

<b>SUMMARY OF CURRENT DOCUMENT</b>	
<b>Name of Issuing Party or Person</b>	PricewaterhouseCoopers Inc., Receiver
<b>Date of Document:</b>	December 2002
<b>Summary of Order/Relief Sought or statement of purpose in filing:</b>	Application of the Receiver for Court approval of the 14 Final Determinations allowed by the Applicant in their entirety and of allowed portions of the 5 Final Determinations allowed by the Applicant in part, in accordance with paragraph 16 of the Claims Plan.
<b>Court Sub-File Number:</b>	

**2002 01T 0352**  
**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR**

**IN THE MATTER OF** a Court ordered  
 Receivership of Hickman Equipment (1985) Limited  
 ("Hickman Equipment") pursuant to Rule 25 of the  
*Rules of the Supreme Court*, 1986 under the  
*Judicature Act*, R.S.N.L. 1990, c. J-4, as amended

**AND IN THE MATTER OF** the *Bankruptcy and Insolvency Act*, Chapter B-3 of the Revised Statutes of Canada, 1985, as amended (the "BIA")

**INTERLOCUTORY APPLICATION**  
**(Inter Partes)**

The Application of PricewaterhouseCoopers Inc., Receiver and Trustee of Hickman Equipment (the "Applicant") says as follows:

1. By order of this Honourable Court granted on the 13<sup>th</sup> day of March, 2002 and filed with the Court on the 14<sup>th</sup> day of March, 2002 it was ordered that the Applicant be appointed Receiver of Hickman Equipment (the “Receivership Order”).
2. By a Receiving Order (the “Receiving Order”) made on the 13<sup>th</sup> day of March, 2002, pursuant to the provisions of the BIA and filed with the Supreme Court of Newfoundland and Labrador in Bankruptcy and Insolvency on the 14<sup>th</sup> day of March, 2002, Hickman Equipment was adjudged bankrupt and the Applicant was appointed as trustee of the estate of the bankrupt in bankruptcy (the “Trustee”).
3. The Receivership Order gives the Applicant the overall mandate of developing a plan and procedural structure for the liquidation of the assets of Hickman Equipment, as defined at paragraph 6 of the Receivership Order, and also a plan for the determination of the legal and equitable rights of all creditors and claimants.
4. Paragraph 10(e) of the Receivership Order provided that the Applicant was to develop a plan for the efficient resolution of the disputes relating to security status and priority among various creditors claims to Assets. In that regard, a Claims Plan was approved by this honourable Court by its Order dated May 14<sup>th</sup> 2002 and filed May 17, 2002 (the “Claims Plan”).

5. Paragraph 14 of the Claims Plan requires the Applicant to issue a Final Determination for each of the secured claims presented to it. The Final Determination would either allow the claim as a valid secured claim under s.135(5) of the BIA or disallow it. As indicated in paragraph 15 of the Claims Plan, claims disallowed under this process are afforded a 30 day right of appeal under the BIA. By operation of paragraph 16 of the Claims Plan, the allowed secured claims are to be brought before this Honourable Court for an Order confirming such allowance.
6. The Applicant has issued Final Determinations for 23 creditors with claims to security. 2 Final Determinations remain outstanding and will be finalized as soon as possible. These Final Determinations are more particularly described in the affidavit of James A. Kirby, C.A., CIRP, Senior Vice-President of PricewaterhouseCoopers Inc., the Receiver of Hickman Equipment ("the "Kirby Affidavit").
7. Among the 23 Final Determinations issued by the Applicant, the Applicant has allowed 19 Claims, either in whole or in part, as follows. These Final Determinations are attached as exhibits to the Kirby Affidavit.

*Claims allowed in their entirety:*

- (a) ABN-AMRO Leasing/ABN-AMRO Bank Canada
- (b) Bombardier Capital Leasing Limited
- (c) Cedarapids Inc.

- (d) Contract Funding Group Inc.
- (e) Culease Financial Services
- (f) Daimler Chrysler
- (g) General Motors Acceptance Corporation of Canada
- (h) Ingersoll Rand
- (i) MTC Leasing Inc.
- (j) National Leasing Group Inc.
- (k) Orix Credit Alliance of Canada
- (l) Royal Bank of Canada
- (m) TD Asset Finance
- (n) Tramac Equipment Limited

Claims allowed in part:

- (o) CIBC
- (p) CIT Financial Ltd.
- (q) GMAC Leaseco
- (r) John Deere Credit Inc.
- (s) John Deere Limited

8. Therefore, in accordance with paragraph 16 of the Claims Plan, the Applicant applies to this Honourable Court for an Order:
  - (a) Approving those Final Determinations that the Applicant has allowed in their entirety, set out at paragraph 7 herein;

- (b) Approving the allowed portions of the Final Determinations that the Applicant has allowed in part, set out in paragraph 7 herein;
- (c) Ordering that the time for service of this Application upon the "Interested Parties" established by the Receivership Order be abridged and that 5 clear day's notice of this Application upon the various Interested Parties be deemed adequate notice of the Application for the purposes of hearing this matter by this Honourable Court.

DATED at St. John's, in the Province of Newfoundland and Labrador, this\_\_\_\_ day of December, 2002.

PATTERSON PALMER  
Solicitors for the Applicant  
whose address for service is:  
Suite 1000, 235 Water Street  
P.O. Box 610  
St. John's, NL A1C 5L3

Attention: Frederick J. Constantine

Issued at St. John's on the \_\_\_\_day of December, 2002.

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**AND IN THE MATTER OF** the *Bankruptcy and*  
*Insolvency Act, Chapter B-3* of the Revised  
Statutes of Canada, 1985, as amended

**NOTICE**

You are hereby notified that the foregoing application will be made to the Judge presiding  
in Chambers at the Court House at St. John's, Newfoundland and Labrador on  
\_\_\_\_\_ the \_\_\_\_\_ day of December 2002, at \_\_\_\_\_ .m. or so soon thereafter  
as the application can be heard.

**TO:** See attached distribution list.

<b>SUMMARY OF CURRENT DOCUMENT</b>	
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<b>Date of Document:</b>	____ day of December 2002
<b>Summary of Order/Relief Sought or statement of purpose in filing:</b>	Application of the Receiver for Court approval of the 14 Final Determinations allowed by the Applicant in their entirety and of allowed portions of the 5 Final Determinations allowed by the Applicant in part, in accordance with paragraph 16 of the Claims Plan.
<b>Court Sub-File Number:</b>	7:

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**AND IN THE MATTER OF** the *Bankruptcy and Insolvency Act*, Chapter B-3 of the Revised Statutes of Canada, 1985, as amended (the "BIA")

**ORDER ON INTERLOCUTORY APPLICATION (INTER PARTES)**

OF PRICEWATERHOUSECOOPERS INC. AS RECEIVER OF HICKMAN EQUIPMENT(1985) LIMITED ("HICKMAN EQUIPMENT")

**BEFORE THE HONOURABLE Mr. Justice Hall**

**WHEREAS** this matter having come on for hearing on the \_\_\_\_ day of December 2002;

**AND WHEREAS** the parties listed in Schedule "A" to this Order having been served with notice of this application in the manner ordered by this Court on March 28, 2002;

**AND WHEREAS** the parties listed in Schedule "B" to this Order having appeared and having been heard;

**AND UPON** reading the Affidavit of James Kirby, C.A., CIRP, Senior Vice President of PricewaterhouseCoopers Inc., St. John's, Newfoundland and Labrador, dated \_\_\_\_ December 2002 (the "Kirby Affidavit");

**IT IS THIS DAY ORDERED AS FOLLOWS:**

1. The time for service of the Application herein be and it is hereby abridged and validated such that 5 clear days notice of this Application upon the various Interested Parties be deemed adequate notice of the Application for the purposes of hearing this matter by this Honourable Court.
2. The Final Determinations for the following secured creditors, issued in accordance with the Claims Plan and attached as exhibits to the Kirby Affidavit are hereby accepted and confirmed:
  - a. ABN-AMRO Leasing/ABN-AMRO Bank Canada
  - b. Bombardier Capital Leasing Limited
  - c. Cedarapids Inc.
  - d. Contract Funding Group Inc.
  - e. Culease Financial Services
  - f. Daimler Chrysler
  - g. General Motors Acceptance Corporation of Canada
  - h. Ingersoll Rand
  - i. MTC Leasing Inc.
  - j. National Leasing Group Inc.

- k. Orix Credit Alliance of Canada
- l. Royal Bank of Canada
- m. TD Asset Finance
- n. Tramac Equipment Limited

3. The portions of the following Final Determinations that have been allowed by the Applicant, issued in accordance with the Claims Plan and attached as exhibits to the Kirby Affidavit are hereby accepted and confirmed:

- o. CIBC
- p. CIT Financial Ltd.
- q. GMAC Leaseco
- r. John Deere Credit Inc.
- s. John Deere Limited

4. The Applicant be and is hereby authorized and empowered at any time and from time to time to apply to this Court for advice and directions in the discharge of its power and duties hereunder.

**DATED** at St. John's, in the Province of Newfoundland and Labrador this \_\_\_\_\_ day of December, 2002.

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**REGISTRAR**

**Schedule “A”**  
**Parties who have been Served**

ABN Amro Bank Canada/ ABN Amro Leasing & Tramac Equipment Ltd.	Aubrey L. Bonnell, Q.C./ Brian Winsor David Timms Brent Keenan	722-7521 905-331-2020
Bombardier Capital Leasing & Culease Financial Services	John French	754-2701
Caterpillar Equipment	Colin D. Grant	905-849-5512
CAT Finance	James Smyth, Q.C./ Philip Warren	754-5662
Cedarrapids	Nathan Mixdorf/ Francoise Belzil	319-399-4760 780-413-3152
CIBC	R. Wayne Myles/ Geoffrey Spencer	579-2647
CIBC Equipment Finance Ltd./CIT Financial Ltd./	Gregory W. Dickie	722-9210
Contract Funding Group Inc.	Mark G. Klar	416-218-1831
Daimler Chrysler Financial Services/ Daimler Chrysler Capital Services/ Mercedes- Benz of Canada Inc.	Philip Buckingham/ Peter O'Flaherty Elaine Gray	722-4720 416-863-3527
Fabtek Corp.	Linc A. Rogers Rhodie E. Mercer, Q.C.	416-863-2653 726-5705
GE Capital	Harvey Chaiton Frederic Scalabrini	416-218-1849 905-319-4855
GMAC	Thomas R. Kendall, Q.C.	722-1763
Group Holdings Ltd./ Hickman Equipment/ Hickman Holdings Ltd.	Robert Stack/ Griffith D. Roberts	726-2992
Ingersoll-Rand Canada Inc.	R. Barry Learmonth, Q.C. Jonathan Wigley	739-8151 416-863-6275

John Deere Ltd./ John Deere Credit Inc.	Neil L. Jacobs / Bruce Grant/ Maureen Ryan	722-4565
MTC Leasing Inc./ National Leasing Group Inc.	R. Paul Burgess	754-0915
ORIX Financial Services Canada Ltd.	Donald Yaeck	416-236-3010
Goodman Associates	Paul G. Goodman	902-425-3777
Royal Bank of Canada	Thomas O. Boyne, Q.C.	902-463-7500
TD Asset Finance Corp.	D. Bradford L. Wicks	753-5221
Wells Fargo Equipment Finance Co.	Richard B. Jones	416-361-6303

**Schedule “B”**  
**Parties who have been heard**

Frederick J. Constantine      Counsel for PricewaterhouseCoopers Inc.,