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SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL

IN THE MATTER OF the Court appointed receivership
of Hickman Equipment (1985) Limited ("Hickman
Equipment")

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

AND IN THE MATTER OF the Application of Canadian
Imperial Bank of Commerce ("CIBC") appealing the final
determination of the Trustee in Bankruptcy of Hickman
Equipment with respect to the claims of CIBC dated
December 3, 2002

BETWEEN:	CANADIAN IMPERIAL BANK OF COMMERCE	APPELLANT
AND:	JOHN DEERE LIMITED and JOHN DEERE CREDIT INC.	FIRST RESPONDENT
AND:	CIT FINANCIAL LTD.	SECOND RESPONDENT
AND:	ABN-AMRO BANK OF CANADA and ABN-AMRO LEASING	THIRD RESPONDENT
AND:	ROYAL BANK OF CANADA	FOURTH RESPONDENT
AND:	TRAMAC EQUIPMENT FINANCE INC.	FIFTH RESPONDENT
AND:	CEDARRAPIDS INC.	SIXTH RESPONDENT
AND:	INGERSOLL-RAND INC.	SEVENTH RESPONDENT
AND:	GENERAL MOTORS ACCEPTANCE CORPORATION OF CANADA, LIMITED	EIGHTH RESPONDENT
AND:	PRICEWATERHOUSECOOPERS INC. as Trustee in Bankruptcy and Receiver of Hickman Equipment (1985) Limited	NINTH RESPONDENT

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NOTICE OF APPEAL

TAKE NOTICE THAT the Appellant appeals from the Order of the Honourable Mr. Justice Hall filed on April 4, 2003, in the proceedings of the Supreme Court of Newfoundland and Labrador bearing Number 200201T0352, Court Sub-File No. 9:06 (Re Application 7:28A), with respect to the Appellant's appeal of the Trustee's final determination with respect to the claims of CIBC dated December 3, 2002.

AND THAT the grounds of the proposed appeal are:

1. That the learned Applications Judge erred in fact and in law in finding that both the Debenture and the 2000 Credit Agreements permitted the granting by Hickman Equipment to the holders of "Permitted Encumbrances" of security interests enforceable in priority to the security interests in and over inventory held by CIBC pursuant to its valid and perfected Debenture and General Security Agreement;
2. That the learned Applications Judge erred in fact and in law in finding that CIBC intended to allow Hickman Equipment to purchase inventory financed by third parties while granting liens thereon that would be enforceable in priority to the prior and perfected security held by CIBC;
3. That the learned Applications Judge erred in fact and in law in relying upon the financial statements of Hickman Equipment as support for finding that CIBC's Debenture and General Security Agreement were subordinated to the holders of "Permitted Encumbrances";
4. That the learned Applications Judge erred in law in finding that CIBC's Bank Act Security was invalid by reason of the registration of the Notice of Intention to Give Security after the s. 427 Bank Act Security was executed by Hickman Equipment;

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5. Such other grounds upon which this Honourable Court may permit counsel to be heard.

AND THAT the Appellant will ask that the decision appealed from be reversed and varied as follows:

1. That CIBC's security interest in the assets of Hickman Equipment be found not to be subordinated to the interests of the holders of "Permitted Encumbrances", unless and only to the extent that CIBC has voluntarily executed a valid, binding and enforceable subordination agreement or similar document with or in favour of any of the "Permitted Encumbrancers";
2. That, in the alternative, in the event that this Honourable Court should find that CIBC's Debenture contains sufficient language to allow for the subordination of the Debenture in favour of "Permitted Encumbrancers", without CIBC having had to voluntarily execute a valid, binding and enforceable subordination agreement or similar document with or in favour of any of the "Permitted Encumbrancers", that there is no such subordinating language in CIBC's General Security Agreement and that the General Security Agreement is not subject to any such subordination;
3. That CIBC holds a valid secured claim under CIBC's Bank Act Security and that the Bank Act Security is only voidable in respect of those creditors obtaining a security interest in the eight day interval between the execution of the Bank Act Security, and the registration of the Notice of Intention to Give Security;
4. That costs be awarded to the Appellant on appeal and below.

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DATED at St. John's, in the Province of Newfoundland and Labrador, this 14th day of April, 2003.

BENSON-MYLES

Per: Michael J. Myles Q.C.
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