

SUMMARY OF CURRENT DOCUMENT		
Name of Issuing Party or Person	Contract Funding Group Inc. ("Contract")	
Date of Document	4 February, 2003	
Summary of Order/Relief Sought or Statement of Purpose in Filing	Interlocutory Application of Contract objecting to the Application of John Deere Credit Inc. ("JDCI") for the payment to JDCI of the Proceeds from the sale by the Receiver of: <i>and an application by Contract Funding Group Inc. for proceeds and entitlement.</i>	
And an application by Contract Funding Group Inc. for proceeds and entitlement	Make	Serial # Proceeds
RBL	JD	FF892EX012643 \$145,000
Court Sub-File Number	7-42 7:37	

2002 01 T0352

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)
OF CONTRACT FUNDING GROUP INC.

The Interlocutory Application (Inter Partes) of Contract Funding Group Inc. (the "Applicant") says as follows:

1. By order of this Honourable Court granted on the 13th day of March 2002 and filed with the Court on the 14th day of March 2002, it was ordered that PricewaterhouseCoopers Inc. ("PWC") be appointed receiver (the "Receiver") of Hickman Equipment (the "Receivership Order").
2. By a Receiving Order (the "Receiving Order") made on the 13th day of March 2002, pursuant to the provisions of the BIA and filed with the Supreme Court of Newfoundland and Labrador on the 14th day of March, Hickman Equipment was adjudged bankrupt and PWC was appointed as trustee of the estate of the bankrupt (the "Trustee").
3. Pursuant to an Order of this Honourable Court dated the 14th day of May, 2002, PWC commenced and completed the liquidation of substantially all of the assets of Hickman Equipment by auction including the following unit:

<u>Make</u>	<u>Serial No.</u>	<u>Proceeds</u>
JD	FF892EX012643	\$145,000


(hereinafter referred to as the "Contract Unit").

4. That as of March 11th 2002 the Applicant was owed \$1,619,421.90 by Hickman Equipment (the "Indebtedness").
5. That the Applicant has a valid secured claim against the Contract Unit for the Indebtedness by virtue of a lease (the "Lease") dated June 5th 1998, registered under the **Conditional Sales Act**, June 11th 1998, which registration was continued under the **Personal Property Security Act** on January 31st 2000 as registration number 80913, and which Lease was assigned to Contract, such assignment being registered under the **Personal Property Security Act** on February 4th 2000 as registration number 89898.

6. That the Applicant filed a proof of claim in the bankruptcy of Hickman Equipment dated May 16, 2002. The Trustee wrote to the Applicant's solicitors, Chaiton & Chaiton LLP on December 5, 2002 enclosing the Trustee's final determination (the "Final Determination") pursuant to which it determined that the Applicant's claim to 10 pieces of heavy equipment, including the Contract Unit was a valid secured claim. The Trustee also confirmed that it claims no interest in the assets that are the subject of the claim.
7. That the only prior registered claim against the Contract Unit is that of the Canadian Imperial Bank of Commerce ("CIBC") and that such claim is subordinate to that of the Applicant by virtue of a waiver signed by CIBC dated June 8th 1998.
8. The Applicant also received a waiver of any interest in the Contract Unit from John Deere Credit Inc. ("JDCI") dated June 11th 1998.
9. The Applicant applied on January 15, 2003 to this Honourable Court for an Order approving the payment to the Applicant by the Receiver of the proceeds from the sale of the Contract Unit, which Application was posted by the Receiver on its website on January 23, 2003.
10. JDCI applied to this Honourable Court on January 16, 2003 for an Order approving the payment to JDCI by the Receiver of the proceeds from the sale of various pieces of equipment including, the Contract Unit.
11. The Applicant has a prior ranking security interest in the Contract Unit. CIBC's claim is subordinate to that of the Applicant by virtue of the waiver signed by CIBC dated June 8th 1998 and JDCI's claim is subordinate to that of the Applicant by virtue of the Applicant having a prior registered security interest in the Contract Unit and by virtue of the waiver signed by JDCI dated June 11th 1998 of any interest in the Contract Unit.

12. The Applicant therefore objects to the Application brought by JDCl for an Order approving the payment to JDCl by the Receiver of the proceeds from the sale of the Contract Unit and reiterates the Applicant's prior entitlement to the proceeds from the sale of the Contract Unit.

DATED at Toronto, in the Province of Ontario, this 4th day of February, 2003.



Vern W. DaRe
Chaiton & Chaiton LLP
Solicitors for Contract Funding Group Inc.
Whose address for service is:
185 Sheppard Avenue West
Toronto, ON M2N 1M9 or, in the alternative,

R. Barry Learmonth, Q.C.
Learmonth, Dunne and Clarke
22 Church Hill, PO Box 700, Stn. C
St. John's, Newfoundland A1C 5L4

ISSUED at the City of St. John's, in the Province of Newfoundland and Labrador, this 6th day of February, 2003.



Clerk of the Court
Supreme Court of Newfoundland and Labrador

2002 01 T0352

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")

NOTICE

You are hereby notified that the foregoing application will be made to the Judge presiding in
chambers at the Court House, Duckworth Street, St. John's, Newfoundland and Labrador on
Tuesday , the 11 day of February , 2003 at 10:00 a.m. or so
soon thereafter as the within application can be heard. (return date)

TO: See attached distribution list.

SCHEDULE "A"
DISTRIBUTION LIST

ABM Amro Bank Canada/ ABN Amro Leasing & Tramac Equipment Ltd.	Aubrey L. Bonnell, Q.C./ Brian Winsor David Timms Brent Keenan	709-722-7521 905-331-2020
Bombardier Capital Leasing & Culease Financing Services	J. Vernon French, Q.C.	709-754-2701
Caterpillar Equipment	Colin D. Grant	905-849-5512
CAT Finance	James Smyth, Q.C. Philip Warren	709-754-5662
Cedarrapids	Nathan Mixdorf Francoise Belzil	319-399-4760 780-413-3152
CIBC	R. Wayne Myles gspencer@bensonmyles.com wmyles@bensonmyles.com	709-579-2647
CIBC Equipment Finance Ltd./CIT Financial Ltd./ Tyco Capital	Gregory W. Dickie gdickie@wob.nf.ca	709-722-9210
Contract Funding Group Inc.	Mark G. Klar Vern W. DaRe mark-k@chaiton.com vern@chaiton.com	416-218-1831 416-218-1844

Daimler Chrysler Financial Services/Daimler Chrysler Capital Services/Mercedes-Benz of Canada Inc.	Philip Buckingham/ Peter O'Flaherty Elaine Gray pjb@goodlaw.nf.ca elaine.gray@gowlings.com	709-722-4720 416-863-3527
Fabtek Corp.	Linc A. Rodgers Rhodie E. Mercer, Q.C. rmerc@mmvf.nf.ca linc.rodgers@blakes.com	416-863-2653 709-726-5705
GE Capital	Harvey Chaiton Frederick Scalabrini	416-218-1849 905-319-4855
GMAC	Thomas R. Kendell, Q.C.	709-722-1763
Group Holdings Ltd./ Hickman Equipment/ Hickman Leasing Ltd. Hickman Holdings Ltd.	Griffith D. Roberts rstack@coxhanson.ca groberts@coxhanson.ca	709-726-2992
Ingersoll-Rand Canada Inc.	R. Barry Learmonth, Q.C. Jonathan Wigley ldc@nfld.net jonathan.h.wigley@bakernet.com	709-739-8151 416-863-6275
John Deere Ltd./ John Deere Credit Inc.	Neil L. Jacobs/Bruce Grant Maureen Ryan BugarestiDavidR@JohnDeere.com Njacobs@smss.com	709-722-4565
MTC Leasing Inc./ National Leasing Group Inc.	R. Paul Burgess rburgess@mwhslaw.nf.com	709-754-0915
ORIX Financing Services Canada Ltd.	Donald Yaeck	416-236-3010

Goodman Associates	Paul G. Goodman	902-425-3777
Merrick Holm	Carl Holm, Q.C.	902-429-8215
Royal Bank of Canada	Thomas O. Boyne, Q.C. tboyne@boyneclarke.ns.ca	902-463-7500
TD Asset Finance Corp.	D. Bradford L. Wicks bwicks@wrmm.nf.net	709-753-5221
Wells Fargo Equipment Finance Co.	Richard Jones Jrlaw@istar.ca	416-361-6303
Pricewaterhouse Coopers Trustee in Bankruptcy	Frederick Constantine James Kirby	709-722-0483 709-722-1428

Distribution List Name: Hickman Distribution List

Members:

Aubrey L. Bonnell, Q.C. abonnell@curtisdawe.nf.ca
Bruce Grant bgrant@smss.com
Carl Holm cholm@merrickholm.com
D. Bradford L. Wicks bwicks@wrmm.nf.net
David Bugaresti BugarestiDavidR@JohnDeere.com
David Timms david.timms@abnamro.com
Elaine Gray elaine.gray@gowlings.com
Francoise Belzil fbelzil@sharekreay.com
Geoffrey Spencer gspencer@bensonmyles.com
Gregory W. Dickie gdickie@wob.nf.ca
Griffith D. Roberts groberts@coxhanson.ca
James Smyth jsmyth@swd-law.nf.net
John French jbfrench@nf.aibn.com
Jonathan H. Wigley jonathan.h.wigley@bakernet.com
Linc A. Rogers linc.rogers@blakes.com
Mark G. Klar mark-k@chaiton.com
Maureen Ryan mryan@smss.com
Neil L. Jacobs njacobs@smss.com
Peter House phouse@pattersonpalmer.ca
Philip J. Buckingham pjb@goodlaw.nf.ca
R. Barry Learmonth ldc@nfld.net
R. Paul Burgess pburgess@mwhslaw.com
R. Wayne Myles wmyles@bensonmyles.com
Rhodie E. Mercer, Q.C. rmerc@mmvf.nf.ca
Richard Jones jrlaw@istar.ca
Robert P. Stack rstack@coxhanson.ca
Thomas O. Boyne, Q.C. tboyne@boyneclarke.ns.ca
Thomas R. Kendell, Q.C. thomas.kendell@mcinnescooper.com
Vern French jvfrench@nf.aibn.com

SUMMARY OF CURRENT DOCUMENT				
Name of Issuing Party or Person		Contract Funding Group Inc. ("Contract")		
Date of Document		4 February, 2003		
Summary of Order/Relief Sought or Statement of Purpose in Filing		Interlocutory Application of Contract objecting to the Application of John Deere Credit Inc. ("JDCl") for the payment to JDCl of the Proceeds from the sale by the Receiver of:		
		Make	Serial #	Proceeds
		JD	FF892EX012643	\$145,000
Court Sub-File Number		7: 42		

2002 01 T0352

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")

AFFIDAVIT

I, Ginter Baca, do hereby say as follows:

1. That I am the President of Contract and as such have personal knowledge of the matters herein deposed to except where otherwise indicated.

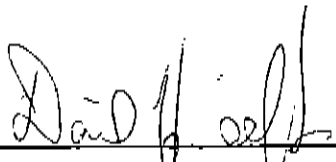
2. That to the best of my knowledge and belief the statements concerning the documents and registrations described and referred to in the written Application are true and correct.
3. Contract filed a proof of claim in the bankruptcy of Hickman Equipment dated May 16, 2002 with PricewaterhouseCoopers Inc., Hickman Equipment's trustee in bankruptcy (the "Trustee"). Attached hereto as Exhibit 1 to this Affidavit is a copy of the proof of claim.
4. Contract has a valid secured claim against a JD Excavator Serial No. FF892EX012643 (the "Contract Unit") pursuant to a lease agreement dated June 5, 1998 (the "Lease") which Lease was assigned to Contract and secures Hickman Equipment's entire indebtedness to Contract. Attached hereto as Exhibit 2 to this Affidavit is a copy of the Lease.
5. The Trustee's amended Final Determination allowed Contract's claim to 10 pieces of heavy equipment, including the Contract Unit as a valid secured claim. The Trustee also confirmed in the Final Determination that it claims no interest in the assets that are the subject of the claim. Attached hereto as Exhibit 3 to this Affidavit is a copy of the amended Final Determination with the supplementary affidavit of James A. Kirby sworn January 31, 2003.
6. Contract received waivers from the Canadian Imperial Bank of Commerce ("CIBC") and John Deere Credit Inc. ("JDCI") signed June 8, 1998 and June 11, 1998, respectively pursuant to which they confirmed that they have no security interest in the Contract Unit. Attached hereto as Exhibit 4 to this Affidavit are copies of the waivers.
7. PricewaterhouseCoopers Inc. ("PWC"), in its capacity as receiver of Hickman Equipment (the "Receiver"), is holding proceeds from the sale of the Contract Unit in the amount of \$145,000.00 (the "Proceeds").

8. I am advised by my counsel, Mark Klar ("Klar") of Chaiton & Chaiton LLP ("Chaitons") and do verily believe that by letter dated February 27, 2002, Klar advised JDCI's lawyers, Ernest Reid ("Reid") of Stewart McKelvey Stirling Scales, that Contract held an interest in the Contract Unit and that JDCI signed a waiver dated June 11, 1998 confirming that JDCI held no interest in the Contract Unit. Attached hereto as Exhibit 5 to this Affidavit is a copy of the letter dated February 27, 2002 from Klar to Reid.
9. On January 16, 2003, JDCI applied to this Court for an Order approving payment to JDCI by the Receiver of the proceeds from the sale of various pieces of equipment including the proceeds from the sale of the Contract Unit. Attached hereto as Exhibit 6 to this Affidavit is a copy of JDCI's Application dated January 16, 2003 and the supporting affidavit (excluding exhibits) of David R. Bugaresti sworn January 15, 2003.
10. I am advised by Klar of Chaitons and do verily believe that on January 17, 2003, he left a voice-mail message with Maureen Ryan ("Ryan") of Stewart McKelvey Stirling Scales, counsel for JDCI, regarding JDCI's Application for the Proceeds; and that by letter dated January 20, 2003 from Klar to Ryan, he reiterated Contract's prior entitlement to the Proceeds, enclosed a copy of the waiver letter from JDCI confirming that it held no interest in the Contract Unit and requested that Ryan confirm by January 24, 2003 that JDCI would not be seeking a release of the Proceeds and to take all necessary steps to advise this Court accordingly. Attached hereto as Exhibit 7 to this Affidavit is a copy of the letter dated January 20, 2003 from Klar to Ryan.
11. To date, JDCI has refused to acknowledge that Contract has a prior registered charge over the Contract Unit, has failed to acknowledge that it is bound to its waiver of any interest in the Contract Unit and has not abandoned its claim to the Proceeds.
12. I object to JDCI's Application to this Court for an Order approving the payment to JDCI by the Receiver of the Proceeds on the following grounds:

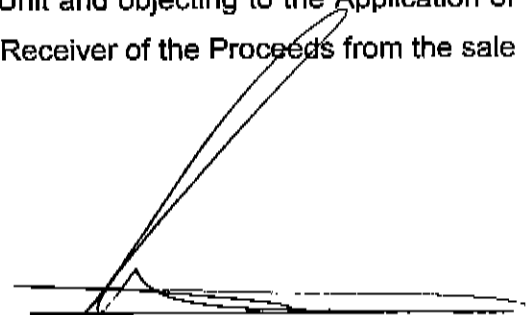
- (a) Contract has a prior ranking security interest in the Contract Unit;
- (b) JDCI waived and subordinated its security interest in the Contract Unit by letter dated June 11, 1998; and
- (c) Contract relied on and continues to rely on the above waiver/subordination provided by JDCI.

I swear this Affidavit in support of an Order approving the payment to Contract by the Receiver of the Proceeds from the sale of the Contract Unit and objecting to the Application of JDCI for an Order approving the payment to JDCI by the Receiver of the Proceeds from the sale of the Contract Unit.

SWORN before me at Toronto
in the Province of Ontario
this 4th day of February, 2003.

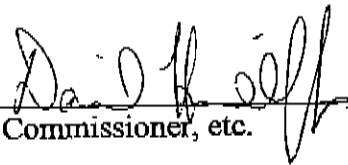

A Commissioner for Taking Affidavits

DANIEL MARK HIMELFARB,
a Commissioner, etc., **Province of Ontario**
while a student-at-law.
Expires August 30, 2005.


GINTER BACA

This is Exhibit "1" referred to in the
affidavit of Ginter Baca sworn

before me this 4th day of February, 2003.


A Commissioner, etc.

FORM 31
Proof of Claim

~~(Subsections 50.1(3), 50.1(1) and 65.2(4), paragraphs 51(1)(e) and 66.14(b); subsections 81.2(1), 102(2), 124(2) and 128(1) of the Act)~~

(All notices or correspondence regarding this claim should be forwarded to the following address:)

TO: Contract Funding Group Inc. 3 Church Street, Suite 305, Toronto, Ontario M5E 1M2, Attention: Ginter Baca (tel) 416-364-0505, extension 233, (fax) 416-364-9063

TO: Chaiton & Chaiton, 185 Sheppard Avenue West, Toronto, Ontario, M2N 1M9, Attention: Mark G. Klar, (tel) 416-222-8888, (fax) 222-8402

In the matter of the Bankruptcy of **Hickman Equipment (1985) Limited** and the claim of **Contract Funding Group Inc.**, creditor (the "Creditor").

I, MARK KLAR, of the City of Vaughan, in the Province of Ontario, do hereby certify:

1. That I am the agent and counsel of Contract funding Group Inc.
2. That I have knowledge of all the circumstances connected with the claim referred to below.
3. That the debtor was, at the date of the bankruptcy, namely the 11th day of March, 2002 and still is indebted to the Creditor in the sum of **\$1,619,421.90**, as specified in the statement of account attached and marked as "Schedule A", after deducting any counterclaims to which the debtor is entitled. *(The attached statement of account, or affidavit or solemn declaration must specify the vouchers or other evidence in support of the claim).*
4. *(Check and complete appropriate category.)*

☐ **A. UNSECURED CLAIM of \$**

That in respect of this debt, the Creditor does not hold any assets of the debtor as security and

(Check appropriate description.)

() Regarding the amount of \$ _____, the Creditor does not claim a right to a priority.

() Regarding the amount of \$ _____, the Creditor does claim a right to a priority under section 136 of the Act.

(Set out on an attached sheet details to support priority claim.)

() A.1 CLAIM OF LANDLORD FOR DISCLAIMER OF A LEASE \$ _____
That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claim is based.)

(X) B. SECURED CLAIM OF \$1,619,421.90 that in respect of this debt, the creditor holds assets of the debtor valued at \$ * as security, particulars of which are as follows:

* indeterminate at this time

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

() C. CLAIM BY FARMER, FISHERMAN, OR AQUACULTURIST OF \$ _____
That I hereby make a claim under subsection 81.2(1) of the Act for the unpaid amount of \$ _____ *(Attach a copy of sales agreement and delivery documents.)*

() D. CLAIM AGAINST DIRECTOR \$ _____
(To be filed when a proposal provides for the compromise of claims against directors)
That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claims is based.)

5. That, to the best of my knowledge and belief, the above named Creditor is not related to the debtor within the meaning of section 4 of the Act.

6. That the following are the payments that the Creditor received from, and the credits that it allowed to, the debtor within the three months, *(or, if the creditor and the debtor are related within the meaning of section 4 of the Act, within the 12 months)* immediately

before the date of the initial bankruptcy event within the meaning of Section 2 of the Act:
(Provide details of payments and credits.)

(Applicable only in the case of the bankruptcy of an individual).

(X) I request to be advised of any material change in the financial situation of the bankrupt, pursuant to subparagraph 102(3)(b)(i) of the Act.

(X) I request to be advised of any amendment made regarding the amount that the bankrupt is required to pay, pursuant to subsection 68(4) of the Act.

(X) I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to subsection 170(1) of the Act be sent to the above address.

Dated at Toronto, Ontario this 16TH day of May, 2002.


Witness


Mark G. Klar - Agent and Counsel of
Contract Funding Group Inc.

NOTE: If an affidavit or solemn declaration is attached, it must have been made before a person qualified to take affidavit or solemn declarations.

WARNINGS: A trustee may, pursuant to subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

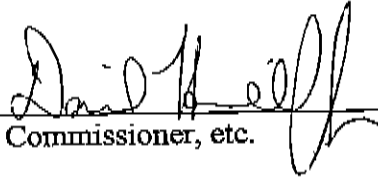
Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

SCHEDULE "A"

In the matter of the Bankruptcy of **Hickman Equipment (1985) Inc.**
and the claim of **Contract Funding Group Inc.**, creditor (the
"Creditor").

<u>Description</u>	<u>Amount</u>
Lease No. 11-89-2	\$372,641.29
Lease No. 11-89-3	\$986,286.14
Lease No. 11-89-0	\$ 61,410.37
Lease No. 11-174-0	<u>\$199,084.26</u>
Total	\$1,619,421.90

This is Exhibit "2" referred to in the
affidavit of Ginter Baca sworn
before me this 4 day of February, 2003.


A Commissioner, etc.



PARTNERS IN EQUIPMENT FINANCE

102 Bank St., Suite 202, Ottawa, Ontario K1P 5N4
Tel: 613-233-2276 Fax: 613-233-6085

102 Bank St., Suite 202, Ottawa, Ontario K1P 5N4 Tel: 613-233-2276 Fax: 613-233-6085		LTPA Form 12-31-87 PAC	
		Application No.	
		Lease No. R980605LE	
Full Legal Name of Lessee: HICKMAN EQUIPMENT (1985) LIMITED AND LABRADOR EQUIPMENT & MINING SUPPLIES LIMITED		Person in Contact: JOHN KING	
Invoice Address: 1269 TOSAIL ROAD		Title of contact: ASST. SALES MNGR	
		Telephone No.	
MOUNT PEARL	NEWFOUNDLAND	Postal Code A1N 3C8	Nature of Business:
Actual location of equipment if different from Lessee's address noted above:			No. of years in business:
Name and Address of Lessor if equipment is to be placed in rented premises:			Telephone No.
Bank Name and Address:			Telephone No.
Account Manager:		Account No.	Transit No.
Supplier Name and Address: HICKMAN EQUIPMENT (1985) LIMITED			Supplier's Representative:
1269 TOSAIL ROAD, MOUNT PEARL, NEWFOUNDLAND			Telephone No.
		Postal Code A1N 3C8	
Quantity	Equipment Description (include model and serial nos.)		
3	892E EXCAVATOR, 32IN (800MM) SHOES, STANDARD BOOM		
	4.00M (13'1") ARM, VANDAL PROTECTION		
	S/N: FF892EX012642 ; FF892EX012643 ; FF892EX012455		
	DEERE ENG: RG6076A596348 : RG6076A596350 ; RG6076A592086		
LEASING PARTICULARS			
INITIAL TERM NO. OF MONTHS 48	NUMBER OF PAYMENTS 48	PAYMENT WILL BE MADE IN ADVANCE MONTHLY <input checked="" type="checkbox"/> QUARTERLY <input type="checkbox"/> OTHER <input type="checkbox"/>	RENTAL AMOUNT EXCLUDING FST & GST 19,295.40
PROVINCE Nfld	TOTAL PAYMENT 22,189.71	FST GOODS & SERVICES TAX 2,894.31	PROVINCE Nfld
NEW CUSTOMER <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	CORRESPONDENCE <input checked="" type="checkbox"/> English <input type="checkbox"/> French	TERMINATION PAYMENT 22,189.71	ORIGINAL TERM COMMENCES AND FIRST RENT PAYMENT DUE 05 MONTH 09 DAY YEAR '98
		IMMEDIATE RENT PAYMENTS COMMENCE 07 MONTH 15 DAY YEAR '98	

TERMS AND CONDITIONS OF LEASE

San Antonio adds the principal towns and districts which are part of the basin.

- [illegible]

DATE OF LESSOR'S ACCEPTANCE _____

June 5, 1998

This name shall not be used for binding upon future credit accepted in writing as evidenced by the signature of a duly authorized officer of Lumber Liquidators.

CYBER LEASE CORP.

by

BY

GST REGISTRATION NO: R122816723

HICKMAN EQUIPMENT (1985) LIMITED AND

LABRADOR EQUIPMENT & MINING SUPPLIES LIMITED

FULL LEGAL NAME OF LESSEE

Don't forget to sign and date this document in the lower right corner.

4月10日 星期一

444 St. Charles Manager

References

1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 26

John J. ...

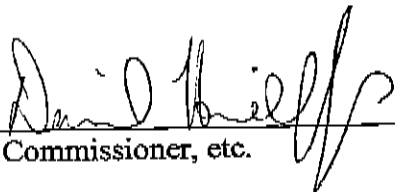
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LEASE CONTRACT

AFFIX CORPORATE SEAL

This is Exhibit "3" referred to in the
affidavit of Ginter Baca sworn

before me this 4 day of February, 2003.


A Commissioner, etc.

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")


Affidavit


The Supplementary Affidavit of James A. Kirby, C.A., CIRP, Senior Vice-President of PricewaterhouseCoopers Inc. of St. John's, in the Province of Newfoundland and Labrador says as follows:

1. This Affidavit is in addition to my Affidavits dated 6 December 2002, 11 December 2002 and 13 December 2002, and all Affidavits are filed with respect to the Application of PricewaterhouseCoopers Inc. for Court approval of the Final Determinations allowed by the Applicant in their entirety and of the allowed portions of the Final Determinations allowed by the Applicant in part, in accordance with paragraph 16 of the Claims Plan.
2. Subsequent to the Trustee's issuing the Final Determination for Contract Funding Group Inc ("CFG") wherein the Trustee denied the claim due to a lack of evidence of value, this evidence was subsequently provided to the Trustee.

3. On or about November 29, 2002, Justice Hall directed the Trustee to consider this information and prepare an amended Final Determination if appropriate.
4. The Trustee has considered this information and has amended the Final Determination to allow the claim of CFG. Attached as Exhibit "A" to this my Affidavit is a revised Final Determination for CFG wherein the addition evidence of value provided by CFG has been taken into consideration.
5. I have reviewed the Application for which this Affidavit is sworn and request that this Honourable Court consider and adjudicate on these matters at its earliest convenience.

SWORN TO at St. John's, in
the Province of Newfoundland
and Labrador, this 31st day
of January 2003, before me:


Edith, NL


JAMES A. KIRBY, C.A., CFP

This is Exhibit A reference to the Assets

of James A. Kelly, Debtor or affiliated Debtor in

SCHEDULE A FINAL DETERMINATION

(Issued in accordance with paragraph 14 of the Claims Plan)

Secured Party: **CONTRACT FUNDING GROUP INC. ("CFG")**

1. Introduction

PWC as Receiver continues to hold the Assets of HEL under the terms of the Receivership Order granted on March 13, 2002. The Claims Plan is intended to provide a mechanism by which Claimants assert Claims to these Assets.

Pursuant to paragraph 14 of the Claims Plan a Final Determination is to be made by the PWC as Trustee either allowing or disallowing a Claim as a valid secured claim under section 135(4) of the BIA. This is the Trustee's Final Determination in respect of CFG.

Capitalized terms used in this Final Determination shall have the meaning ascribed to them in the Claims Plan unless otherwise defined herein.

2. Summary Final Determination

CFG's claim is allowed as a valid secured claim. The Trustee claims no interest in the assets that are the subject of this claim.

3. Defined Terms

For ease of Reference in this Final Determination, the Trustee has applied the following definitions/ abbreviations:

"CSA"	-	Conditional Sales Act, R.S.N.L. 1990, c.C-28 (Rep.)
"HEL"	-	Hickman Equipment (1985) Ltd.
"JD"	-	John Deere
"LEMS"	-	Labrador Equipment and Mining Supplies Limited
"Old Registry"	-	Registry of Conditional Sales, Bills of Sale and Chattel Mortgages
"PMSI"	-	Purchase Money Security Interest
"PPSA" or "Act"	-	Personal Property Security Act, S.N.L. 1998, c.P - 7.1
"PPR"	-	Personal Property Registry
"Province"	-	Newfoundland and Labrador
"Regulations"	-	Personal Property Security Regulations (103/99)
"s/n"	-	serial number

4. The Assets

10 pieces of heavy equipment. Only one piece remained in the Inventory for HEL and was sold at the Trustee's auction (as described below).

1. 892E Excavator (FF892EX012642)
2. 892E Excavator (FF892EX012643)¹
3. 892E Excavator (FF892EX012455)
4. 310SE Backhoe Loader (T0310SE877721)
5. 301SE Backhoe Loader (T0310SE877726)
6. 160LC Excavator (P00160S041035)
7. 450LC Base Excavator (FF0450X090370)
8. 200LC Excavator (s/n FF0200X501668)
9. 608B Harvester (s/n 10BA1221)
10. 127B Harvester (s/n 01AB2086)

5. Assumptions

In preparing this Final Determination, the Trustee has made the following assumptions:

- i) the genuineness of all signatures, the authenticity of all original Documents and the conformity to authentic originals of all Documents that are copies, whether facsimile, photostatic, certified or otherwise;
- ii) that each party to any of the Documents that create obligations for that party, has duly authorized, executed and delivered such Documents to which it is a party;
- iii) with the exception of security interests created by the Documents, the Documents that create obligations for parties, constitute legal, valid and binding obligations of each party thereto, enforceable against each of them in accordance with their terms;
- iv) that insofar as any obligation under any of the Documents is to be performed in any jurisdiction outside the Province, its performance will not be illegal or unenforceable by virtue of the laws of that other jurisdiction; and

¹This piece of equipment was the only one remaining in the HEL inventory.

- v) the accuracy and currency of the indices and filing systems maintained in relation to the public registries where we have searched or inquired or have caused searches or inquiries to be conducted.

6. Qualifications

Since there is no title registration system in the Province relating to personal property, any opinion respecting title is based solely upon the relevant Documentation.

For the purpose of determining the validity under prior law of security interests created and registered before the implementation of the PPSA and transitioned by registration in the PPR, the Trustee has only reviewed the security agreements and their registrations referenced in the PPR search report section entitled: "Pre-PPSA registration information continued by this registration", endorsements, if any, on the security agreements reviewed and the pre-PPSA legislation and the applicable common law relating to their registration.

Both the PPSA, and the *Conditional Sales Act* (the latter statute being part of the "prior law") provide that property in goods pass to a purchaser from a seller or trader where the sale is in the ordinary course of business of the seller or trader. In some instances HEL transferred equipment subject to a security interest to a purchaser without discharging the security interest. In some cases the purchaser granted a security interest to another lender, while in other cases the purchaser transferred the equipment to a third party who, in turn granted a security interest to a lender. Due to the lack of evidence concerning all transactions involving the Assets, we are unable to determine if sales by HEL were "in the ordinary course of business" such as to enable the purchaser to receive clear title to the equipment in order to allow a subsequent lender to obtain a valid security interest or a subsequent transferee to obtain clear title.

No opinion is expressed as to the rank or priority of any security interest created by the Documentation.

No opinion is expressed with regard to any collateral covered by the Documentation, but not referred to in this Final Determination.

Pursuant to the terms of the Court Order establishing the Claims Plan, this Final Determination determines the validity of security claimed and whether such security has been properly perfected. For the assistance of readers, the Trustee has sometimes provided comments concerning the priority of such security vis-à-vis other parties but such priority-related comments are made without prejudice to any position which may be taken at any future date by any other party in regards to priorities.

Notwithstanding the findings in this Final Determination concerning the validity of the Claim as secured or otherwise, PricewaterhouseCoopers Inc. is not precluded by such determination from challenging the Claim as being reviewable or fraudulent pursuant to the provisions of the BIA or any applicable provincial legislation.

Except where a specific claim to proceeds has been made and material provided in support of that claim, the Trustee expresses no opinion with respect to claims to proceeds or claims involving tracing. An outline of the proceeds claims processes and issues are set out in s.13.

7. Overview of Claim

CFG claims that it holds a perfected security interest in the 10 assets listed above arising from four (4) Lease Agreements entered into in 1998, 1999, 2000 and 2001. Specifically, in 1998, Cyber Lease leased assets (supplied by HEL) to HEL and LEMS as lessees. Again, in 1999, Cyber Lease leased assets (supplied by HEL) to HEL as lessee. These leases were assigned to CFG. As well, CFG leased assets on 2000 and 2001 (supplied by HEL) to HEL as lessee. CFG takes the position that it has satisfied all the requirements to attach and perfect a security interest, including registration of the security interests in the PPR.

The Proof of Claim dated 16 May 2002, and the documents attached thereto (more particularly described below) indicate a total claim of \$1,619,421.90. This is exclusively a secured claim. This relates to 4 Leases as follows:

- Lease No. 11-889-0 (securing 3 assets, #1 -3 above). Balance outstanding of \$61,410.37.
- Lease No. 11-89-2 (securing 4 assets, #4 - 7 above). Balance outstanding of \$372,641.29.
- Lease No. 11-174-0 (securing 1 asset # 8 above). Balance outstanding of \$199,084.26.
- Lease No. 11-89-3 (securing 2 assets, #9-10 above). Balance outstanding of \$986,286.14.

CFG has not set out any specific claim with respect to proceeds/tracing.

8. Documentation

In preparing this final determination, the Trustee has considered and relied upon only the following information provided to it from all sources:

- i. PPR search conducted in the name of the debtor on March 21, 2002.
- ii. Proof of Claim dated 16 May 2002.
- iii. Correspondence dated April 5, 2002, August 1, 2002 and October 25, 2002 from Mark Klar of Chalton & Chaiton setting out the claim of CFG.
- iv. The 4 leases:

a. Lease # 11-889-0 (assets #1-3 above)

- Copy of lease
- Certificate of acceptance dated 9 June/98
- Option to purchase
- Correspondence dated June 11/98 from John Deere Credit to Cyberlease confirming that John Deere Credit Inc. holds no interest in the 3 assets.
- Correspondence dated May 6, 1998 between Cyber Lease and CIBC addressing priorities.
- Invoice from HEL to Cyberlease with respect to the 3 excavators
- CFG's account statement for the period June 1, 1998-June 30, 1998 showing payment of the sum of \$855,021.09 (the amount invoiced)
- Electronic correspondence from TD Bank to CFG dated November 20, 2002 confirming payment to HEL of \$855,021.09 on June 18, 1998.

b. Lease # 11-89-2 (assets #4-7 above)

- Copy of lease
- Certificate of acceptance dated 9 July/99
- Option to purchase
- HEL invoice to Cyberlease dated July 9, 1999 for the sale of the 4 assets
- TD Bank on-line account statement for CFG confirming payment to HEL for the invoiced amount.

c. Lease # 11-174-0 (asset #8 above)

- Copy of lease
- Delivery and Acceptance Certificate dated Feb.16/01
- Pre-Authorized Payment Authorization dated Feb.16/01
- Confirmation of Insurance for the asset.
- Correspondence dated Feb 15/01 from CFG to CIBC setting out the priorities.
- Invoice from HEL dated May 31/01 to Marine Contractors Inc. for 3 Excavators (s/n FF0200X501636, FF0200X501668 and FF0200X501676.) Trade Ins were the following: CAT 320B Excavator, Serial # 06CR04707, CAT 320B Excavator, Serial # 06CR05244, and CAT 320B Excavator, Serial # 06CR05245.
- HEL invoice to Cyberlease dated February 15, 2001 for the sale of the asset
- TD Bank on-line account statement for CFG confirming payment to HEL for the invoiced amount.

d. Lease #11-89-3 (assets # 9-10 above)

- Copy of Lease
- Delivery and Acceptance Certificate dated Sept.14/00
- Pre-Authorized Payment Authorization dated Sept.14/00
- HEL Invoice to Cyberlease dated September 14, 2000 for the sale of the 2 assets
- TD Bank on-line account statement for CFG confirming payment to HEL for the invoiced amount.

9. Classification of the Assets

The actual subjective use to which goods are applied by the debtor dictates whether they will be classed as inventory, equipment or consumer goods. In this regard, it is the opinion of the Trustee that all of the assets in the list above were held by HEL for sale or lease and as such, form part of the inventory (s. 2(x) of the PPSA).

Note: Counsel for CFG maintains that these assets were used by HEL as equipment in accordance with s. 2 (p) of the PPSA. This is not accepted by the Trustee.

10. Application of the PPSA

As indicated by the documentation the secured transactions between CFG and HEL were in the form of equipment leases. These leases, which secured specific pieces of heavy equipment (broken down above), were all for a term of more than one year and were, in essence, financing leases as opposed to true leases. Section 4 of the PPSA confirms that such secured transactions are governed by the PPSA.

11. PRE-PPSA/ Transitioning Issues

The PPSA came into force in the Province on December 13, 1999. The transitioning provisions set out in Part VII of the Act (in particular s.75) create a means by which the new Act could apply to security transactions which pre-date it. In that regard, secured parties whose security pre-dates the PPSA (and the PPR registration system) were given a period of 2 years from the date of the coming into force of the Act (i.e. creditors had until December 13,2001) in which to perfect their pre-ppsa security interest in the PPR. In accordance with s.26 of the Regulations, secured creditors were required to register a financing statement that indicates, *inter alia*, under which prior registration law the security interest relates and also provides the prior registration number. If the provisions of the Act and Regulations were properly followed, the Act enables such secured parties to claim a date of perfection that extends back to the date of the pre-ppsa registration for purposes of priority. There are a number of conditions however. For example, defects in the pre-ppsa security could not be cured by the operation of the PPSA.

Transitioning issues are relevant for 2 of the 4 CFG Leases.

The dates for the 4 CFG leases are: June 1998 (#11-889-0), July 1999 (#11-89-2), September 2000 (#11-89-3) and February 2001 (#11-174-0). Transitioning issues are relevant for lease # 11-889-0 and # 11-89-2.

Lease #11-89-2

This transaction took place on 9 July 1999, prior to the coming into force of the PPSA. The Certificate of Acceptance executed 9 July 1999 indicates acceptance of the goods by HEL. Upon review of the lease, it is the opinion of the Trustee that it complies with the requirements of s. 5 of the CSA.

In accordance with the Regulations, CFG has registered a financing statement in the PPR (#80931) on Jan.31/00 which includes the following description:

General Description of Collateral: (1) 310SE Backhoe Loader S/N T0310SE877721; (1) 310SE Backhoe Loader S/N T0310SE677726; (1) 160LC Excavator S/N P00160X041035; (1) 450LC Base Excavator S/N FF0450X090370.

Pre-PPSA registration information continued by this registration.
733722 1999-07-15 Conditional Sales Act.

This registration indicates that prior to the PPR, this transaction was supported by a registration pursuant to the CSA on July 15, 1999, being registration # 733722. The Trustee has confirmed this registration with a search of the Old Registry. It is the opinion of the Trustee that the relevant date for purposes of perfection is the date of registration in the Old Registry.

Lease #11-889-0

This transaction took place on 5 June 1998, prior to the coming into force of the PPSA. The Certificate of Acceptance executed 9 June 1998 confirms acceptance of the goods by HEL. Upon review of the lease, it is the opinion of the Trustee that it complies with the requirements of s. 5 of the CSA.

In accordance with the Regulations, CFG has registered a financing statement in the PPR (#80913) on Jan.31/00 which includes the following description:

General Description of Collateral: (3) 892E Excavators, 32IN (800MM) Shoes, Standard Boom 4.00M (13' 1") ARM, Vandal Protection S/N FF892EX012642, S/N FF092EX012643, S/N FF892EX012455, DEERE ENG: RG6076A596348; RG6076A596350; RG6076A592086.

Pre-PPSA registration information continued by this registration.
697820 1998-06-11 Conditional Sales Act.
(Emphasis Added)

This registration indicates that prior to the PPR, this transaction was supported by a registration pursuant to the Conditional Sales Act on June 11, 1998, being

registration # 697920. The Trustee has confirmed this registration with a search of the Old Registry. It is the opinion of the Trustee that the relevant date for purposes of perfection is the date of registration in the Old Registry.

12. Perfection

Section 20 of the PPSA holds that there are two required elements to a perfected security interest in collateral, regardless of the order of occurrence. There must be:

(i) attachment in accordance with section 13, which requires:

1. Value must be given. Value is defined in s. 2(tt) to include any consideration sufficient to support a simple contract. However, a secured party need not have actually advanced the loan funds or the purchase money credit in order to satisfy the value requirement of section 13. Value is given as soon as a secured party makes a binding commitment to extend the loan or purchase money credited to the debtor.²
2. The debtor must have rights in the collateral; and
3. There must be a security agreement that meets the requirements of s. 11.

(ii) a perfection step in accordance with section 25 (perfection by possession) or section 26 (perfection by registration of a financing statement in the PPR.

Is there attachment?

(i) Value given?

YES. The leases are in the nature of a sale-leaseback transaction whereby the assets were sold by Hickman to the secured party and then leased back to it. While the leases contain confirmation from HEL that the assets were received and accepted by them, and this is evidence of value for the lease portion of the transaction, it is also necessary to provide evidence of value for the sale. As indicated above, the Trustee has been provided with evidence of value with respect to each of the leases. This is the form of invoices and back statements confirming payment to HEL of the invoiced amount. It is the opinion of the Trustee that this is sufficient evidence of value for the purposes of attachment.

(ii) Rights in the collateral?

YES Any real right in the collateral that the debtor may have, including but not limited to, a right of possession is sufficient to meet the requirements of s. 13³. HEL held possession of the assets. Furthermore, s. 13 (3) of the Act confirms that a lessee under a

² C. Walsh, *An Introduction to the New Brunswick Personal Property Act*, (1995) at p.83.

³ *Ibid.* at 84.

lease for a term of more than one year has rights in the goods for purposes of attachment when s/he obtains possession of them under the lease.

Note: For the purposes of expressing a position with respect to HEL's rights in the collateral, the Trustee has not made any determination with respect to HEL's title in the collateral at issue nor with respect to the lawfulness of HEL's possession thereof.

(iii) Have the evidentiary requirements of s. 11 been met?

YES The evidentiary requirements of s. 11, required for attachment, are established by the 4 leases. Specifically, in accordance with s.11(1) (b), the 4 leases are in writing, they have been signed by HEL as the debtor and each provides an adequate description of the collateral that is secured.

Is there a perfection step?

a. Lease No. 11-889-0(assets # 1-3 above)

YES.

Registration # 80913 described above.

Registration #1581161 dated Feb.4/02 contains the following information

Description: All inventory, products or other personal property supplied to or purchased by the Debtors, or either one of them, from the Secured Parties, or either one of them, including three 892E Excavators, 32IN (800MM) Shoes, Standard Boom 4.00M (13' 1")ARM, Vandal Protection, S/N FF892EX012642, S/N FF092EX012643, S/N FF892EX012455, DEERE ENG: RG6076A596348; RG6076A596350; RG6076A592086, and includes all attachments replacements, substitutions, accessories, accessions and additions thereto, together with all personal property received directly or indirectly as proceeds therefrom.

b. Lease No. 11-89-2(assets # 4-7 above)

YES.

Registration #80931 described above

Registration #1581602 dated February 4/02 contains the following information

Description: All inventory, products or other personal property supplied to or purchased by the Debtor from the Secured Parties or either of them including one (1) 310SE Backhoe Loader – S/N T0310SE877721, one (1) 310SE Backhoe Loader – S/N T0310SE877726, one (1) 160LC Excavator – S/N P00160X041035, and one (1) 450LC Base Excavator – S/N FF0450X090370, and includes all attachments, replacements, substitutions, accessories, accessions and additions thereto, together with all personal property received directly or indirectly as proceeds therefrom.

Motor Vehicle	One (1) 450LC Base Excavator	FF0450X090370
Motor Vehicle	One (1) 160LC Excavator	P00160X041035
Motor Vehicle	One (1) 310SE Backhoe Loader	T0310SE877726
Motor Vehicle	One (1) 310SE Backhoe Loader	T0310SE877721

c. Lease No. 11-174-0(asset # 8 above)

YES

Registration #803940 dated February 16/01 contains the following information

Description: "One 200LC Excavator Unit #C001071 s/n FF0200X501668"

d. Lease No. 11-89-3(assets # 9-10 above)

YES

Registration #551721 dated September 20/00 contains the following information

Description: "1 Model 808B Harvester s/n10BA1221 Unit #C000760. 1 Model 1270B Harvester s/n 01AB2086 Unit #C000745"

What constitutes an appropriate description of collateral comes from ss.23-24 of the Regulations. In particular, in accordance with s.23(1)(e) of the Regulations, items of inventory must be described in accordance with s.24(1) and s.24(2). It is the opinion of the Trustee that the collateral descriptions in the above-noted financing statements satisfy these requirements.

13. Proceeds

Section 29(1) of the Act provides a secured party with an automatic and statutory interest in the proceeds from the disposition of a secured asset by the debtor. While this right is automatic as against the debtor, the entitlement to proceeds must be perfected, in order to protect the secured party's entitlement as against competing creditors.

The Trustee has not made any determination as to CFG's entitlement to proceeds with respect to other creditors as this is an issue of priority and not within the Trustee's mandate under the Claims Plan. However, the Trustee has outlined below the statutory requirements that must be met by a secured party in order to assert a claim to proceeds from the disposition of collateral as against other secured creditors.

The perfected status of a security interest in proceeds depends firstly on whether the security interest in the original collateral was perfected when the proceeds arose. If not, the secured party will have to perfect its security interest in the proceeds as original collateral either by registration or taking possession. If so, the question of whether the secured party must independently perfect its security interest in the proceeds depends on the method by which the security interest in the original collateral was perfected.⁴

Section 29(3) provides for 3 instances where perfection in proceeds is automatic and continuous. A security interest in proceeds is a continuously perfected security interest where the interest in the original collateral is perfected by a registration of a financing statement under Section 26 that:

⁴ Ibid. at p.140.

- (a) Includes a description of the proceeds that would be sufficient to perfect a security interest in original collateral of the same kind;
- (b) Includes a description of the original collateral, where the proceeds are of a kind that are within the description of the original collateral; or
- (c) Includes a description of the original collateral, where the proceeds consist of money, cheques or deposit accounts in a bank, credit union, or similar financial institutions.

If proceeds do not fall into one of these categories, s. 29(4) of the PPSA requires registration with respect to the proceeds collateral within fifteen days after such proceeds arise. Such registration would be in accordance with the same rules as the original collateral.⁵

As indicated above, collateral descriptions are governed by ss.23-24 of the Regulations. These rules extend to descriptions of collateral in the form of proceeds as well.

Note as well that the ability to assert a claim to proceeds is contingent upon two conditions. The debtor must have acquired rights in the proceeds and the proceeds themselves must be traceable (ref. s. s.2(ff)).

14. Additional Comments on Priorities

While it is not within the mandate of the Trustee or Trustee's counsel to determine priorities, we nevertheless offer the following comments, in order to provide assistance to any creditors who may also have a valid and perfected security interest in the assets and wish to determine, for their own benefit, their ranking with respect to same:

- The documents indicate that in all 4 leases the assets secured were supplied by HEL and then leased back to HEL by CFG. Although such sale and lease-back arrangements appear to entitle CFG to claim a PMSI, subsection 2(hh) of the PPSA specifically excludes "a transaction of sale by and lease back to the seller" from being a PMSI.
- If these leases were not sale/leaseback type transactions, there are instances whereby an inventory financier such as CFG may be entitled to claim a super-priority status (ref. s. 35(2)). CFG has not provided evidentiary support for such an entitlement.
- As established by s. 36 of the PPSA, the relevant date for the determination of the priority of CFG's interest in the assets are:
 - Lease # 11-889-0: June 11, 1998
 - Lease # 11-89-2: July 15, 1999

⁵ Ibid. at 140.

01/31/2003 13:36 FAX 7221428
Jan-31-03 10:58am From

PWC FAS

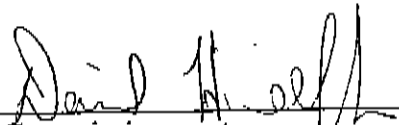
→ Doug Beatty PwC 015/015
T-781 P.015/015 F-875

- Lease # 11-174-0: February 16, 2001
- Lease # 11-89-3: September 20, 2000

15. Auction Results

One Excavator (FF892EX012643) was sold at the Trustee's auction on July 12, 2002, in Halifax, Nova Scotia. Net amount obtained (bid amount less LVG buyer's premium) was \$145,000.00.

This is Exhibit "4" referred to in the
affidavit of Ginter Baca sworn
before me this 4 day of February, 2003.


A Commissioner, etc.

FILE No. 174 06/17 '98 12:32 ID: CYBER LEASE CORPORATION FAX: 613 233 6095

PAGE 23



13-89-0

May 6, 1998

CIBC
Atlantic Place
P.O. Box 340
St. John's Newfoundland
A1C 5J9

Attn: Mr. Barry Chaulk

RE: HICKMAN EQUIPMENT (1985) LIMITED
AND LABRADOR EQUIPMENT & MINING SUPPLIES LTD.


We are in the process of arranging lease financing for the above company. Our searches indicate that financing statements have been filed by or on behalf of CIBC, indicating that you have a security interest in certain assets or undertakings of the above company.

Please confirm by signing below and return by fax to my attention at 613-233-6095, indicating that you have no security interest, lien or encumbrance of any kind on the Equipment described as follows:


3- 892E Excavators s/n FF892EX012642, FF892EX012643, FF892EX012466

Your prompt reply is greatly appreciated.

Yours truly,


Susan McAllister

CANADIAN IMPERIAL BANK OF COMMERCE


Signature Barry Chaulk Title Manager Date June 8/98
Commercial Banking

Bank Street Chambers, 102 Bank Street, Suite 802, Ottawa, Ontario K1P 5N4
Tel: (613) 233-2275 Fax: (613) 233-6095

TOTAL P.01

10'2 78101

13-89-0



JOHN DEERE CREDIT INC. 1181 Champion Avenue, Suite 401, Burlington, Ontario, Canada L7L 5Z4

Direct Line: (905) 319-4898
Direct Fax: (905) 319-2147

June 11, 1998

Via Facsimile 613-233-6095

Susan Mcallister
Cyber Lease

Ottawa, ON K1P 5N4

Dear Susan:

**RE: RELEASE OF INTEREST - Hickman Equipment (1985) Limited and
Labrador Equipment & Mining Supplies Ltd.**

Please accept this letter as confirmation that John Deere Credit Inc. holds no interest in the following:


3-892E Excavators s/n FF892EX012642, FF892EX012643, FF892EX012455

I confirm that John Deere Credit Inc. is the successor by amalgamation of John Deere Finance Limited and Canadian Equipment Finance Corporation.

Yours Truly,

Lynn Ancoini
Wholesale, Customer Service

This is Exhibit "5" referred to in the
affidavit of Ginter Baca sworn
before me this 4 day of February, 2003.


A Commissioner, etc.

COPY

February 27, 2002

Reply to: Mark G. Klar.
File No: 97820
Direct Tel: (416) 218-1131
Direct Fax: (416) 218-1831
E-mail: mark-k@chaiton.com

VIA REGULAR MAIL

Ernest G. Reid
Stewart McKelvey Stirling Scales
P.O. Box 5038
St. John's, NF
A1C 5V3

Dear Mr. Reid:

**Re: Indebtedness of Hickman Equipment (1985) Limited
to Contract Funding Group Inc. ("CFG")**

As you are aware, we act as solicitors for CFG and are in receipt of a copy of your letter to Cyber Lease Corporation dated February 15, 2002. In response to your letter, please be advised of the following:

1. Hickman is indebted to CFG as at January 15, 2002 in the amount of \$1,581,040.80;
2. Attached hereto please find copies of the following:
 - (a) Cyber Lease Corp. lease contract no. H980605LE (assigned to CFG) dated June 5, 1998;
 - (b) Cyber Lease Corp. lease no. H990706 (assigned to CFG) dated July 9, 1999;
 - (c) CFG contract no. 11-174-0 dated February 16, 2001; and
 - (d) CFG contract no. 11.89-3 dated September 15, 2000.

We note that on the most recent list supplied by Hickman, JDC is shown as having an interest in stock no. C000345 John Deere 892E Excavator SIN FF892EX012643. This excavator is subject to a lease agreement between CFG as assignee of the lease, and Hickman. For your information, John Deere Credit Inc. in a letter to Cyber Lease, the assignor of the lease agreement to CFG, confirmed that it held no interest in the excavator. Attached hereto is a copy of the letter.

Should you have any questions, please do not hesitate to contact us.

Yours truly,

CHAITON & CHAITON LLP

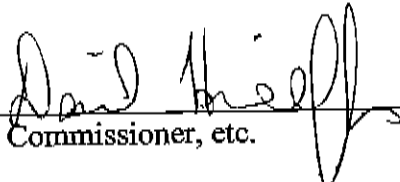
Mark G. Klar

(computer generated signature)

MGK/mg
Encls.

This is Exhibit "6" referred to in the
affidavit of Ginter Baca sworn

before me this 4 day of February, 2003.


A Commissioner, etc.

SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person:	John Deere Credit Inc.
Date of Document:	January 2003
Summary of Order/Relief Sought or Statement of Purpose in filing:	Interlocutory Application of John Deere Credit Inc. ("JDCI") for payment to JD CI of the proceeds from the sale by the Receiver of the equipment referenced in the Application
Court Sub-File Number:	7: 37

2002 01T 0352

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

IN THE MATTER OF

a Court ordered Receivership
of Hickman Equipment (1985) Limited
("HEL") pursuant to Rule 25
of the *Rules of the Supreme Court, 1986*
under the *Judicature Act*, RSNL 1990,
c. J-4, as amended

AND IN THE MATTER OF

the *Bankruptcy and Insolvency Act*,
RSC 1985, c. B-3, as amended (the "BIA")

INTERLOCUTORY APPLICATION (INTER PARTES)
OF JOHN DEERE CREDIT INC.

The Interlocutory Application (Inter Partes) of JD CI says as follows:

1. By a Receiving Order dated March 13, 2002 and filed March 14, 2002 (the "Receiving Order") HEL was adjudged bankrupt and PricewaterhouseCoopers Inc. ("PWC") was appointed Trustee in bankruptcy in accordance with the BIA.
2. By a Receivership Order dated March 13, 2002 and filed March 14, 2002 (the "Receivership Order") PWC was appointed receiver without security "... of all the property, assets, entitlements and undertaking (the "Assets") of Hickman Equipment wheresoever situate including without limitation all property assets


and undertaking comprised in the term "Property" as such term is defined in the Initial Order."

3. In light of the above, and by virtue of the Receiving Order, JDCI filed a proof of claim in the Bankruptcy of Hickman dated April 17, 2002.
4. PWC, in accordance with an Order of this Honourable Court dated May 14, 2002, commenced and completed the liquidation of substantially all of the Assets of HEL by auction.
5. By Final Determination dated November 27, 2002 (the "Final Determination"), PWC has allowed, *inter alia*, the claims of JDCI in respect of certain units, including, without limitation, the units listed at Schedule "A" to this Application (the "JDCI Units"). PWC has in the Final Determination concluded that the debts noted in Schedule "A" in respect of the JDCI Units are owing from HEL to JDCI, value has been given by JDCI to HEL in respect of the JDCI Units, and JDCI has a valid and perfected security interest in the JDCI Units.
6. JDCI has been advised by PWC that PWC has received as proceeds of the liquidation of each of the JDCI Units, the amounts set out in the 6th column of Schedule "A" to this Application (the "Proceeds").
7. JDCI has a first ranking security interest in the JDCI Units by virtue of the security and other documents referenced by PWC at paragraph 8 in the Final Determination.
8. JDCI therefore applies to this Honourable Court for an Order approving the payment to JDCI by the Receiver of the Proceeds.

DATED AT St. John's, in the Province of Newfoundland and Labrador, this 16th day of January 2003.

*Entered and filed in
this 16th day of January 2003*

*Michael Harrington
Clerk*

for 
Michael P. Harrington, Q.C.
Stewart McKelvey Stirling Scales
Solicitors for John Deere Credit Inc.
Whose address for service is:
Suite 1100, 100 New Gower Street
P.O. Box 5038
St. John's, NF A1C 5V3

Schedule "A" to the Application for Proceeds

Serial Number	Year	Model	Make	JDCI Debt	Auction Proceeds
FF0200X051172	1999	200LC	JD	\$167,219.46	\$199,500.00
06CR05244	2000	320	CAT	\$159,119.35	\$140,000.00
5TJ02858	1995	D8N	CAT	\$283,892.54	\$165,149.00
10DH1027	2000	1110NA	TJ	\$261,474.76	\$190,000.00
06CR05245	2000	320	CAT	\$159,119.35	\$135,000.00
9JS00289 ¹	2000	320B	CAT	\$190,015.21	\$67,500.00
544B032885899	1999	544B	FABTEK	\$214,282.90	\$65,000.00
T0450GW809815 ²	1995	450G	JD	\$49,795.97	\$57,500.00
DW690EL565134	1998	690E	JD	\$257,866.14	\$30,000.00
FF790EL010023	1992	790E	JD	\$74,516.76	\$39,000.00
FF892EX007239	1993	892E	JD	\$135,210.51	\$40,000.00
FF892EX012643	1998	892E	JD	\$205,212.37	\$145,000.00
C10514	1998	PC200-6	KOMATSU	\$159,620.87	\$65,000.00
AT4C761111995	1995	TM T42B	TIMCO	\$278,561.08	\$24,000.00
993395	1999	610	TJ	\$136,825.13	\$95,000.00
860-8220	1998	860	VALMET	\$265,143.15	\$30,000.00
911C-4019	1998	911C	VALMET	\$331,261.45	\$50,000.00
FF0200X050655	1998	200LC	JD	\$157,295.02	\$110,000.00
FF0330X080964	2000	330LC	JD	\$301,723.63	\$199,500.00
FF0330X080078	1998	330LC	JD	\$228,008.11	\$133,000.00
DW772CH567061	1998	772CH	JD	\$165,889.79	\$95,000.00
FF892EX011283	1995	892E	JD	\$143,278.99	\$40,000.00
FF992EX007040	1997	992E	JD	\$238,277.34	\$100,000.00
FF892EX011686	1996	892E	JD	\$247,470.42	\$40,000.00
06CR04706	2000	320	CAT	\$159,119.35	\$135,000.00
FF0450X090021	1997	450LC	JD	\$298,814.89	\$150,000.00
FF0230X060319	1998	230LC	JD	\$173,019.45	\$104,500.00
T0653GX880032	2000	653G	JD	\$310,401.90	\$180,000.00

* The JDCI Debt amounts are as of March 13, 2002. However, such amounts have, and continue to, accrue interest.

¹ Referred to in Appendix A to Eighth Report of Receiver as Serial Number 9SJ000289.

² Referred to in Appendix A to Eighth Report of Receiver as Serial Number T0450GX809815.

SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person:	John Deere Credit Inc.
Date of Document:	January 2003
Summary of Order/Relief Sought or Statement of Purpose in filing:	Interlocutory Application of John Deere Credit Inc. for payment to JDCI of the proceeds from the sale by the Receiver of the equipment referenced in the Application.
Court Sub-File Number:	7:

2002 01T 0352

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

IN THE MATTER OF

a Court ordered Receivership
of Hickman Equipment (1985) Limited
("HEL") pursuant to Rule 25
of the *Rules of the Supreme Court, 1986*
under the *Judicature Act*, RSNL 1990,
c. J-4, as amended

AND IN THE MATTER OF

the *Bankruptcy and Insolvency Act*,
RSC 1985, c. B-3, as amended (the "BIA")

NOTICE

You are hereby notified that the foregoing application will be heard by the judge
presiding in chambers at the Court House at St. John's, Newfoundland and Labrador, on
the 3 day of February, 2003, at the hour of 10:00 o'clock in the forenoon or so
(Return date)
soon thereafter as the application can be heard.

AND FURTHER TAKE NOTICE that on hearing of the application, the judge may make an order in favour of the applicant in your absence and without further notice unless you or your solicitor

- (a) cause to be delivered to the applicant or the applicant's solicitor at the address named herein for service, not later than two clear days before the hearing of the application, a true copy of any affidavit or other material that you or your solicitor intend to read on the hearing of the application, and,
- (b) appear on the hearing of the application at the time and place appointed for the hearing.

To: See Schedule "A" Attached.

SCHEDULE "A"

DISTRIBUTION LIST

TO: ABN Amro Bank Canada/ ABN Amro Leasing & Tramac Equipment Ltd.	Aubrey L. Bonnell, Q.C. Brian Winsor David Timms Brent Keenan	709-722-7521 416-868-0673
Bombardier Capital Leasing & Culease Financial Services	J. Vernon French, Q.C.	709-754-2701
Caterpillar Equipment	Colin D. Grant	905-849-5512
CAT Finance	James Smyth, Q.C. Phillip Warren	709-754-5662
Cedarrapids	Les Baumback Francoise Belzil	319-399-4760 780-413-3152
CIBC	R. Wayne Myles Geoffrey Spencer	709-579-2647
CIBC Equipment Finance Ltd./ CIT Financial Ltd.	Gregory W. Dickie	709-722-9210
Contract Funding Group Inc.	Mark G. Klar	416-218-1831
DaimlerChrysler Financial Services/ DaimlerChrysler Capital Services/ Mercedes-Benz of Canada Inc.	Philip Buckingham Peter O'Flaherty Elaine Gray	709-722-4720 416-863-3527
Fabtek Corp.	Linc A. Rodgers Rhodie E. Mercer, Q.C.	416-863-2653 709-726-5705
GE Capital	Harvey Chaiton Frederic Scalabrini	416-218-1849 905-319-4855
GMAC	Thomas R. Kendell, Q.C.	709-722-1763
Group Holdings Ltd./Hickman Equipment/Hickman Holdings Ltd.	Robert Stack/ Griffith D. Roberts	709-726-2992
Ingersoll-Rand Canada Inc.	R. Barry Learmonth Jonathan Wigley	709-739-8151 416-863-6275

SUMMARY OF CURRENT DOCUMENT	
Name of Issuing Party or Person:	John Deere Credit Inc.
Date of Document:	February 2003
Summary of Order/Relief Sought or Statement of Purpose in filing:	Affidavit of David R. Bugaresti in support of the Interlocutory Applications (Inter Partes) of John Deere Credit Inc. for payment to John Deere Credit Inc. of the proceeds from the sale by the Receiver of the equipment referenced in the Interlocutory Applications filed in Court Sub-Files Numbered 7:25 and 7:37
Court Sub-File Number:	7:25 and 7:37

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*, RSNL 1990,
c. J-4, as amended

AND IN THE MATTER OF

the *Bankruptcy and Insolvency Act*,
RSC 1985, c. B-3, as amended

AFFIDAVIT OF DAVID R. BUGARESTI

I, David R. Bugaresti, of the City of Toronto, in the Province of Ontario, make
oath and say as follows:

1. THAT I am Chief Counsel and Secretary of John Deere Credit Inc., and as
such have personal knowledge of the matters herein deposed;

2. THAT I make this Affidavit in support of the Interlocutory Applications (Inter Partes) of John Deere Credit Inc. ("JDCI") for payment to JDCI of the proceeds from the sale by the Receiver of the JDCI Units (as that term is defined in the Interlocutory Applications (Inter Partes) of JDCI filed in Court Sub-Files numbered 7:25 and 7:37);
3. THAT I have reviewed the Floor Plan Notes, Chattel Mortgages and Conditional Sales Agreements from Hickman Equipment to JDCI, which created the payment obligations of Hickman Equipment to JDCI in respect of each of the JDCI Units;
4. THAT all of the aforesaid Floor Plan Notes, Chattel Mortgages and Conditional Sales Agreements are dated after 25 December 1999 and the payment obligations of Hickman Equipment under each arises as of its date;
5. THAT based on my review of the aforesaid Floor Plan Notes, Chattel Mortgages and Conditional Sales Agreements, the date upon which Hickman Equipment obtained possession as debtor of each of the JDCI Units was later than 25 December 1999.

SWORN to before me at Burlington, in the Province of Ontario, this 10th day of February, 2003:


Notary Public


DAVID R. BUGARESTI

MTC Leasing Inc./
National Leasing Group Inc.

R. Paul Burgess

709-754-0915

ORIX Financial Services Canada Ltd.

Donald Yaeck

416-236-3010

Goodman Associates

Paul G. Goodman

902-425-3777

Merrick Holm

Carl Holm, Q.C.

902-429-8215

Royal Bank of Canada

Thomas O. Boyne, Q.C.

902-463-7500

TD Asset Financial Corp.

D. Bradford L. Wicks

709-753-5221

Wells Fargo Equipment Finance Co.

Richard Jones

416-361-6303

Patterson Palmer Hunt Murphy

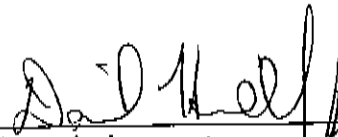
Frederick J. Constantine

709-722-0483

This is Exhibit "7" referred to in the

affidavit of Ginter Baca sworn

before me this 4 day of February, 2003.

A handwritten signature in cursive script, appearing to read "David H. Hall". The signature is written in dark ink and is positioned above a horizontal line.

A Commissioner, etc.

CHATTON & CHAITON LLP

Barristers + Solicitors
185 Sheppard Avenue West
Toronto, Ontario
Canada, M2N 1M9
Phone: (416) 222-8888
Fax: (416) 222-8402
E-mail: chaiton@chaiton.com

January 20, 2003

Reply To:	Mark G. Klar
File No:	97893
Direct Tel:	(416) 218-1131
Direct Fax:	(416) 218-1831
E-mail:	mark-k@chaiton.com

Maureen E. Ryan
Stewart McKelvey Stirling Scales
Suite 1100, Cabot Place
100 New Gower Street
P.O. Box 5038
St. John's, NF
A1C 5V3

Dear Ms. Ryan:

Re: Hickman Equipment (1985) Limited

Further to my voice-mail message left for you on January 17, 2003 and our telephone conversation earlier today, we confirm that we act as solicitors for Contract Funding Group Inc. ("CFG"). We further confirm that we are in receipt of your application materials seeking an Order approving payment to John Deere Credit Inc. (JDCI) by Price Waterhouse Coopers Inc. ("PWC") in its capacity as court appointed Receiver, of the proceeds from the sale of various pieces of equipment including, a John Deere 892E excavator, serial number FF892EXO12643 ("the CFG Unit").

On February 27, 2002, we wrote to Mr. Reid of your office enclosing copies of CFG's documentation and specifically advising him that JDCI, in a letter to Cyber Lease Corp., the assignor of the lease agreement in question, confirmed that it held no interest in the CFG Unit. We reiterate our position that CFG is entitled to all of the proceeds from the sale of the CFG unit.

Enclosed herein please find a copy of our letter to Mr. Reid together with a copy of the waiver letter. Also enclosed is an extract from PWC's Final Determination confirming the validity of CFG's claim.

In light of CFG's prior entitlement to the \$145,000.00 in proceeds (the "Proceeds") from the sale of the CFG Unit, we would ask that you confirm for us by January 24, 2003 that JDCI will not be seeking a release of the Proceeds and that all necessary steps will be taken to advise the Court accordingly. In the event that we are required to bring an application opposing JDCI's application, we will of course be seeking costs against JDCI. Hopefully, this will not be necessary.

We look forward to hearing from you.

Yours very truly,

CHAITON & CHAITON LLP



Mark G. Klar

MGK/lm

Encl.

cc: Kerigan Carbol

cc: David Chaiton