

**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

**THIRD SUPPLEMENT TO
THE ELEVENTH REPORT OF THE RECEIVER
AND TWELFTH REPORT OF THE RECEIVER**

**March 14, 2011
(SUN LIFE AND OPI)**

INTRODUCTION AND PURPOSE

1. This report is the third supplement (the “**Third Supplemental Report**”) to the Eleventh Report of the Receiver dated November 17, 2010 (the “**Eleventh Report**”) and the Twelfth Report of the Receiver dated November 17, 2010 (the “**Twelfth Report**”). The Third Supplemental Report should be read together with the Eleventh Report, the Twelfth Report, the Supplement to the Eleventh Report of the Receiver and the Twelfth Report of the Receiver dated February 28, 2011 (the “**First Supplemental Report**”) and the Second Supplement to the Eleventh Report of the Receiver and the Twelfth Report of the Receiver dated March 7, 2011 (the “**Second Supplemental Report**”).

TERMS OF REFERENCE

2. In preparing this Third Supplemental Report, the Receiver has been provided with, and has relied upon information received from Sun Life Financial. The Receiver has assumed that the information it has been provided is accurate and complete. The Receiver did not audit, review or otherwise attempt to verify the accuracy or completeness of the information. Accordingly, the Receiver expresses no opinion or other form of assurance with respect to the information presented in this Third Supplemental Report or relied upon by the Receiver in preparing this Third Supplemental Report.
3. Capitalized terms not defined in this Third Supplemental Report are as defined in the Eleventh Report, the Twelfth Report, the First Supplemental Report or the Second Supplemental Report.
4. Copies of court materials in these proceedings may be obtained from the Receiver’s website established in connection with the Respondents (www.ey.com/ca/atcon).

SUN LIFE POLICY

Payment of Premiums under the Sun Life Policy

5. As set out in paragraph 14 of the Eleventh Report, the Receiver previously requested confirmation from Sun Life Financial as to whether it had any information as to how the premiums under the Sun Life Policy were paid prior to 2002, as the Receiver was unable

to locate any documentation in the books and records of the Respondents with respect thereto. Sun Life Financial informed the Receiver that information as to payments of premiums under the Sun Life Policy prior to April 2002 was not readily accessible to it. In paragraph 12 of the Second Supplemental Report, the Receiver reported that, if such information was provided by Sun Life Financial to the Receiver, the Receiver would provide the information to the service list and the Court.

6. On March 11, 2011, Sun Life Financial sent a letter to BLG dated March 11, 2011, a copy of which is attached hereto as **Appendix "A"**. In the letter, Sun Life Financial confirms that:
 - (a) the first monthly premium for the Sun Life Policy was paid by way of cheque dated April 14, 2002. The cheque was drawn from the bank account of Atco Construction Ltd. with Royal Bank of Canada (the "**Bank Account**");
 - (b) premiums were subsequently paid from the Bank Account by way of an automatic monthly payment plan authorization, until the Sun Life Policy was amended to provide for premium offset, effective in April 2002.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 14th day of March 2011

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

By:



George C. Kinsman, CA•CIRP
Executive Director

APPENDIX “A”

**Sun
Life Financial**

Rae Y. Sands
Assistant Vice-President and
Senior Counsel

Assistant:
Janet Hogle
(519) 888-3900 x6631

Sun Life Assurance
Company of Canada
227 King Street South
P.O. Box 1601
STN Waterloo
Waterloo, Ontario
N2J 4C5
Bus (519) 888-2166
Fax (519) 888-3722
rae.sands@sunlife.com

March 11, 2011

BY FAX

Sam P. Rappos
Borden Ladner Gervais LLP
Scotia Plaza
40 King Street West
Toronto ON M5H 3Y4

Dear Mr. Rappos:

RE: Atcon and Life Insurance Policy Number LI-R656,057-5

In spite of the passage of time, Sun Life has been able to retrieve a microfiche that has some information about the payments for this policy.

The following documents were found:

- cheque dated April 14, 1992 to "Sunlife of Canada" (sic) for \$3758.11 on the account of Atco Construction Ltd., Royal Bank of Canada (RBC) account transit code 181 account number 100-780-6. It appears this was to cover the first monthly premium for three policies, including LI-R656,057-5 (see reference to app# 0650, 0651 and 0652 at the bottom of the cheque). App would refer to the application numbers. I believe app 0650 was for the subject policy;
- automatic monthly payment plan authorization now known as pre-authorized chequing (PAC) for the same RBC bank account for monthly payment for this and two other policies. The authorization is to take payments monthly from the Atco Construction Ltd. account with RBC and appears to be signed by Mr. Tozer only. The payment for the subject policy (indicated by app 0650) is shown as \$1,793.96 monthly. It is hard to read. Unfortunately a clearer copy is not available;
- policy information notice to Atco dated March 29, 1999 confirming policy information and monthly payment of \$1,793.96;
- verification memo about the transfer of ownership of the policy from Atco to Atcon dated 2001/12/21 (Dec 21, 2001) verifying Atcon's address was the same as Atco's address; and
- request for premium offset signed October 17, 2001.

Mr. Sam P. Rappos
March 11, 2011
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It appears that the premium payment for policy LI-R 656,057-5 was monthly out of the business bank account of Atco and then Atcon until the policy went on premium offset.

Copies of the documents are attached.

Yours truly,

A handwritten signature in cursive script, appearing to read "Rae Sands", followed by a comma.

Rae Y. Sands

RYS/jv
W2011 353211

Enclosures

NOTICE TO CREDITORS

0650 179396 76723214

721579 781580 08173015 76723234

652 123100 76723252

RECEIVED

215444-003

100 240-6 70

176/514

Notice of Creditors

535 Pleasant St, Worcester, MA 01609

[Handwritten signature]



Policy Information Notice

ATCO CONSTRUCTION LTD
114 WHALEN ST
NEWCASTLE NB EIV 3W5

POLICY NO. 7672321H	CURRENCY CANS
DUE DATE 14 APR 99	DATE OF NOTICE 29 MAR 99
NET PREMIUM	SEE BELOW
NET INTEREST/REPAYMENT	\$0.00
PAYMENT DUE	NIL

Please return this portion with your payment, see reverse.

THIS IS NOT A REQUEST FOR PAYMENT



POLICY NUMBER 7672321H ISSUED 14 APR 92
ON THE LIFE OF
ROBERT WILLIAM TOZER
PLAN: OPUS 2

THIS IS NOT A REQUEST FOR PAYMENT. THANK YOU FOR INSURING WITH SUN LIFE.

PAYMENT INFORMATION

Premium of \$1793.96 payable monthly by automatic monthly payment plan.

POLICY COVERAGE

Total Death Benefit at April 14, 1999

\$1358833.84

POLICY VALUE

Total Cash Value at April 14, 1999

\$50503.12

DIVIDEND INFORMATION

Current Dividend
Additional insurance bought by this dividend
Total additional insurance bought by dividends

\$11982.58CR
\$37685.57
\$158833.84

Further to the Premium Offset Class-Action Agreement, we have adjusted your dividends to include the first two years of the Global and the Optional Dividend Benefits. The Global Benefit will be in effect for one more year and the Optional Dividend Benefit will be in effect for the lifetime of your policy. You will no longer receive the Special Maturity Benefit.

Client Services can also help with your inquiries. Call us toll-free at 1 800 SUN-LIFE (1 800 786-5433), weekdays from 8:00 am to 8:00 pm. You may write us at P.O. Box 6075 (A), Montreal QC H3C 3G5.

Lucie Lacroix

Financière
Sun Life



Sun Life du Canada, compagnie d'assurance-vie
Lucie Lacroix
2001/12/21 09:40 AM

To: Microfilming@Sunlife
cc:
Subject: ROBERT W TOZER - 7072321

Re: transfer of ownership

After verification with Dana Wayo's secretary, the address of the new owner is the same as the one we have on file for Atco Construction Ltd.



Sun Life
Assurance Company
of Canada

REQUEST FOR PREMIUM OFFSET

Robert W. Tozer
Life Insured 7672321 Policy No. 7672321 Branch Atlantic

I hereby request that premiums for my policy be paid through Sun Life's Premium Offset arrangement. Under this arrangement my premiums will be paid by my current and future dividends.

If a dividend is insufficient to pay a premium, I authorize Sun Life to cancel additional life insurance which was bought by previous dividends to pay the balance of the premium.

Premium Offset will begin on my next policy anniversary.

I understand that the frequency of premium payment under Premium Offset will be annual if the current frequency is other than annual.

I also understand that future dividends may be higher or lower than the current dividend. A lower dividend scale may mean that a dividend and existing paid-up additions will be insufficient to pay a full premium, and if that occurs, Premium Offset will cease and future premiums will be billed to me for payment to Sun Life. For Life Plus plans and Enhanced Life plans the premium payable while under Premium Offset is changed to the equivalent Whole Life plan rate.

Signed at Miramichi NB Oct 17 19 2001

Signature

[Signature]

Owner

Assignee

Atco

Spq in April 2002

