permanent vacancy before August 31, 2008, their seniority will be lost and their employment terminated at that time.*

*Ratified at Thunder Bay, Ontario, this 31<sup>st</sup> day of October, 2004.*

20. In addition, pursuant to Section 5.02(1)(e) of the Northern CBA, employees lose their seniority if absent from work "for a period of 12 months for any reason other than military leave, prolonged illness or absence, with further [sic] twelve months if requested in writing by the employee affected". This 'hard-stop' loss of seniority after 24 months is consistent with discussions the Northern Receiver held with Ms. Jane Ann Gericke, the former Controller of Northern, who advised the Northern Receiver that recall rights of the Northern employees expire after 24 months of lay-off.

## TERMINATION LETTERS & THE MEMORANDUM OF SETTLEMENT

21. Pursuant to Northern's books and records, a number of Northern's former employees executed termination letters (the "Termination Letters"), 66 of which were executed more than six months prior to the Appointment Date. Pursuant to the Termination Letters individual employees specifically elected to waive their recall rights in order to receive the termination pay and severance pay owed to them pursuant to the following statement therein:

*"I am waiving any recall rights to which I might be otherwise entitled and that my employment with Northern Sawmills Inc. will be terminated effective immediately."*

A copy of the Termination Letters provided to the Northern Receiver by Ms. Gericke is attached as Appendix B hereto.

22. On February 15, 2011, the Northern Receiver provided copies of the Termination Letters to counsel to the CEP.

23. Pursuant to a Memorandum of Agreement and Release between Northern and CEP dated July 6, 2010 (the "Memorandum"), the parties agreed that all listed employees had their employment terminated and had no recall rights and Northern acknowledged its obligations to pay the employees the amounts set out in Schedule "A" to the Memorandum. A copy of the Memorandum is attached as Appendix C hereto.

24. Pursuant to paragraph #1 of the Memorandum:

*"The parties agree that the Employees are employees whose employment has terminated and who have no recall rights either because:*

*(a) they are employees whose recall rights expired and whose employment terminated on the date they lost their recall rights; or*

*(b) they are employees who forfeited their right to recall and elected to terminate their employment and claim termination and severance pay, whose employment terminated on the date of their election.*

25. Pursuant to paragraph #2 of the Memorandum:

*“...as all of the Employees have been laid off for in excess of one year, the Union hereby agrees to relieve NSI (i.e. Northern) of its obligations, if any, to personally serve the Employees with written notice of termination or provide or post any other notice or notices”*

26. The Memorandum appears to show Northern's and the CEP's shared understanding that certain former unionized employees' employment ended prior to the execution of the Memorandum on July 6, 2010. In particular, the reference to employees whose employment "has terminated" and whose recall rights had previously expired or had been waived appears to recognize that the employment of certain unionized employees ended before July 6, 2010.

#### **COMMUNICATIONS WITH SERVICE CANADA**

27. Due to the complexities in determining whether Northern's former unionized employees were eligible for a WEPPA claim, the Northern Receiver sought and obtained an initial extension of the timeline for providing information to Service Canada with respect to Northern's employees from 45 days to 75 days, which has further been extended to July 31, 2011.

28. In addition, due to the ambiguity of the CBA, the Northern Receiver contacted Service

Canada, who referred the Northern Receiver to the Canada Industrial Relations Board ("CIRB"), in an effort to have CIRB provide advice and direction to the Northern Receiver regarding the applicable employment termination dates of Northern's former unionized employees, in order to enable the Northern Receiver to establish whether the former employees were eligible to make a WEPPA claim.

29. After several telephone calls with both Service Canada and the CIRB, neither Service Canada nor the CIRB were prepared to advise the Northern Receiver on the application of WEPPA as it relates to Northern's former unionized employees, particularly as to the determination of the employees' employment termination dates, other than to advise the Northern Receiver to make its best determination on the potential eligibility of Northern's former employees to a WEPPA claim, on the information available to it, and to provide Service Canada with the prescribed information relating to such employees. In addition, all former unionized employees of Northern would be responsible for making their own individual WEPPA claim directly with Service Canada, who would make the ultimate determination of the individual employee's eligibility under the program.
30. In order to comply with its obligations prescribed by WEPPA and its related regulations, the Northern Receiver reviewed, with advice and direction from its legal counsel, the Memorandum, the Termination Letters, the CBA and Ontario labour relations and employment standards legislation.
31. The Northern Receiver's analysis has failed to yield a clear, definitive answer to the Employment Termination Date of Northern's former unionized employees. For example, the Employment Termination Date differs depending on whether one considers the ESA, the CBA recall provisions (which themselves yield different answers), or the Termination Letters. In the result, given the remedial nature of

WEPPA, the Northern Receiver attempted to determine the latest reasonable Employment Termination Date for the affected employees. As such, based on the information available to the Northern Receiver, the Northern Receiver initially considered the employee's Employment Termination Date to be the earlier of:

- (i) the date the employee executed a Termination Letter, if any;
- (ii) 24 months following the last day worked, being the latest date on which recall rights would have expired according to Section 5.02 of the CBA and the information provided by the Controller; or
- (iii) July 6, 2010, the date of the Memorandum.

32. Based on its analysis, the Northern Receiver provided information to Service Canada, on or before February 28, 2011, with respect to 54 former unionized employees it believed to have an Employment Termination Date during the six months prior to the Appointment Date, being former employees:

- (i) who had been laid-off no earlier than July 6, 2008 and who did not execute a Termination Letter; or
- (ii) who had executed a Termination Letter in the period that was six months prior to the Appointment Date.

#### **COMMUNICATIONS WITH UNION**

33. During its review of Northern's employee and payroll records, the Northern Receiver contacted the CEP and its legal counsel on a number of occasions.

34. On February 25, 2011, following its analysis of the WEPPA issues, the Northern Receiver contacted CEP's legal counsel, providing details of its reasoning and

conclusions. A copy of the e-mail correspondence with the CEP's legal counsel is attached as Appendix D hereto. Appendix D excludes the employee schedules, which contain personal employee information that has been redacted for the purposes of this report. An unredacted version can be made available to this Honourable Court upon request.

35. On March 15, 2011, at the request of the CEP's legal counsel, the Northern Receiver, issued correspondence to Northern's remaining approximately 180 former employees (both union and non unionized employees) to advise them of WEPPA and its related regulations, providing guidance on the program and to advise such former employees that pursuant to Northern's payroll records no amounts appear to be owed to them within the six month period prior to the Appointment Date. The former employees were also advised by the Northern Receiver to file a claim directly with Service Canada, if they believe they are eligible under the program, and that Service Canada would ultimately determine their individual eligibility. A copy of this correspondence is attached as Appendix E hereto.

36. A copy of correspondence issued by CEP's legal counsel to the Northern Receiver on February 9, 2011 (the "**February Correspondence**") and April 11, 2011 (the "**April Correspondence**") are attached as Appendices F and G hereto.

37. The February Correspondence advised the Northern Receiver that since the cessation of operations, Northern and the CEP had been in regular discussions regarding the state of Northern's operation, which led to the execution of the Memorandum. CEP appears to take the position that, as a result of the Memorandum, the employment of all of Northern's unionized employees in fact "ended" on July 6, 2010 and, as such, all employees are entitled to advance a claim under WEPPA.

38. The April Correspondence advised the Northern Receiver for the first time that Northern appears to have entered into an oral agreement, prior to the receivership proceedings, to extend recall rights, which purported agreement was affirmed in a letter addressed to PricewaterhouseCoopers Inc. and Service Canada executed by Mr. Wolf Gericke, whom the Northern Receiver understands is the former President of Northern, dated April 11, 2011. It does not appear that this purported agreement formed part of the CBA and, in fact, Mr. Gericke's letter confirms that no new CBA has been reached. A copy of the letter executed by Mr. Gericke is attached as Appendix H hereto.

39. In its April Correspondence, CEP requested that the Northern Receiver submit to Service Canada the prescribed information for all former unionized employees of Northern on the basis that CEP believe that all former unionized employees are eligible for payments under WEPPA. CEP's legal counsel also indicated that instructions were received by CEP to schedule a motion for the determination of WEPPA rights and entitlements for all former CEP employees.

40. As a practical matter, the Northern Receiver understands that it is very likely that Service Canada will rely on the Northern Receiver's information and analysis regarding the employees' entitlement to payments under WEPPA. In the circumstances, the Northern Receiver wants to ensure a fair and correct application of its obligations under WEPPA that does not improperly deny any employee payments under the program while at the same time respecting the will of Parliament and the interest of Northern's creditors (as any termination or severance pay paid by Service Canada could attract vacation pay of at least 4% under the ESA, and a super-priority could attach to such vacation pay to the detriment of Northern's secured creditors) as well as Canadian taxpayers generally (as WEPPA does not grant the Government a subrogated super-priority claim for payments under the program in respect of

termination and severance pay).

41. As a result, the Northern Receiver seeks the advice and direction of this Honourable Court with respect to the application of WEPPA to Northern's former employees, in particular:

- a) the Employment Termination Date of Northern's former unionized employees who claim or may claim entitlements under WEPPA, and specifically:
  - i) the impact, if any, of the deemed termination of the former unionized employees under section 56(2) of the Ontario *Employment Standards Act*;
  - ii) the impact, if any, and duration of recall rights of the former unionized employees under the collective bargaining agreement;
  - iii) the impact, if any, of the Termination Letters (as hereinafter defined) executed by certain former unionized employees; and
- b) if any such Employment Termination Date occurred prior to July 4, 2010, being six months prior to the Appointment Date, an order from the Court that the Northern Receiver has no responsibilities or obligations under WEPPA with respect to such former employees.

All of which is respectfully submitted on this 14<sup>th</sup> day of July, 2011.

**PricewaterhouseCoopers Inc.**

in its capacity as Receiver of Northern Sawmills Inc.  
and not in its personal capacity



Greg Prince  
Senior Vice President



Tracey Weaver  
Vice President

## **TAB 12**

Court File No. CV-10-9042-ooCL

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

BETWEEN:

G.E. CANADA EQUIPMENT FINANCING G.P.

Applicant

- AND -

NORTHERN SAWMILLS INC.

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

**THIRD REPORT OF  
PRICEWATERHOUSECOOPERS INC.  
AS RECEIVER OF  
NORTHERN SAWMILLS INC.**

**July 27, 2011**

## BACKGROUND

1. On January 4<sup>th</sup>, 2011 (the “**Appointment Date**”), pursuant to an Order of this Honourable Court (the “**Northern 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 “**Northern Property**”) of Northern Sawmills Inc. (“**Northern**”). A copy of the Northern Receivership Order is attached hereto as **Appendix “A”**.
2. On the same date, pursuant to an Order of this Honourable Court (the “**Atikokan Receivership Order**”), PwC was also appointed as receiver, pursuant to section 243(1) of the BIA and Section 101 of the CJA, over all the assets, undertakings and properties (the “**Atikokan Property**”) of Atikokan Forest Products Ltd. (“**Atikokan**”).
3. Pursuant to an Order of this Honourable Court also made on January 4<sup>th</sup>, 2011 (the “**Northern Sale Process Order**”) attached hereto as **Appendix “B”**, 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 (the “**Proposed Receiver’s Report**”), attached hereto as **Appendix “C”**.
4. Pursuant to an Order of this Honourable Court also made on January 4<sup>th</sup>, 2011 (the “**Atikokan Sale Process Order**”), 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.
5. On January 13, 2011, the Receiver filed its first report with this Honourable Court (the “**First Report**”), attached hereto, without appendices, as **Appendix “D”**, which, *inter alia*, requested this Honourable Court’s approval of the advertisement and the teaser to be

used by the Receiver in connection with the Northern Sale Process.

6. On July 14, 2011, the Receiver filed its second report with this Honourable Court (the “**Second Report**”), attached hereto, without appendices, as **Appendix “E”**, seeking this Honourable Court’s advice and direction with respect to the applicability of the *Wage Earner Protection Program Act* (“**WEPPA**”) to Northern’s former unionized employees, including:
  - i) the determination of the applicable employment termination date (the “**Employment Termination Date**”) of Northern’s former unionized employees who claim or may claim entitlements under WEPPA, including:
    - a) the impact, if any, of the deemed termination of the former unionized employees under section 56(2) of the Ontario *Employment Standards Act*;
    - b) the impact, if any, and duration of, recall rights of the former unionized employees under the applicable collective bargaining agreement;
    - c) the impact, if any, of the Termination Letters (as defined in the Second Report) executed by certain former unionized employees; and
  - ii) if any Employment Termination Date occurred prior to July 4, 2010, being more than six months prior to the Appointment Date, the Receiver sought a declaration from the Court that the Northern Receiver has no responsibilities or obligations under WEPPA with respect to such former employee.
7. The purpose of this, the Receiver’s third report (the “**Third Report**” and collectively with the Proposed Receiver’s Report, the First Report and the Second Report, the “**Reports**”) is to advise and update this Honourable Court with respect to:
  - i) the status of the Northern Sale Process, including a summary of the bids received by the Receiver in respect of the Northern Property;
  - ii) the termination of the EACOM Transaction (as hereinafter defined);

- iii) the activities undertaken by the Receiver subsequent to the termination of the EACOM Transaction with respect to the Northern Property;
- iv) the results of the review conducted by the Receiver's counsel in respect of the security granted by Northern in favour of its secured creditors; and
- v) update this Honourable Court on the Receiver's other activities to date;

And to seek an order of this Honourable Court:

- i) extending the Northern Sale Process timeline for finalizing and executing an agreement with the successful bidder up to and including July 22, 2011, *nunc pro tunc*, to allow the Receiver to complete the Northern Sale Process;
- ii) approving the agency sale agreement (the "Agency Sale Agreement") between the Receiver and Maynards Industries Ltd. ("Maynards") relating to the liquidation of the Northern Property, as discussed below, 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;
- iii) temporarily sealing the Bid Summary (as hereinafter defined) until completion of the sale of that portion of the Northern Property subject to the Agency Sale Agreement;
- iv) authorizing the Receiver to release to RBC the GIC Account (as hereinafter defined) and the amount of \$85,000 held by Northern in the GIC Account;
- v) increasing of the Receiver's borrowing limit, as set out in paragraph 20 of the Northern Receivership Order, from \$300,000 to \$400,000; and
- vi) approving the Reports and the activities of the Receiver as described in the Reports.

8. In preparing the Third Report, the Receiver has relied upon 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.

9. All monetary amounts referred to herein are expressed in Canadian dollars. Capitalized terms not otherwise defined herein are as defined in the Proposed Receiver's Report.

## SALE PROCESS UPDATE

### GENERAL BACKGROUND

10. As more particularly described in the Proposed Receiver's Report, the Northern Sale Process provides for the following principal elements of, and a timeline in connection with, the advertisement of Northern and the Northern Property for sale and the solicitation of offers from prospective purchasers or liquidators (the "**Prospective Purchasers**") in connection with the proposed sale:
  - i) Not later than ten (10) business days after the Northern Sale Process was approved by this Honourable Court, namely by January 18, 2011, the Receiver was required to:
    - a) advertise Northern, the Northern Property and the Northern Sale Process in the national edition of the *Globe & Mail* (the "**Advertisement**");
    - b) send a teaser (the "**Teaser**") and a non-disclosure agreement ("**NDA**") to all parties identified by PwC as potentially having an interest in Northern and/or the Northern Property;
  - ii) Not later than fifteen (15) business days after the Northern Sale Process was approved by this Honourable Court, namely by January 25, 2011, the Receiver was required to establish an electronic data room containing information in respect of Northern and the Northern Property;
  - iii) The Receiver was also required to arrange site visits to allow Prospective Purchasers the opportunity to visit the Northern's premises and conduct due diligence;

- iv) The Prospective Purchasers had until 5:00 p.m. Eastern Standard time, on Wednesday, March 9, 2011 (the "Bid Deadline") to submit binding offers;
- v) Based on its review of the binding offers, the Receiver was required to determine the most favourable offer and proceed to finalize the asset purchase agreement with the successful offering party, subject to the approval of this Honourable Court, by March 25, 2011.
- vi) The Receiver had the right to extend the timelines set forth above for a period of time not exceeding ten (10) business days from the dates indicated above. All other extensions or modifications of the Northern Sale Process require the approval of this Honourable Court.

11. Pursuant to an Order of this Honourable Court made on January 14, 2011, the forms of Advertisement and the Teaser were approved.
12. On January 20, 2011, the Advertisement was published in the national edition of the *Globe & Mail*.
13. Commencing on January 17, 2011, the Teaser and the NDA were sent to the parties who expressed an interest in participating in the Northern Sale Process. The Receiver sent a total of 18 packages containing the Teaser and the NDA to the Prospective Purchasers.
14. On January 24, 2011, the Receiver established an electronic data room (the "Data Room"), containing information on Northern and the Northern Property. The Prospective Purchasers, who executed the NDA, were given access to the Data Room so that they could receive the necessary information in respect of Northern and the Northern Property.
15. The Receiver has also been arranging site visits at the premises of Northern in order to assist the Prospective Purchasers who executed the NDA, with their due diligence efforts.
16. The Receiver received a total of four (4) bids (the "Bids") in respect of the Northern

Property from Prospective Purchasers, including liquidation proposals. A summary of the Bids (the “**Bid Summary**”), as amended based upon the discussions between the Receiver and the Prospective Purchasers, is attached hereto as **Appendix “F”**, which was previously provided to this Honourable Court as Confidential Appendix “A” to the second report of PwC in its capacity as receiver of Atikokan, dated April 18, 2011.

#### EACOM TRANSACTION

17. Based on its review of the Bids, the Receiver, in consultation with GE, had determined that the most favourable offer for the Northern Property (the “**Successful Bid**”) was a Bid submitted by EACOM Timber Corporation (“**EACOM**”), a publicly listed, Canadian forestry company.
18. On April 29, 2011, the Receiver and EACOM executed an asset purchase agreement in respect of a transaction (the “**EACOM Transaction**”) for the purchase and sale of the Northern Property (the “**Northern APA**”). The Northern APA contained various conditions precedent for the benefit of EACOM including conditions typical for transactions of this nature and other business conditions including, but not limited to:
  - i) Within 30 days of the execution of the Northern APA, EACOM was to:
    - a) complete its due diligence review of the Purchased Assets, as defined in the Northern APA;
    - b) obtain financing to fund the total purchase price;
    - c) obtain the approval of the EACOM Transaction from its primary lender; and
  - ii) The Receiver obtaining an Approval and Vesting Order with respect to the Purchased Assets.
19. The Receiver did not immediately seek this Honourable Court’s approval of the EACOM Transaction as it elected to allow EACOM to complete its due diligence with respect to the Northern Property to ensure that the due diligence condition was satisfied prior to seeking this Honourable Court’s approval of the Northern APA.

#### TERMINATION OF THE EACOM TRANSACTION

20. Subsequent to the execution of the Northern APA, EACOM proceeded to conduct its due diligence of the Purchased Assets, as is more particularly described in the Fifth Report of PwC in its capacity as receiver of Atikokan, dated the date hereof and filed with this Honourable Court in the companion motion record.
21. On May 20, 2011, counsel to EACOM e-mailed the Receiver and advised that pursuant to the terms of the Northern APA, EACOM was not satisfied with its due diligence review of the Purchased Assets. Accordingly, EACOM elected to terminate the Northern APA in accordance with its terms.

#### CONTINUATION OF THE NORTHERN SALE PROCESS

22. Following the termination of the EACOM Transaction, as discussed above, the Receiver, in consultation with GE, recommenced the Northern Sale Process by contacting the former Prospective Purchasers, other than EACOM, who had expressed an interest in all or substantially all of the Northern Property (other than Northern's real property) inviting such Prospective Purchasers to submit revised offers for the Northern Property by June 8, 2011. At that point, the Receiver was uncertain whether the recommencement of the Northern Sale Process would yield any offers or whether the Receiver would be forced to abandon the Northern Sale Process altogether. Accordingly, the Receiver determined that seeking this Honourable Court's approval to extend the deadline for executing an asset purchase agreement with a successful bidder would be premature. The Receiver wanted to make a substantive recommendation to this Honourable Court to allow the Court to make an informed decision as to whether the deadline for executing an asset purchase agreement pursuant to the Northern Sale Process should be extended and submit the asset purchase agreement for this Honourable Court's approval at the same time.
23. In response to the Receiver recommencing the Northern Sale Process after the termination of the EACOM Transaction, the Receiver received offers from two liquidators in respect of the Northern Property (the "**Liquidation Offers**").

24. The Liquidation Offers included a proposal from Maynards (the “**Maynards’ Offer**”) and a proposal from EDS Decommissioning Canada Inc. (the “**EDS Offer**”). Both EDS and Maynards specialize in industrial asset sales, with EDS also focusing on demolition and decommissioning of industrial sites.
25. The Maynards’ Offer provided the option of an outright sale of the Northern Property to Maynards, or for Maynards to act as the Receiver’s agent overseeing a liquidation sale of the Northern Property on a “commission-only” basis or with a net minimum guarantee to the Receiver, with net proceeds of sale above a certain threshold to be shared as between the Receiver and Maynards.
26. The EDS Offer was a cash offer to purchase the Northern Property. However, the EDS Offer also contemplated the Receiver remaining in possession of the Northern real property for an additional 12-month period to allow for the completion of the liquidation and dismantling of the assets.
27. The Receiver has determined that entering into an agency arrangement with Maynards for the liquidation of the Northern Property (excluding Northern’s land), subject to a net minimum guarantee being paid to the Receiver is the most favourable alternative available to the Receiver at this time, as:
  - i) liquidating the Northern Property with Maynards will not obligate the Receiver to occupy Northern’s real property for another year, which will give rise to the incurrence of additional costs that are not justified by higher potential recoveries;
  - ii) the net minimum guarantee will provide a base line recovery to the Receiver that is only slightly less than the cash purchase options available to the Receiver from both Maynards and EDS; and
  - iii) if the auction is successful, the overall recovery for the benefit of the Northern’s estate and its stakeholders may in fact be greater than the cash offer contemplated by the EDS Offer or the Maynards Offer.

28. As set out in paragraph 13 of the Proposed Receiver's Report, and as discussed in further detail below, Lucky Star Holdings Inc. ("Lucky Star"), an entity related to Northern, had advised GE prior to the commencement of this receivership proceeding that it had priority over GE in respect of certain of the Northern Property, including certain "rolling stock" (the "**Disputed Collateral**"). The Receiver understands that GE takes the position that it has priority over all other secured creditors in respect of all of the Northern Property, including the Disputed Collateral.
29. The Receiver instructed its counsel, Osler, Hoskin & Harcourt LLP ("Osler") to review the security granted by Northern to its secured creditors. The opinions resulting from such review are described in detail below. However, as a result of its security review, Osler discovered various conflicting security documentation. Accordingly, Osler was unable to definitively determine which secured party has priority over the Disputed Collateral. Following discussions with counsel to GE and Lucky Star, the Receiver is of the view that in the context of the priority dispute in respect of the Disputed Collateral, it is important to determine the value of the Disputed Collateral so that GE and Lucky Star are able make an informed determination with respect to the resolution of the priority claims in respect of the Disputed Collateral. In the Receiver's view, a liquidation of the Northern Property by way of a public auction is the most efficient way to determine the value of the Disputed Collateral, as this will avoid the need to independently value or appraise the Disputed Collateral. The Receiver has consulted with GE and its counsel and counsel to Lucky Star with respect to the engagement of Maynards and is advised that GE and Lucky Star are both supportive of the Receiver engaging Maynards.
30. On July 22, 2011 the Receiver and Maynards finalized the Agency Sale Agreement, a redacted copy of which is attached as **Appendix "G"** hereto. An unredacted copy of the Agency Sale Agreement can be provided to this Honourable Court upon request.
31. Accordingly, based on the foregoing, the Receiver is seeking an approval of the Agency Sale Agreement by this Honourable Court and the authority to execute the Agency Sale Agreement.

#### EXTENSION OF SALE PROCESS TIMELINE

32. As discussed above, pursuant to the Northern Sale Process, the Receiver has the right to extend the timelines set forth in the Northern Sale Process for a period of time not exceeding ten (10) business days without the order of this Honourable Court. Accordingly, an asset purchase agreement was required, under the Northern Sale Process, to be finalized by April 8, 2011. As described above, despite the Receiver's attempts, the original deadline for executing an asset purchase agreement with a successful bidder (which at that time was EACOM), as set out in the Northern Sale Process, was not met by the Receiver. The Northern APA was in fact executed by the Receiver and EACOM on April 29, 2011. However, as described above, all other milestones of the Northern Sale Process were complied with.
33. Given that the EACOM Transaction was ultimately terminated, as described above, the Receiver required additional time to make a determination as to whether to recommence the Northern Sale Process or to abandon it altogether. Upon the recommencement of the Northern Sale Process, as described above, the Receiver also required additional time to negotiate the Agency Sale Agreement with Maynards. The Receiver did not seek this Honourable Court's approval of an extension to the timeline set out in the Northern Sale Process once the EACOM Transaction terminated, as at that time the Receiver did not know how much time would be required to determine an alternative for the sale of the Northern Property.
34. Accordingly, the Receiver respectfully requests and recommends that this Honourable Court make an order, *nunc pro tunc*, providing for an extension of the Northern Sale Process timeline for finalizing and executing an agreement with a successful bidder up to and including July 22, 2011, the date that the Receiver and Maynards executed the Agency Sale Agreement. GE, as the major stakeholder in the Northern estate, has advised the Receiver that it is supportive of such time extension.
35. Given that the Northern Sale Process has taken longer than the Receiver initially anticipated due to the reasons set out above, the Receiver also requires additional funding to complete the transaction now achieved under the Agency Sale Agreement

and other miscellaneous matters in the administration of the Northern receivership estate. The Receiver estimates that an increase of the Receiver's borrowing limit up to \$400,000 is required. The funding of the Northern receivership will continue to be by way of advances from GE to the Receiver under the Receiver's Borrowing Certificates. The professional fees incurred by the Receiver will continue to be paid directly by GE.

## SECURITY OPINION

36. The Receiver requested that its counsel, Osler, Hoskin & Harcourt LLP ("Osler"), conduct a security review of the security granted by Northern in favour of GE and its related entities (collectively, the "**GE Entities**"), Royal Bank of Canada ("RBC"), Lucky Star Inc. ("**Lucky Star**") and Buchanan Sales Inc. ("**Buchanan Sales**") and also to review the intercreditor arrangements among the GE Entities, RBC, Lucky Star and Buchanan Sales, so that the Receiver could provide a report and make a recommendation to this Honourable Court regarding issues relating to competing claims of the GE Entities, RBC, Lucky Star and Buchanan Sales against the Northern Property, if any, and regarding issues relating to the distribution of the proceeds of sale of the Northern Property.
37. On July 25, 2011, Osler issued a security review opinion (the "**Osler Opinion**") to the Receiver stating that subject to the assumptions, qualifications and limitations contained therein, Osler is of the opinion that the security granted by Northern in favour of each of the GE Entities, RBC, Lucky Star and Buchanan Sales creates a valid security interest in favour of each of the GE Entities, RBC, Lucky Star and Buchanan Sales in the personal property described in their respective security. To the extent that Northern has rights in the personal property secured by such security or the power to transfer rights in the personal property secured thereby to the GE Entities, RBC, Lucky Star and Buchanan Sales, as applicable, such security interests, to the extent capable of perfection by possession or registration of a financing statement under the *Personal Property Security Act* (Ontario) (the "**Ontario PPSA**"), and to the extent that the Ontario PPSA applies to the perfection of such personal property, has been perfected.
38. As more particularly described in the Osler Opinion, in respect of the intercreditor

arrangements between the GE Entities, RBC, Lucky Star and Buchanan Sales, the Osler Opinion in effect states that:

- i) pursuant to various postponement agreements among the GE Entities, RBC, Lucky Star and Buchanan Sales, the security granted by Northern in favour of RBC ranks in priority to the security granted by Northern in favour of each of the GE Entities, Lucky Star and Buchanan Sales in respect of the amount of \$85,000 held by Northern in the GIC collateral account (the “**GIC Account**”) with RBC, notwithstanding the order of any registrations effected by any of the GE Entities, RBC, Lucky Star or Buchanan Sales under the Ontario PPSA in respect of Northern;
- ii) except for the personal property of Northern classified as “motor vehicle”, the security granted by Northern in favour of the GE Entities ranks in priority to the security granted by Northern in favour of Buchanan Sales in the personal property of Northern;
- iii) the security granted by Northern in favour of Buchanan Sales ranks in priority to the security granted by Northern in favour the GE Entities solely in respect of the personal property of Northern classified as “motor vehicle”; and
- iv) as between the security granted by Northern in favour of Buchanan Sales and Lucky Star, the security granted by Northern in favour of Lucky Star ranks in priority to the security granted by Northern in favour of Buchanan Sales in respect of the personal property of Northern.

39. Based on the Osler Opinion, as it relates to the security and the priority position of RBC in the GIC Account, the Receiver requests this Honourable Court’s authorization to release to RBC the GIC Account and the amount of \$85,000 held by Northern in the GIC Account.
40. As noted above, GE and Lucky Star have indicated to the Receiver that there is a dispute between them with respect to their respective priority in the Disputed Collateral. As more particularly described in the Proposed Receiver’s Report, the Receiver agreed to

review the competing security interests in and to the Disputed Collateral and work with GE and Lucky Star, and their legal counsel, to either attempt to resolve the issue consensually or, in the alternative, to seek advice and direction of this Honourable Court in resolving this matter.

41. The Osler Opinion indicates that certain security documentation executed by Northern in favour of each of the GE Entities and Lucky Star on the same day appear to be in conflict. The Osler Opinion also states that Osler was unable to determine which of the conflicting agreements govern the rank and priority of the security granted by Northern in favour of each of the GE Entities and Lucky Star and, therefore was unable to provide an opinion with respect to the disputed priority claims of GE and Lucky Star in and to the Disputed Collateral. Counsel for both GE and Lucky Star were advised accordingly.
42. Once the transaction contemplated by the Agency Sale Agreement is completed, if approved by this Honourable Court, the Receiver intends to hold the proceeds attributable to the Disputed Collateral in trust pending the resolution of the dispute between GE and Lucky Star if such resolution is reached prior to the Receiver's discharge. If the dispute between GE and Lucky Star with respect to the Disputed Collateral is not resolved prior to the Receiver's discharge, the Receiver intends to pay the proceeds attributable to the Disputed Collateral into Court prior to its discharge. With respect to the balance of the proceeds from the sale of the Northern Property, the Receiver intends to make a distribution motion before this Honourable Court.

#### **RECOMMENDATION**

43. The Receiver respectfully requests and recommends for the reasons outlined above, that this Honourable Court make an Order, *inter alia*:
  - i) extending the Northern Sale Process timeline for finalizing and executing an agreement with the successful bidder up to and including July 22, 2011, *nunc pro tunc*;
  - ii) approving the Agency Sale Agreement 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;

- iii) temporarily sealing the Bid Summary until completion of the sale of that portion of the Northern Property subject to the Agency Sale Agreement;
- iv) authorizing the Receiver to release to RBC the GIC Account and the amount of \$85,000 held by Northern in the GIC Account;
- v) increasing of the Receiver's borrowing limit, as set out in paragraph 20 of the Northern Receivership Order, to \$400,000; and
- vi) approving the Reports and the activities of the Receiver as described in the Reports.

All of which is respectfully submitted this 27<sup>th</sup> day of July, 2011.

**PricewaterhouseCoopers Inc.**

In its capacity as Receiver of  
Northern Sawmills Inc.



Greg Prince  
Senior Vice President

## **TAB 13**

Court File No. CV-10-9042-00CL

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

BETWEEN:

G.E. CANADA EQUIPMENT FINANCING G.P.

Applicant

- AND -

NORTHERN SAWMILLS INC.

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

**FOURTH REPORT OF  
PRICEWATERHOUSECOOPERS INC.  
AS RECEIVER OF  
NORTHERN SAWMILLS INC.**

**March 9, 2012**

## INTRODUCTION

1. On January 4, 2011 (the “**Appointment Date**”), pursuant to an Order (the “**Northern Receivership Order**”) of the Ontario Superior Court of Justice, Commercial List (the “**Court**”), upon an application made by G.E. Canada Equipment Financing G.P. (“**GE**”), 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 “**Northern Property**”) of Northern Sawmills Inc. (“**Northern**”).
2. On the same date, pursuant to an Order of the Court (the “**Atikokan Receivership Order**”), PwC was also appointed as receiver, pursuant to section 243(1) of the BIA and Section 101 of the CJA, over all the assets, undertakings and properties (the “**Atikokan Property**”) of Atikokan Forest Products Ltd. (“**Atikokan**”).
3. Pursuant to an Order of the Court also made on January 4, 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 (the “**Proposed Receiver's Report**”). Also, on January 4, 2011, the Court granted an order authorizing the Receiver to carry out a parallel sale process in respect of the Atikokan Property (the “**Atikokan Sale Process**”).
4. To date, the Receiver has filed three reports with the Court. The purpose of this, the Receiver’s fourth report (the “**Fourth Report**”) is to advise and update the Court with respect to:
  - a) the results of the Liquidation Process, as hereinafter defined; and
  - b) the Receiver’s activities with respect to the sale of Northern’s real property (the “**Real Property**”);

and to seek an order of the Court:

- a) approving an asset purchase agreement (the “**APA**”) between the Receiver and 2308703 Ontario Ltd. (“**2308703**”) in respect of the purchase and sale of the Real Property, and certain other of the Northern Property (the “**Purchased Assets**”) and vesting title in and to the Purchased Assets in 2308703;
- b) temporarily sealing the un-redacted versions of the APA, pending the closing of the sale of the Real Property to 2308703; and
- c) approving the Fourth Report and the activities of the Receiver as described herein.

5. In preparing the Fourth Report, the Receiver has relied upon unaudited and draft financial information of Northern. 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.
6. All monetary amounts referred to herein are expressed in Canadian dollars. Capitalized terms not otherwise defined herein are as defined in the Proposed Receiver’s Report.

## **SALE OF NORTHERN’S PROPERTY EXCLUDING REAL PROPERTY**

### **BACKGROUND**

7. As described in the Receiver’s third report to Court, dated July 27, 2011 (the “**Third Report**”), attached hereto (without appendices) as **Appendix “A”**, the Receiver entered into an agreement on April 29, 2011 with Eacom Timber Corporation (“**Eacom**”) for the purchase and sale of substantially all of the Northern Property (the “**Eacom Northern Transaction**”), subject to a number of conditions that were required to be satisfied in order to close the Eacom Transaction.
8. On May 20, 2011, Eacom advised the Receiver that it was not satisfied with the results of its due diligence in respect of the Northern Property that was subject to the Eacom Northern

Transaction and, accordingly, Eacom elected to terminate the Eacom Northern Transaction.

- Subsequent to the termination of the Eacom Northern Transaction, the Receiver invited those parties who had expressed an interest in all or part of the Northern Property during the Northern Sale Process, other than Eacom, to re-submit revised offers for the Northern Property, other than the Real Property, by June 8, 2011.

#### **LIQUIDATION OF CERTAIN PROPERTY BY MAYNARDS**

- As a result of the extension of the Northern Sale Process, the Receiver received two offers from liquidators in respect of the Northern Property. After reviewing the offers and consulting with GE and legal counsel to Lucky Star Holdings Inc. ("Lucky Star"), who also claimed a security interest in the Northern Property, the Receiver finalized an agreement for the liquidation of the Northern Property, excluding the Real Property, (the "Agency Sale Agreement") with Maynards Industries Ltd. ("Maynards") on July 22, 2011.
- On August 12, 2011, the Court made an order (the "Liquidation Order"), approving the Agency Sale Agreement, as amended, between the Receiver and Maynards and authorized the Receiver to execute the Agency Sale Agreement and take such other steps as were necessary and desirable for the completion of the liquidation of the Northern Property, excluding Northern's real property (the "Liquidation Process").
- On September 28 and 29, 2011, Maynards conducted an auction of the Northern Property (the "Northern Auction"), the results of which are summarized as follows:

Northern Sawmills Inc. Reconciliation of Liquidation Proceeds	
<b>Total Proceeds from Liquidation</b>	\$ <b>2,180,874</b>
Less: Maynards Costs	(175,000)
Maynards Participation	(131,175)
<b>Net Proceeds from Liquidation</b>	<b>1,874,699</b>

13. In total, Maynards divided the Northern Property, which was subject to the Agency Sale Agreement, into 1,084 total lots that were offered for sale. Subsequent to the date of the auction, Maynards advised the Receiver that a total of 102 lots were not sold at the auction (the “**Unsold Lots**”). In addition, of the total lots offered for sale, 588 of the lots were sold on credit (the “**Credit Sold Lots**”). Subsequent to the completion of the Northern Auction, Maynards attempted to sell the Unsold Lots to parties who purchased certain of the Northern Property at the auction and to other parties known to Maynards as potentially having an interest in such property. As of the date of the Fourth Report, 105 lots remain unsold (the “**Remaining Lots**”), representing those Unsold Lots Maynards has unable to sell and certain of the Credit Sold Lots, for which payment ultimately was not collected from purchasers.
14. Included in the Total Proceeds from Liquidation summarized above are proceeds from the sale of the Disputed Collateral, as defined in the Third Report, which is approximately \$300,000. The Receiver will provide further information to GE and Lucky Star to assist them in determining whether or not the parties are able to agree to a settlement with respect to the net amounts attributable to the Disputed Collateral. If an agreement is not achievable, the Receiver will include matters relevant to determining priority in and to the Disputed Collateral in its next report to the Court, which will be filed in support of a motion the Receiver intends to bring for the distribution of a portion of the net proceeds realized in respect of the Northern Property.
15. One of the Remaining Lots is a building that was previously used as a chromated copper arsenate plant but which was later converted to a copper azole plant (the “**CA Plant**”) which contains a number of storage tanks and vessels containing chemicals used as wood preservatives, which pose a potential environmental concern if they are not consumed during operations or removed. The disposition of the CA Plant is described more fully below.
16. The Receiver is of the view that it is not commercially reasonable or practical to continue with efforts to sell the Remaining Lots. The Remaining Lots were offered for sale in an open sales process and have remained unsaleable during the Liquidation Process,

notwithstanding Maynards' continued efforts to realize on the Remaining Lots. Accordingly, it is the Receiver's intention to abandon the Remaining Lots. However, subject to the approval of the Court, the proposed sale of the Real Property described below includes the assumption of certain other of the Property by 2308703, including the CA Plant.

17. Subsequent to the completion of the auction of the Northern Property that was subject to the Agency Sale Agreement, successful bidders were required to remove purchased Property from the Real Property, located at 490 Maureen Street, Thunder Bay, Ontario (the "Northern Site").
18. On November 8, 2011, the Ontario Ministry of Labour notified Maynards that the Northern Site was not in compliance with certain Occupational Health and Safety ("OHS") requirements. An order was made by the Ministry of Labour that required compliance with the OHS' requirements. Accordingly, the process of dismantling and removing the purchased Property was delayed while the Northern Site was brought into compliance with the OHS' requirements. Additional delays were experienced in connection with the removal of the purchased Property from the Northern Site, which resulted from further intervention by the OHS, weather-related delays and difficulties experienced by Maynards in coordinating the dismantling and demolition efforts of a number of purchasers and their agents. As a result of the delays that were experienced purchasers required additional time to remove purchased Property. Accordingly, Maynards, in consultation with the Receiver, granted extensions for the time for removal of the purchased Property.
19. As of the date of this Fourth Report, other than the Remaining Lots, all of the Northern Property purchased at the Northern Auction has been removed from the Northern Site, except for Northern Property purchased by 6322093 Manitoba Inc. ("632") and / or its affiliates and 2308703. The Receiver has been advised by legal counsel to 2308703 and 632 that the parties entered into an agreement on December 14, 2011 governing 632's ability to continue to access the Northern Site subsequent to the closing of the sale of the Real Property, subject to the Court's approval, as described more fully below. Accordingly, the sale of the Real Property, as more fully described below, will not prejudice any parties who purchased Northern Property during the Liquidation Process.

## SALE OF NORTHERN'S REAL PROPERTY

### PROCESS FOR SALE OF REAL PROPERTY

20. As a result of the termination of the Eacom Northern Transaction, in addition to negotiating the Agency Sale Agreement with Maynards and completing the sale of certain of Northern's Property in the Liquidation Process, the Receiver contacted the second party who had expressed an interest in the Real Property during the Northern Sale Process (the "**Interested Party**", a party related to 2308703) to investigate whether that party was still interested in purchasing the Northern Site.
21. During the Northern Sale Process, as part of its efforts to market the Real Property along with all of Northern's Property, the Receiver approached the City of Thunder Bay, legal counsel to Lucky Star and Northern Wood Preservers Inc. ("NWP"), an entity which owned land adjacent to the Real Property, to enquire as to their interest in acquiring the Real Property. The Receiver also marketed the Real Property to potentially interested parties at that time.
22. Following the termination of the Eacom Northern Transaction, the Receiver considered the merits of extending the Northern Sale Process in respect of the Real Property. The Receiver, in consultation with GE, did not ultimately seek to renew or extend the Northern Sale Process in respect of the Real Property, as:
  - a) Northern's operations had been shut down commencing in 2007 and the site's appeal for use as a sawmill was clearly limited based on the results of the Northern Sale Process and current market conditions;
  - b) the opportunity to acquire the Real Property was included in the Receiver's publication of the Northern Sale Process pursuant to the Northern Sale Process Order and the opportunity to acquire the Real Property was offered to any and all interested parties who were aware of the opportunity;
  - c) information in respect of the Real Property was made available to any

parties who had expressed an interest therein, by accessing the data room established by the Receiver; and

- d) in the Receiver's view, the environmental conditions associated with the Real Property and the adjacent NWP Land (defined below) diminishes the marketability of the Real Property.

23. Accordingly, the Receiver, in consultation with GE as the major secured creditor, was of the view that subsequent to the termination of the Eacom Northern Transaction it was practical to deal directly with the Interested Party with respect to the sale of the Real Property as the Receiver did not view the additional time and expense of reviving the Northern Sale Process, in respect of the Real Property, to be justified, in the circumstances.

#### **OVERVIEW OF REAL PROPERTY AND ENVIRONMENTAL MATTERS**

24. The Real Property is located in an industrial area in Thunder Bay, on the shore of Lake Superior. A diagram summarizing the Real Property is attached hereto as Appendix "B".

25. In addition to the Real Property, NWP also owns land contiguous to the Real Property (the "**NWP Land**"), which is highlighted in Appendix "B". Although the NWP Land and the Real Property are legally divided, the Receiver understands that Northern's former sawmilling operations took place on the NWP Land and the Real Property.

26. The Receiver also understands that the Real Property and the NWP Land were collectively owned and / or operated in the past by both Abitibi-Consolidated Inc. ("**Abitibi**") and Canadian National Railway Corporation ("**CN**"), in addition to being owned by NWP.

27. In August 1997, NWP, CN and Abitibi, along with Her Majesty the Queen in Right of Canada, represented by the Department of the Environment, and Her Majesty the Queen in Right of the Province of Ontario, represented by Ontario Ministry of Environment and Energy, (now the Ministry of the Environment or "**MOE**") entered

into an agreement governing the remediation and containment of certain environmental conditions related to the NWP Land and / or the Real Property, known as the "**NOWPARC Agreement**". The Receiver understands that the NOWPARC Agreement resulted from the detection of areas of environmental concern, including the identification of contamination in the sediment in the Thunder Bay harbour near to NWP's "manufacturing facility".

28. The Receiver understands that the remediation and containment project was completed in 2005, as evidenced by an agreement dated July 26, 2005 (the "**Completion Agreement**").
29. The Receiver understands that NWP has continuing monitoring and reporting requirements with respect to the NWP Land and that it continues to oversee the operation of a water treatment plant located on the NWP Land. Although the NWP Land and the Real Property are legally divided, for practical purposes the Receiver understands that NWP requires ongoing access to the Real Property in order to carry out its duties and obligations as set forth in the NOWPARC Agreement and the Completion Agreement.

#### **SUMMARY OF PROPOSED TRANSACTION**

30. The Interested Party had offered to purchase the Real Property during the Northern Sale Process and an offer was made by a company related to 2308703 (the "**Initial Offer**"). As a result of the Receiver pursuing the Eacom Northern Transaction, the Receiver advised the Interested Party that it was not in a position to pursue the Initial Offer at that time.
31. During the Liquidation Process, the Receiver learned from Maynards that the Interested Party purchased one of the buildings at the Northern Auction. In addition, during the Liquidation Process, the principal of the Interested Party approached the Receiver to again discuss its interest in acquiring the Real Property.
32. After again discussing the opportunity to acquire the Real Property with the Receiver, the Interested Party made an offer to purchase the Real Property with a proposed

closing to take place at the end of November 2011.

33. In November 2011, the Receiver advised the Interested Party that the removal of Property from the Northern Site resulting from the Northern Auction was progressing more slowly than originally anticipated, as described earlier in this Fourth Report. As a result, the Receiver advised that a closing date in 2011 would not be achievable, unless the Interested Party was willing to oversee the removal of the purchased Property resulting from the Liquidation Sale.
34. As a result of its continuing discussions with the Interested Party, the Receiver learned that the Interested Party required certain concerns to be addressed to its satisfaction, as conditions precedent to its purchase of the Real Property, which included:
  - a) debris resulting from the demolition of buildings during the Liquidation Process were required to be removed from the Real Property;
  - b) property tax arrears would not be assumed by purchaser (the "**Tax Arrears**"); and
  - c) chemicals located in CA Plant were required to be removed.
35. The Receiver obtained an estimate of the costs associated with the removal of debris (the "**Debris Removal Costs**").
36. The Receiver received quotations from three waste removal companies with respect to the removal of chemicals from the CA Plant (the "**Chemical Removal Costs**").
37. As a result of the estimated Chemical Removal Costs and Debris Removal Costs and, recognizing the potential concerns associated with overseeing the removal of chemicals from the CA Plant, the Receiver and 2308703 negotiated a reduction in the purchase price in respect of the Real Property. In exchange, 2308703 agreed to include the CA Plant as a purchased asset and agreed to assume responsibility for the removal of the chemicals in the CA Plant. In addition, in exchange for a contribution by the Receiver toward the Debris Removal Costs, 2308703 agreed to take responsibility for the

removal of debris and also agreed to assume another of the Remaining Lots, an electrical transformer with suspected PCB contamination. The reduction in the purchase price combined with the cash contribution to 2308703 in respect of the Debris Removal Costs will result in higher net realizations than if the Receiver were to bear the Chemical Removal Costs and the Debris Removal Costs directly.

38. With respect to the Tax Arrears, the Receiver applied for and received a Vacancy Rebate in January 2012 regarding municipal taxes levied by the City of Thunder Bay in 2011, which reduced the amount of the Tax Arrears from approximately \$165,000 to approximately \$120,000. Should the Court approve the sale of the Real Property to 2308703, upon closing the sale the Receiver will receive the balance of the purchase price owing. It is the Receiver's intention to deal with the distribution of Property, including the proceeds of sale of the Real Property, in a subsequent motion. Accordingly, the Receiver will hold the proceeds realized from the sale of the Real Property until the outcome of such motion is determined.
39. On March 9, 2012, the Receiver and 2308703 entered into the APA, a redacted copy of which is attached hereto as Appendix "C" hereto. An un-redacted copy of the APA will be filed with the Court, subject to the Receiver's request for a temporary sealing order, pending the closing of the sale of the Real Property to 2308703. The key conditions of the APA are as follows:
  - a) the Purchased Assets include the Real Property, the CA Plant and a contaminated transformer;
  - b) the Receiver is to provide vacant possession of the Real Property to 2308703. However, as described above, 2308703 and 632 have entered into a separate agreement governing the continued access of 632 to remove Property it purchased in the Northern Auction, in the event the Court approves the APA and the sale of the Real Property to 2308703 closes prior to 632 removing the Property it purchased;
  - c) the APA includes an acknowledgement by 2308703 that NWP has an ongoing entitlement to a registered easement in respect of portions of the Real Property, to enable it to have access to the NWP Land;

- d) the Receiver is required to obtain a vesting order in the form attached as schedule "A" to the APA; and
- e) the proposed closing date shall be on or before March 20, 2012, or such later date as mutually agreed to by 2308703 and the Receiver (the "**Closing Date**").

40. The Receiver is of the view that all of the conditions precedent to closing the sale of the Purchased Assets to 2308703 have been met or are capable of being met, on or before the Closing Date.

41. Although the formal consent of the MOE was not required in respect of the proposed sale, the Receiver was required to provide any party interested in "dealing with" the Real Property with a Certificate of Requirement, registered on title to the Real Property (the "**Certificate**"). The APA contains a specific acknowledgement by 2308703 that it has received the Certificate and other such documents referred to in the APA. The Receiver provided copies of various drafts of the APA to representatives of the MOE at various stages during its negotiation with 2308703 and kept the MOE apprised of the Receiver's efforts to sell the Real Property. This Fourth Report will be served on the MOE in connection with the relief sought by the Receiver as described herein. The Receiver understands from the MOE that it takes no position with respect to the sale of the Real Property to 2308703.

## RECOMMENDATION

42. The sale of the Real Property to 2308703 is beneficial to stakeholders as it provides:

- a) a transferee for the Real Property and avoids the need for the Receiver to abandon the Real Property;
- b) a positive realization, a portion of which will be available for distribution to the Company's creditors;
- c) for the clean-up of debris and chemicals on the Real Property; and

d) for the assumption of certain Purchased Assets with known or suspected environmental conditions.

43. The Receiver respectfully requests and recommends, for the reasons outlined above, that the Court make an Order, *inter alia*:

- a) approving the APA and vesting the Company's right, title and interest in and to the Purchased Assets in 2308703, free and clear of all encumbrances (the "Approval and Vesting Order");
- b) Sealing the un-redacted version of the APA, pending the closing of the sale of the Real Property to 2308703; and
- c) approving the Fourth Report and the activities of the Receiver as described herein.

All of which is respectfully submitted this 9<sup>th</sup> day of March, 2012.

**PricewaterhouseCoopers Inc.**  
In its capacity as Receiver of Northern Sawmills Inc.



Greg Prince  
Senior Vice President

G.E. Canada Equipment Financing G.P.

and

Applicant

Northern Sawmills Inc.

Court File No: CV10-9042-00CL

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.

Respondent

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

Proceeding commenced at Toronto

**COMPENDIUM**

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