

**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

APPROVAL AND VESTING ORDER

(re Nelson Street Properties and St. Patrick's Drive Property)

Signature
15 Aug 2011

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 "**Receiver**") for an order, *inter alia*, authorizing the Receiver to sell the Nelson Street Properties and the St. Patrick's Drive Property to the Purchaser (each capitalized term as defined below), authorizing and directing the Receiver to take such steps and execute such additional documents as may be necessary or desirable for the completion of the sale transaction, vesting the Nelson Street Properties and the St. Patrick's Drive Property in and to the Purchaser free and clear of any liens or encumbrances upon delivery of the Receiver's Certificate to the Purchaser, and authorizing and empowering the Receiver to utilize the net sale proceeds of the Nelson Street Properties and the St. Patrick's Drive Property for the purpose of making payments (including interim payments) required or permitted by the Receivership Order, was heard this day at 673 King George Highway, Miramichi, New Brunswick.

ON READING the Receiver's Notice of Motion dated July 19, 2011, the Nineteenth Report of the Receiver dated July 19, 2011 and the appendices attached thereto (the "**Nineteenth Report**"), the Supplement to the Nineteenth Report of the Receiver dated July 19, 2011 (the "**Supplemental Report**") and the Form of Offer of the Purchaser and 7857861 Canada Inc. dated August 15, 2011 (the "**Offer**"), and on hearing the submissions of counsel for the Receiver and such other counsel in attendance,

1. **THIS COURT ORDERS** that the time for service of the Receiver's Notice of Motion, the Nineteenth Report, the 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 AND DECLARES** that the sale of real property located on Nelson Street in Miramichi, New Brunswick and identified as PID 40221426, PID 40219941, and PID 40221434 (collectively, the "**Nelson Street Properties**"), and real property located on St. Patrick's Drive in Miramichi, New Brunswick and identified as PID 40466039 (the "**St. Patrick's Drive Property**") to 7013272 Canada Inc. (the "**Purchaser**") pursuant to the Offer is hereby approved.

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3. **THIS COURT ORDERS AND DECLARES** that the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the conveyance of the Nelson Street Properties and the St. Patrick's Drive Property to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Receiver's Certificate**"), all of Atcon Management Services Inc.'s ("AMSI") right, title and interest in and to the Nelson Street Properties and the St. Patrick's Drive Property shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by Order of The Honourable Mr. Justice Riordon granted in these proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (New Brunswick), the *Land Titles Act* (New Brunswick), *Registry Act* (New Brunswick), or any other registry system (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Nelson Street Properties and the St. Patrick's Drive Property are hereby expunged and discharged as against the Nelson Street Properties and the St. Patrick's Drive Property.

5. **THIS COURT ORDERS** that notwithstanding this Court Order and despite paragraph 4 of this Order, easements and rights of way and such other interests including prescriptive interests shall continue with respect to the Nelson Street Properties and the St. Patrick's Drive Property.

6. **THIS COURT ORDERS** that upon the registration under the *Land Titles Act* (New Brunswick) or the *Registry Act* (New Brunswick) of a transfer for the Nelson Street Properties and the St. Patrick's Drive Property by the Receiver, the Land Registrar is hereby directed to enter the Purchaser as the owner of the Nelson Street Properties and the St. Patrick's Drive

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Property in fee simple, and is hereby directed to delete and expunge from title to the Nelson Street Properties and the St. Patrick's Drive Property all of the Claims and Encumbrances registered with the Land Registrar.

7. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, the net proceeds from the sale of the Nelson Street Properties and the St. Patrick's Drive Property shall stand in the place and stead of the Nelson Street Properties and the St. Patrick's Drive Property, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Nelson Street Properties and the St. Patrick's Drive Property with the same priority as they had with respect to Nelson Street Properties and the St. Patrick's Drive Property, as if the Nelson Street Properties and the St. Patrick's Drive Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

8. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

9. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of AMSI and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of AMSI;

the vesting of the Nelson Street Properties and the St. Patrick's Drive Property in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy appointed in respect of AMSI and shall not be void or voidable by creditors of AMSI, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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10. **THIS COURT ORDERS** that the Receiver is authorized and empowered, upon receipt of the amount of \$24,000 from PricewaterhouseCoopers Inc., Court-appointed receiver and receiver manager of Atcon Plywood Inc. in receivership proceedings bearing Court File No. N/M/26/10 (the “**Net Sale Proceeds**”) in connection with the sale of Nelson Street Properties and the St. Patrick’s Drive Property, to utilize the Net Sale Proceeds 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.

11. **THIS COURT ORDERS** that the Supplemental Report shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope and shall only be opened upon further Order of the Court.

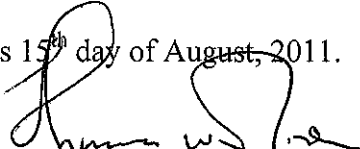
12. **THIS COURT ORDERS AND DECLARES** that Approval and Vesting Order (re Terrence Kelly) of The Honourable Mr. Justice Riordon dated September 29, 2010 granted in these proceedings (the “**September 29 Order**”) is hereby varied and amended such that:

(a) references to “Nelson Street, Miramichi, New Brunswick (PIDs 40221426, PID 40219941, PID 40221434)” and “St. Patrick’s Drive, Miramichi, New Brunswick (PID 40466039)” in paragraph 4 of September 29 Order;

(b) items 1 and 3 on Schedule “A” – Purchased Assets of the September 29 Order;

are hereby deleted.

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



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

Schedule A – Form of Receiver's Certificate

N/M/17/10

**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

RECEIVER'S CERTIFICATE

Just
15 AUG 2011

RECITALS

A. Pursuant to an Order of The Honourable Mr. Justice Riordon of The Court of Queen's Bench of New Brunswick (the "**Court**") dated March 2, 2010, as amended, Ernst & Young Inc. was appointed as receiver and receiver manager in respect of the property, assets and undertakings of the Respondents (the "**Receiver**").

B. Pursuant to an Order of the Court dated August 15, 2011 (the "**Approval and Vesting Order**"), the Court provided for the vesting in and to 7013272 Canada Inc. (the "**Purchaser**") the right, title and interest of Atcon Management Services Inc. in and to the Nelson Street Properties and the St. Patrick's Drive Property, which vesting is to be effective with respect to the Nelson Street Properties and the St. Patrick's Drive Property upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the receipt of payment from PricewaterhouseCoopers Inc., Court-appointed receiver and receiver manager of Atcon Plywood Inc. in receivership proceedings bearing Court File No. N/M/26/10 ("**PwC**"), of the amount of \$24,000 in connection with the Purchaser's purchase of the Nelson Street Properties and the St. Patrick's Drive Property; and (ii) the transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Approval and Vesting Order.

THE RECEIVER CERTIFIES the following:

1. PwC has paid and the Receiver has received the amount of \$24,000 for the Nelson Street Properties and the St. Patrick's Drive Property; and
3. The Transaction has been completed to the satisfaction of the Receiver.

This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

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15 Aug 2011

**ERNST & YOUNG INC. in its capacity as the
Receiver of the Respondents and not in its
personal or corporate capacity**

By: _____

Name: Paul D. Hickey

Title: Senior Vice President

Paul
15 Aug 2011