

SUMMARY OF CURRENT DOCUMENT					
Name of Issuing Party or Person		PricewaterhouseCoopers Inc., as Trustee and Receiver of Hickman Equipment (1985) Limited			
Date of Document:		2002-10-25			
Summary of Order/Relief Sought or Statement of Purpose in Filing:		Application of GMAC for the payment to GMAC of the Proceeds from the sale by the Receiver of:			
		Stock #	Make	Serial#	Proceeds
		COO1334	JD	FF0450XO90627	\$240,000.
		COO1343	JD	FF0200X501969	\$131,100.
		COO1273	JD	DWTC62H579785	<u>\$155,000.</u>
		\$526,100			
Court Sub-File Number		7.20			

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

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**AFFIDAVIT**

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The Affidavit of **James A. Kirby** of St. John’s, in the Province of Newfoundland and Labrador, Senior Vice President of PricewaterhouseCoopers Inc. (“PWC”), Trustee of the Estate of Hickman Equipment (1985) Limited (“Hickman Equipment”) in Bankruptcy and Receiver of the Assets of Hickman Equipment, states as follows:

1. I have personal knowledge of the matters herein deposed to except where stated to be based on information and belief.

2. The Superintendent in Bankruptcy has suggested that the Superintendent's Levy provided for in section 147 of the *Bankruptcy and Insolvency Act* may apply in respect of distribution of proceeds. Some creditors have expressed concern about the possible application of the Levy.
3. PWC's counsel, Merrick Holm, has expressed its opinion that the Superintendent's Levy does not apply, and has written to the Superintendent. Produced herewith and marked as Exhibit A to this my affidavit is what I am advised is a true copy of a letter from our counsel, Merrick Holm, to the Superintendent.
4. I have instructed Carl Holm, Q.C. to meet with the Superintendent's office to determine if the matter can be resolved by consent, failing which I have instructed counsel to seek to have the matter determined by this Honourable Court on notice to the Superintendent and the secured creditors of Hickman Equipment.
5. Until the applicability of the Superintendent's Levy is determined by consent or otherwise, its application will be a collateral issue relevant to the distribution of proceeds from the sale of assets of Hickman Equipment.

SWORN TO at St. John's, in the Province )  
 of Newfoundland and Labrador, October 25, )  
 2002, before me, )

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 A Barrister, Commissioner of Oaths, or )  
 Notary Public )

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**JAMES A. KIRBY**