

**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

(Approval of CRA Settlement and Fourth Interim Distribution)

Jul
22 Oct 2014

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*:

- (i) approving the settlement agreement between the Receiver and the Crown;
- (ii) approving and authorizing the execution by the Receiver of the Consents to Judgment (as defined in the Twenty-Eighth Report of the Receiver);
- (iii) authorizing and empowering the Receiver to utilize funds held in the Holdback Accounts (as defined in the Twenty-Eighth Report of the Receiver), including earned interest, for the purpose of making payments, including interim payments, required or permitted by the Receivership Order, upon approval of the Consents by the Tax Court of Canada;
- (iv) authorizing, empowering and directing the Receiver to distribute the Fourth Interim Distribution (as defined in the Twenty-Eighth Report of the Receiver), upon approval of the Consents by the Tax Court of Canada; and
- (v) approving the conduct, actions and activities of the Receiver in administering this receivership proceeding as set out in the Twenty-Eighth Report of the Receiver dated 25 September 2014 (the “**Twenty-Eighth Report**”),

was heard by conference call this day at 673 King George Highway, Miramichi, New Brunswick.

ON READING the Receiver’s Notice of Motion dated 10 October 2014, the Twenty-Eighth Report, and on hearing the submissions of counsel for the Receiver, and such other counsel in attendance, and on reading the affidavit of service of Andrew Hodhod sworn 14 October 2014, and on being advised by the Receiver of the consent of the Crown and each of The Bank of Nova Scotia (the “**Bank**”), the Province of New Brunswick (the “**Province**”), Aviva Insurance Company of Canada and its affiliated entities (“**Aviva**”), and GE Canada Equipment Financing G.P. and its affiliated entities (“**G.E.**”, and together with the Bank, the Province and Aviva, the “**Secured Creditors**”) to this Order.

jud
22 Oct 2014

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Receiver's Notice of Motion, the Twenty-Eighth 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.

APPROVAL OF SETTLEMENT AGREEMENT AND CONSENTS TO JUDGMENT

2. **THIS COURT ORDERS** that the settlement agreement reached between the Receiver and the Crown in respect of certain disputed Notices of Assessment, as outlined in the Twenty-Eighth Report, is hereby approved.

3. **THIS COURT ORDERS** that the Consents to Judgment relating to the disputed Notices of Assessment, attached as Appendix "A" to the Twenty-Eighth Report (the "**Consents**") are hereby approved, and that the Receiver is authorized to execute the Consents.

APPROVAL OF ACTIVITIES OF THE RECEIVER

4. **THIS COURT ORDERS** that the conduct, actions and activities of the Receiver in administering this receivership proceeding as set out in the Twenty-Eighth Report, be and are hereby approved.

DISTRIBUTIONS FROM HOLDBACK ACCOUNTS

5. **THIS COURT ORDERS** that, upon approval of the Consents by the Tax Court of Canada, the Receiver is authorized and empowered to utilize funds held in the Holdback Accounts (as defined in the Twenty-Eighth Report), including earned interest, for the purpose of making payments, including interim payments, required or permitted by the Receivership Order (as defined in the Twenty-Eighth Report).

6. **THIS COURT ORDERS** that, upon approval of the Consents by the Tax Court of Canada, the Receiver is authorized, empowered and directed to pay from the proceeds of the Holdback Accounts:

Jul
22 Oct 2014

- (a) the sum of \$2,035,846.00 to the Canada Revenue Agency, as a full and final payment with respect to the disputed Notices of Assessment;
- (b) the sum of \$2,743,597.77 to the Bank;
- (c) the sum of \$6,125.95 to the Province;
- (d) the sum of \$53,246.02 to Aviva; and
- (e) the sum of \$127,267.84 to G.E.

Dated at Miramichi, New Brunswick, this 22nd day of October, 2014.

A handwritten signature in black ink, appearing to read 'Thomas W. Riordon', is written over a horizontal line.

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