

SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person	PricewaterhouseCoopers Inc., Receiver
Date of Document:	24 January 2003
Summary of Order/Relief Sought or statement of purpose in Filing:	Approval of sale of remaining parts inventory
Court Sub-File Number	7:28

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")

**ORDER ON INTERLOCUTORY APPLICATION (INTER PARTES)**  
UPON THE APPLICATION OF PRICEWATERHOUSECOOPERS INC. AS RECEIVER  
OF HICKMAN EQUIPMENT (1985) LIMITED ("HICKMAN EQUIPMENT")


**BEFORE THE HONOURABLE Mr. Justice Hall**

**WHEREAS** this matter has come for hearing on the 3<sup>rd</sup> day of February 2003;

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


Filed Feb 4/03 7



**AND UPON** reading the Affidavit of James Kirby, C.A., CIRP, Senior Vice President of PricewaterhouseCoopers Inc., St. John's, Newfoundland and Labrador, dated 24<sup>th</sup> January 2003 (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 Applicant is authorized to proceed with the sale to John Deere Limited ("JDL") of the Parts Inventory other than the Used Parts, all as described in a Consent and Priority Agreement (the "Agreement") between John Deere Limited ("JDL") and Canadian Imperial Bank of Commerce ("CIBC"), dated January 16, 2003, on the terms set out in an Offer made on behalf of JDL dated January 17, 2003 and in the Applicant's acceptance letter dated January 24, 2003 (the "Acceptance") attached hereto with the following modifications:
  - a. Paragraph (e) of the Acceptance is changed to provide as follows:
    - (e) the Purchase Price for the Purchased Parts, other than the 3T Parts and 1T Parts, shall be paid at closing, which shall occur at the offices of PricewaterhouseCoopers Inc. ("PWC"), St. John's, NL, within five (5) days of PWC obtaining Court Approval for the sale, provided that if Court Approval has not been obtained for immediate redistribution of the proceeds of sale so as to make JDL's offer unconditional, the offer shall remain conditional and the parties may at their mutual option extend the time for closing to provide a reasonable time for JDL and CIBC to obtain such an order or the offer may be withdrawn;
  - b. Paragraph (f) of the Acceptance is changed to provide as follows:

- 
- (f) the Purchase Price for the 3T Parts and 1T Parts shall be paid within five (5) days of JDL verifying the existence and condition and taking possession of those parts at the location where the trailers in which these parts are contained are located, provided that if JDL has not taken possession of such parts and paid for same by June 15, 2003, JDL shall pay to the Receiver an amount calculated by the Receiver in accordance with the provisions of paragraph 2(d) of the Agreement. The purchase price calculated by the Receiver acting reasonably will be binding on and immediately payable by JDL.

3. The Applicant is authorized without further Order of this Court to sell the Used Parts as defined in the Agreement, in whole or in part, by auction, private sale or such other method as the Applicant may deem appropriate;
4. Funds arising from the sale of Parts Inventory shall be held by the Applicant, pending further Order from this Honourable Court; and
5. All capitalized items in this Order, the Offer and the Acceptance shall have the meaning ascribed to them in the Agreement, except to the extent they are otherwise defined herein.

**DATED** at St. John's, in the Province of Newfoundland and Labrador this 3<sup>rd</sup> day of February, 2003.

  
\_\_\_\_\_  
Deputy 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. Kendell, 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

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.

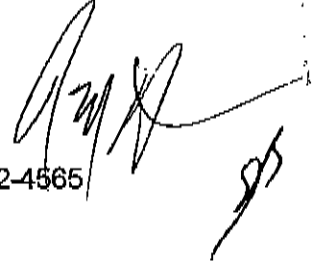
D. Bradford L. Wicks

753-5221

Wells Fargo Equipment  
Finance Co.

Richard B. Jones

416-361-6303

Handwritten signature and initials in the top right corner of the page.

**Schedule "B"**  
**Parties who have been heard**

A handwritten signature in black ink, appearing to be 'A. M. R. S.', located in the top right corner of the page.

Frederick J. Constantine	Counsel for PricewaterhouseCoopers Inc., Court appointed Receiver
Michael Harrington Q.C. & Neil Jacobs,	Counsel for John Deere Limited
Geoffrey Spencer	Counsel for the Canadian Imperial Bank of Commerce