

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
IN BANKRUPTCY AND INSOLVENCY
JUDICIAL DISTRICT OF MIRAMICHI

IN THE MATTER OF THE RECEIVERSHIP OF:

ATCON GROUP INC., ATCON HOLDINGS INC., ATCON PROPERTY HOLDINGS INC., ATCON VENEER PRODUCTS INC., ATCON LOGISTICS INC., ATCON CONSTRUCTION INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONSTRUCTION LTD., ATCON STRUCTURES INC. AND ENVIREM TECHNOLOGIES INC.

PURSUANT TO Section 33 of The *Judicature Act*, R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3

BETWEEN:

**THE BANK OF NOVA SCOTIA, a Canadian chartered bank
with a registered office in the City of Saint John, Province of
New Brunswick**

APPLICANT

- and -



ATCON GROUP INC., ATCON HOLDINGS INC., ATCON PROPERTY HOLDINGS INC., ATCON VENEER PRODUCTS INC., ATCON LOGISTICS INC., ATCON CONSTRUCTION INC., ATCON MANAGEMENT SERVICES INC., ATCON CIVIL LTD., DYCON CONSTRUCTION LTD., ATCON STRUCTURES INC. AND ENVIREM TECHNOLOGIES INC., all of which are carrying on business in the Province of New Brunswick

RESPONDENTS

ORDER

THIS MOTION, made by Ernst & Young Inc. in its capacity as Court-appointed receiver and receiver manager of the property, assets and undertakings of the Respondents (the

15 June 2011

"Receiver") for an Order, *inter alia*, authorizing and directing Sun Life Financial to terminate the Sun Life Policy (as defined herein) and pay the cash surrender value under the Sun Life Policy to the Receiver was heard on March 18th, 2011 at 673 King George Highway, Miramichi, New Brunswick.

ON READING the Receiver's Notice of Motion dated November 18, 2010, the Eleventh Report of the Receiver dated November 17, 2010 and all the appendices attached thereto (the "**Eleventh Report**"), the Twelfth Report of the Receiver dated November 17, 2010 and all the appendices attached thereto (the "**Twelfth Report**"), the Supplement to the Eleventh Report of the Receiver and the Twelfth Report of the Receiver dated February 28, 2011 and all the appendices attached thereto (the "**First Supplemental Report**"), the Second Supplement to the Eleventh Report of the Receiver and the Twelfth Report of the Receiver dated March 7, 2011 and all the appendices attached thereto (the "**Second Supplemental Report**"), the Third Supplement to the Eleventh Report of the Receiver and the Twelfth Report of the Receiver dated March 14, 2011 and all the appendices attached thereto (the "**Third Supplemental Report**"), the Supplemental Affidavit of Jane MacEachern sworn March 7, 2011, the Affidavit of Robert W. Tozer sworn March 1, 2011, the Affidavit of Dana Waye sworn February 25, 2011, the Affidavit of James L. Mockler sworn February 25, 2011, the Affidavit of Hal Raper sworn March 1, 2011 and the Affidavit of Joe Daley sworn February 28, 2011, and on hearing the submissions of counsel for the Receiver, Mr. Robert W. Tozer, The Bank of Nova Scotia, the Province of New Brunswick and such other counsel in attendance,

1. **THIS COURT ORDERS** that the time for service of the Receiver's Notice of Motion, the Eleventh Report, the Twelfth Report, the First Supplemental Report, the Second Supplemental Report, the Third Supplemental Report and the Record on Motion shall be and is hereby abridged and validated so that the motion is properly returnable today, and that any further service thereof is hereby dispensed with.

2. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to forthwith direct Sun Life Financial in writing to:

- (a) terminate life insurance policy number LI-R656,057-5 insuring the life of Mr. Robert W. Tozer (the "**Sun Life Policy**"); and

Just
15 June 2011

- (b) pay to the Receiver the cash surrender value under the Sun Life Policy (the “**Cash Surrender Value**”).

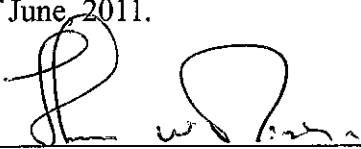
3. **THIS COURT ORDERS** that the Receiver is authorized and empowered, upon receipt of the Cash Surrender Value, to utilize the Cash Surrender Value for the purpose of making payments (including interim payments) required or permitted by the Receivership Order dated March 2, 2010 granted in these proceedings as amended by the Order dated March 30, 2010 granted in these proceedings.

4. **THIS COURT ORDERS** that:

- (a) no action to surrender the Sun Life Policy shall be undertaken by the Receiver until the expiry of at least thirty (30) days from the date hereof or until any appeal of this Order is finally determined; and
- (b) Mr. Robert W. Tozer shall have the opportunity and option to have the Sun Life Policy assigned to him on payment to the Receiver of the Cash Surrender Value as of the date of assignment.

As per and in accordance with the written reasons for judgment dated April 12th, 2011 and filed on April 13th, 2011.

Dated at Miramichi, New Brunswick, this 15th day of June, 2011.



Thomas W. Riordon
Judge of the Court of Queen's Bench of
New Brunswick