## NOVA SCOTIA COURT OF APPEAL Cite as: McManus v. Nova Scotia (Attorney General), 1996 NSCA 226

## Freeman, Roscoe and Bateman, JJ.A.

## **BETWEEN:**

BLAISE MCMANUS		)	
Kenzie MacKinnon	Appellant )	for the Appellant	
- and -		Fern M. Greening Lynn Carey for the Respondents	
THE ATTORNEY GENERAL OF NOVA SCOTIA representing Her Majesty the Queen in right of the Province of Nova Scotia,			
THORNE RIDDELL INC. and its successors, THORNE ERNST & WHINNEY INC. and PEAT MARWICK THORNE INC., bodies corporate			
bouled corporate	,	)	
R	( Respondents ) )	Appeal Heard: December 11, 1996	
	)	Judgment Delivered: December 11, 1996	

THE COURT: Appeal dismissed with costs per oral reasons for judgment of Freeman, J.A., Roscoe and Bateman, JJ.A. concurring.

The reasons for judgment of the Court were delivered orally by:

FREEMAN, J.A.:

This is an appeal from a decision of Associate Chief Justice Palmeter of

the Supreme Court of Nova Scotia who dismissed claims by the appellant against

the respondents resulting from an unsuccessful bid by the appellant to buy two

marine slipways at an auction.

The auctioneer had announced he would take bids on the slipways subject

to the approval of the receiver for whom he was selling the goods of an insolvent

shipyard. The receiver did not approve the appellant's bid. Palmeter A.C.J. found

the appellant understood the terms on which his bid was received.

The appellant argued that this manner of conducting the sale was

inconsistent with the basic requirements of a sale by auction.

Palmeter A.C.J. reviewed the law and made clear findings of fact. His

comprehensive decision is reported in 144 N.S.R. (2d) 182. We have considered

the arguments made on behalf of the appellant and we have not been persuaded

that the trial judge erred in law nor in his assessment of the facts.

We dismiss the appeal with costs which we fix at forty per cent of the costs

at trial, plus disbursements.

Freeman, J.A.

Concurred in:

Roscoe, J.A.

Bateman, J.A.

C.A.128628

NOVA SCOTIA COURT OF APPEAL

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BLAISE MCMANUS		`	
- and -	Appellant	)	REASONS FOR JUDGMENT
THE ATTORNEY GENE NOVA SCOTIA, represen Majesty the Queen in right Province of Nova Scotia	ting Her	)	BY:
THORNE RIDDELL INC successors, THORNE ERM WHINNEY INC. and PEATHORNE INC., bodies co	NST & AT MARWICK	)	
	Respondents		FREEMAN, J.A.
		)	