

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

**MOTION RECORD OF THE RECEIVER
(Motion Returnable February 13, 2015 for Stalking Horse and Sales Process)**

Dated: February 8, 2015

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the Court appointed Receiver of Crate Marine Sales
Limited, F.S. Crate & Sons Limited, 1330732 Ontario
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Limited, 1382415 Ontario Ltd., and 1382416 Ontario
Ltd.

TO: THE SERVICE LIST

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

NOTICE OF MOTION

A. FARBER & PARTNERS INC. in its capacity as the Court-appointed Receiver (the “**Receiver**”) of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively the “**Companies**”) will make a Motion to a Judge of the Commercial List, on Friday February 13, 2015 at 10:00 a.m. or soon after that time as the motion can be heard, at 330 University Avenue, 8th Floor, Toronto, Ontario.

THE PROPOSED METHOD OF HEARING: The motion is to be heard:

☐ in writing under subrule 37.12.1(1) because it is made without notice;
☐ in writing as an opposed motion under subrule 37.12.1(4); or
☒ orally.

THE MOTION IS FOR:

1. If necessary, an Order abridging the time for service of the Receiver's and Trustee's notice of motion and motion record and validating the service of such motion materials;
2. An Order in the form attached as **Schedule "A"**:
 - a. approving the Receiver's First Report dated December 11, 2014, the Second Report dated December 19, 2014 and the Third Report dated February 8, 2015 (the "**Third Report**" and collectively the "**Reports**") of the Receiver and the activities of the Receiver described therein;
 - b. approving the agreement of purchase and sale dated February 8, 2015 entered into between the Receiver and 2450902 Ontario Limited (the "**Stalking Horse Offer**");
 - c. approving the sales and bidding procedures described in the Third Report and attached as Schedule "A" to the draft Order (the "**Sales Process Terms**") and the sales process and auction described therein (collectively, the "**Stalking Horse Process**") and authorizing and directing the Receiver to conduct the Stalking Horse Process; and
 - d. sealing Confidential Appendices "A" and "B" to the Third Report until further Order of this Court; and
3. Such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Approval of Reports and Activities

1. The Receiver has reported on its activities since appointment in its Reports seeks the approval of this Court;

Stalking Horse Offer and Sale Process

2. The Receiver has accepted the Stalking Horse Offer, subject to approval by this Court, which provides for the Stalking Horse Process;
3. It is the Receiver's recommendation that the Stalking Horse Offer is reasonable and that the Stalking Horse Process is likely to result in the greatest return of the creditors' investment;
4. Rules 1.04, 2.01, 3, 02, and 37 of the *Rules of Civil Procedure*; and
5. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Third Report of A. Farber & Partners Inc. as Receiver;
2. Such further and other documentary evidence as counsel may advise and this Honourable Court may accept.

DATE: February 8, 2015

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TO: THE SERVICE LIST

SCHEDULE “A” TO THE NOTICE OF MOTION

Commercial List File No. 14-CV-10798-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE) FRIDAY, THE 13TH
JUSTICE)
DAY OF FEBRUARY, 2015

IN THE MATTER OF THE RECEIVERSHIP OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

**ORDER
(Stalking Horse and Sales Process)**

THIS MOTION, made by A. Farber & Partners Inc. (“**Farber**”) in its capacity as the Court-appointed Receiver (in such capacity, the **Receiver**”), without security, of all the assets, undertakings and properties (collectively, the **Property**”) of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively, the “**Debtors**”) for an order substantially in the form included in the Receiver’s Motion Record, amongst other things, approving a stalking horse agreement of purchase and sale and a related sales and bidding process and approving the Third Report of the Receiver dated February 8, 2015 (the “**Third Report**”) was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report and appendices thereto, and on hearing the submissions of counsel for the Receiver, and 2450902 Ontario Limited (the “**Stalking Horse Bidder**”), and ■, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of ■ sworn February ■, 2015, filed.

1. **THIS COURT ORDERS** that the time for service and filing of the Receiver's Notice of Motion and the Motion Record is hereby abridged and the service thereof is hereby validated so that this motion is properly returnable today and further service thereof is hereby dispensed with.
2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall have the respective meanings ascribed to them in the Stalking Horse Agreement of Purchase and Sale or the Sales Process Terms (as such terms are defined below), as the case may be.
3. **THIS COURT ORDERS** that the Third Report be and is hereby approved and that the activities, decisions and conduct of the Receiver and its counsel as described therein, be and are hereby approved.
4. **THIS COURT ORDERS** that Confidential Appendix "A" and Confidential Appendix "B" to the Third Report be and are hereby sealed until further Order of this Court.
5. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed, *nunc pro tunc*, to enter into an agreement to sell all or substantially all of the assets, property and undertakings of the Debtors (collectively, the "**Purchased Assets**") to the Stalking Horse Bidder, substantially in the form of the agreement attached as Appendix "Z" to the Third Report (the "**Stalking Horse Bid**" or "**Stalking Horse Agreement of Purchase and Sale**"), and such agreement, subject to the terms of this Order, is hereby approved and accepted for the purpose of conducting the Stalking Horse Process (as such term is defined below) in accordance with this Order and the Sales Process Terms (as such term is defined below).
6. **THIS COURT ORDERS** that the sales and bidding procedures described in the Third Report and attached hereto as **Schedule "A"** (the "**Sales Process Terms**") and the sales process and auction described therein (collectively, the "**Stalking Horse Process**") be and are hereby approved and the Receiver is hereby authorized and directed to conduct the Stalking Horse Process.
7. **THIS COURT ORDERS** that to qualify as a Superior Bid, a bid must be received from a purchaser other than the Stalking Horse Bidder on or before 5:00 p.m. (Toronto time) on March

18, 2015 (the “**Bid Deadline**”) and must be considered by the Receiver, in its sole discretion, to be a Superior Bid, as defined in the Sales Process Terms.

8. **THIS COURT ORDERS** that in addition to the Sales Process Terms, the following sales and bidding process (the “**Sales Process**”) with respect to any and all of the Purchased Assets be and is hereby approved as follows:

- (a) the Receiver shall solicit potential purchasers to submit Competing Bids by:
 - (i) sending out a teaser letter to parties in the same industry as the Debtors and to other potential purchasers as identified by the Receiver, as soon as reasonably practicable after issuance of this Order;
 - (ii) placing an advertisement in the Globe & Mail (National Edition) within five (5) Business Days of the issuance of this Order and in the Georgina Advocate, Barrie Advance, Innisfil Journal and Orillia Today within ten (10) Business Days of the issuance of this Order; and
 - (iii) providing to any potential purchasers who execute a confidentiality agreement on terms satisfactory to the Receiver: (1) access to a data room containing information in the Receiver’s possession reasonably required by prospective purchasers of the Purchased Assets to consider submitting a Competing Bid and facilitate the conduct of due diligence by prospective purchasers; and (2) an electronic copy of the Stalking Horse Bid;
- (b) any interested purchaser shall submit a formal offer to purchase the Purchased Assets in the form of an asset purchase agreement (with a copy blacklined against the Stalking Horse Bid), which includes the Sales Process Terms and an aggregate purchase price at least equal to the Stalking Horse Bid, plus an additional sum of \$500,000.00, and a deposit equal to at least 5% of the aggregate purchase price under the subject bid by way of Certified Cheque, Bank Draft or Wire Transfer payable to the Receiver in trust on or before the Bid Deadline;

- (c) the Receiver shall review any formal bids received by the Bid Deadline and determine if there are one or more Superior Bids;
- (d) if there is no Superior Bid, the Receiver shall bring a motion as soon as reasonably possible after the Bid Deadline for approval of the Stalking Horse Agreement of Purchase and Sale and an order to vest the right, title and interest of the respective Debtors in the Purchased Assets in the Stalking Horse Bidder and proceed with closing the transaction forthwith;
- (e) If there is one or more Superior Bids, the Receiver shall send out invitations on or before 3:00 p.m. (Toronto time) on March 20, 2015, or as reasonably practicable, to all Persons who have submitted Superior Bids and to the Stalking Horse Bidder, inviting them to attend an auction (the “**Auction**”) to be conducted by the Receiver at 10:00 a.m. (Toronto time) on March 23, 2015, at the offices of the Receiver, or otherwise as may be determined by the Receiver, in its sole discretion, together with a set of rules for the conduct of the Auction, and a copy of the most favourable Superior Bid (the “**Lead Bid**”) as determined in accordance with the Sales Process Terms; and
 - (i) the Receiver shall conduct the Auction by soliciting bids, starting at a minimum of \$100,000 increments above the amount of the Lead Bid, for which each bid thereafter must exceed the aggregate purchase price payable pursuant to the preceding bid by no less than \$100,000.00 and for which all consideration in excess of the amount set forth in the Lead Bid must be comprised only of cash consideration;
 - (ii) the Receiver may establish such timelines and protocols for the Auction as it considers appropriate, in its discretion, which will not be inconsistent with the terms of this Order;

- (iii) the “**Winning Bid**” shall be: (1) if there are no bids at the auction, the Person with the Lead Bid; or (2) the bidder with the highest bid received at the Auction as determined in accordance with the Sales Process Terms;
- (iv) upon acceptance of the bid of the Winning Bidder, there shall be a binding agreement of purchase and sale between the Winning Bidder and the Receiver in accordance with the Sales Process Terms; and
- (v) the Receiver shall make a motion to this Court, within 7 (seven) Business Days after the completion of the Auction, for an order to approve the agreement of purchase and sale with the Winning Bidder and to vest the right, title and interest of the respective Debtors in the Purchased Assets in the Winning Bidder, and proceed with closing the transaction forthwith.

(f) If the Winning Bidder fails to comply with the terms and conditions of the Winning Bid Agreement, or any of them, all deposits shall be forfeited to the Receiver on account of liquidated damages, without prejudice to all other rights and remedies the Receiver may have under the Winning Bid Agreement or at law or in equity as a result of such failure to comply, and the Purchased Assets subject to the Winning Bid Agreement may be resold by the Receiver. In that event, the Receiver may in its sole discretion accept the next highest bid received at the Auction after the Winning Bid (the “**Back-up Winning Bid**”), and if necessary may in its sole discretion in such acceptance extend the Closing Date to a date no later than April 20, 2015. The Receiver shall make a motion to this Court, within 7 (seven) Business Days after its acceptance of the Back-up Winning Bid Agreement, for an order to approve the Back-up Winning Bid Agreement and to vest the right, title and interest of the respective Debtors in the Purchased Assets in the purchaser thereunder, and proceed with closing the transaction forthwith.

9. **THIS COURT ORDERS** that in connection with the Stalking Horse Process and pursuant to clause 7(3) (c) of the *Personal Information Protection and Documents Act* (Canada), the Receiver may disclose personal information of identifiable individuals to prospective bidders

for the Purchased Assets and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete a sale of such assets. Each prospective bidder to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the said assets and related business, and if it does not complete a purchase thereof, shall return all such information to the Receiver or in the alternative shall destroy all such information and certify such destruction to the Receiver.

SCHEDULE "A"

CRATE MARINE SALES LIMITED et al SALES PROCESS TERMS (INCLUDING TERMS AND CONDITIONS OF SALE) (Collectively, the "Terms")

1. THE VENDOR

1.1. A. Farber & Partners Inc. solely in its capacity as the Court-appointed receiver (the "**Receiver**" and/or the "**Vendor**"), without security, of all the assets, undertakings and properties of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd. and 1382416 Ontario Ltd. (collectively, the "**Debtors**"), is offering for sale by bid and auction all of the **Purchased Assets**, as described in **Schedule "A"** attached hereto.

1.2. The Receiver has obtained an Order of the Ontario Superior Court of Justice (Commercial List) dated February 13, 2015 (collectively, the "**Sales Process Order**") which sets out, *inter alia*, the terms, conditions of sale and a timetable for bidding and an auction with respect to the purchase and sale of the Purchased Assets, as further outlined below (the "**Sales Process**") (a copy of the Sales Process Order can be viewed/downloaded on the Receiver's website at www.farberfinancial.com).

1.3. All capitalized terms not otherwise defined herein shall have the respective meanings ascribed to them in the Stalking Horse Agreement of Purchase and Sale (as that term is defined below).

2. THE SALE PROCESS

2.1. The Sales Process Order recognizes the initial bid from 2450902 Ontario Limited (the "**Stalking Horse Bidder**"). The initial bid by the Stalking Horse Bidder is contained in an Agreement of Purchase and Sale dated as of February 8, 2015, executed by the Receiver and the Stalking Horse Bidder (the "**Stalking Horse Agreement of Purchase and Sale**") (a copy of the Stalking Horse Agreement of Purchase and Sale can be viewed/downloaded on the Receiver's website at www.farberfinancial.com) as a baseline or "stalking horse bid" (the "**Stalking Horse Bid**"), for a purchase price estimated to be \$25,951,784.00, as detailed in paragraph 74 of the Receiver's Third Report and further particularized in Section 2.2 of the Stalking Horse Agreement of Purchase and Sale, plus any and all taxes (including any HST) and all other transfer taxes, duties or other like charges payable upon or in connection with the subject transaction (collectively, the "**Taxes**").

2.2. The Sales Process Order provides for, *inter alia*, the marketing and sale of the Purchased Assets by the Receiver and a competitive bidding and auction procedure, to be administered by the Receiver, in order to determine if a materially higher price (compared to the Stalking Horse Bid) can be obtained for the sale of the Purchased Assets.

2.3. In addition, the Sales Process Order provides that in order for there to be an auction in respect of the Purchased Assets, the Receiver must receive one or more Superior Bids in compliance with the Sales Process.

2.4. "**Superior Bid(s)**" shall mean:

- (a) an all cash offer or offers by any Person(s) other than the Stalking Horse Bidder or its Affiliates to purchase all or any of the right, title and interest of the respective Debtors to the Purchased Assets, which has or in the aggregate have cash consideration at least Five Hundred Thousand (\$500,000) Dollars higher than the Purchase Price in the Stalking Horse Bid, provided that no offer(s) shall qualify as a Superior Bid unless it meets, among other things, the following minimum criteria:
 - (i) the offer(s) must be accompanied by a cash deposit which is at least equal to five (5%) percent of the purchase price or aggregate purchase prices offered therein;
 - (ii) the offer(s) must provide for the payout in full of the Assumed Secured Debts on Closing;
 - (iii) the offer(s) must be irrevocable until April 10, 2015 and specify that the Closing shall take place prior to April 20, 2015;
 - (iv) the offer(s) must be on terms in the aggregate no less favourable and no more burdensome or conditional than the Stalking Horse Bid;
 - (v) except as provided in sub-clause (ii) above, the offer(s) must be substantially in the form of the Stalking Horse Bid, with any changes to the offer(s) black-lined against the Stalking Horse Bid;
 - (vi) the offer(s) must be supported by evidence in writing of (a) liquidity, or (b) committed financing from a lender and on terms and conditions (if any) satisfactory to the Vendor, in its sole discretion, in each case sufficient, in the sole discretion of the Vendor, to close a transaction within the timelines detailed in the Sales Process Order.

3. COMPETING BID OFFERS

3.1. Sealed bids marked “DO NOT OPEN - BID – CRATE MARINE SALES LIMITED et al” shall be delivered or mailed postage prepared to A. Farber & Partners Inc., Receiver of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd. and 1382416 Ontario Ltd., Attention: Stuart Mitchell, so as to be received by the Receiver on or before 5:00 p.m. (Toronto time) on March 18, 2015.

3.2. Every bid submitted to the Receiver (a “**Competing Bid**”) must be in writing and submitted in the form of an amended Agreement of Purchase and Sale, as provided herein. Any Competing Bids received by the Receiver that are not in the correct form may be rejected immediately by the Receiver, acting in its sole and unfettered discretion.

3.3. The opening of any Competing Bid(s) received by the Receiver will be conducted between March 19, 2015 and March 20, 2015, in private and in the presence of representatives of the Receiver and its solicitors.

3.4. In consideration of the Receiver receiving any Competing Bid and upon receipt by the Receiver of any such Competing Bid, the competing bidder shall not be entitled to retract, withdraw, revoke, vary or countermand its Competing Bid.

3.5. No Competing Bid may contain proposals to vary, amend or supplement these Terms.

3.6. Any documentation or other materials provided to prospective bidders relating to the Purchased Assets have been prepared solely for the convenience of prospective bidders and are not warranted to be complete or accurate, and do not form part of these Terms. Every bidder shall be deemed to have relied entirely on its own inspection and investigation of the Purchased Assets and title thereto.

3.7. By submitting an offer to purchase the Purchased Assets, the bidder acknowledges that it is bound by the Purchaser's Acknowledgments contained in Section 5.4 of the Stalking Horse Agreement of Purchase and Sale. Without limiting the generality of the foregoing, the bidder acknowledges that it has inspected the Purchased Assets and that the Purchased Assets are being sold on an "*as is, where is*" basis at the time of closing and that there is no representation, warranty or condition, expressed or implied, statutory or otherwise, as to title, encumbrances, description, fitness for any purpose, merchantability, quality, quantity, state, condition (environmental or otherwise), defect, (patent or latent), existence, location, value, the validity or enforceability of any rights (including intellectual property rights), any requirement for licenses, permits, approvals, consents for ownership, occupation or use or compliance with any government laws, regulations, bylaws and orders or in respect of any other matter or thing whatsoever. The Purchased Assets are specifically offered, as they now exist with no adjustments to be allowed for changes in conditions, qualities or quantities of such Purchased Assets from the date hereof to the Closing Date (as the term is defined below) of the contemplated transaction. The bidder acknowledges that the Receiver is not required to inspect or count the Purchased Assets or any part thereof, or to provide to bidders the results of any inspection or counting of the Purchased Assets or any part thereof if conducted by or on behalf of the Receiver, and the bidder shall be deemed, at its own expense, to have relied entirely on its own inspection and investigation. It shall be the bidder's sole responsibility to obtain, at its own expense, any consents to such transfer of the Purchased Assets and any further documents or assurances which are necessary or desirable in the circumstances.

3.8. The Receiver, at its sole and unfettered discretion, may waive or vary strict compliance with any or all of the Terms hereof.

4. DEPOSIT

4.1. Competing bids shall be stated in Canadian currency and must be accompanied by a deposit in the form of Certified Cheque, Wire Transfer or Bank Draft payable to "A. Farber & Partners Inc., Receiver of Crate Marine Sales Limited et al., in trust. The deposit for any Competing Bid shall be five percent (5%) of the aggregate purchase price payable under the subject Competing Bid. If a Competing Bid is accepted to be the Winning Bid (as the term is defined below), the subject deposit shall be deemed to be a cash deposit and will be applied by the Vendor towards the purchase price for the Purchased Assets on the closing of the contemplated transaction in accordance with the manner described in the Stalking Horse Agreement of Purchase and Sale.

4.2. Deposits accompanying Competing Bids that are not accepted by the Receiver to be Superior Bids will be returned to the respective bidder(s) by prepaid registered mail or courier addressed to the respective competing bidders at the address set out in their offers no later than March 24, 2015.

5. THE AUCTION PROCESS AND THE WINNING BID

5.1. If there is one or more Superior Bids that meet the above conditions, the Receiver will distribute to the makers of these Superior Bids and to the Stalking Horse Bidder, on or before 3:00 p.m. (Toronto time) on March 20, 2015, or as reasonably practicable, the following:

- (a) an invitation to an auction of the Assets to be held at 10:00 a.m. (Toronto time) on March 23, 2015 at the offices of the Receiver, or otherwise as may be determined by the Receiver, in its sole discretion (the “**Auction**”);
- (b) a copy of the bid that the Receiver, acting in its sole and unfettered discretion, having regard to all of the features of the bids and these Terms, believes to be most favourable bid as between the Stalking Horse Bid and all of the Superior Bids (the “**Lead Bid**”); and
- (c) A copy of a set of rules for the conduct of the Auction, established by the Receiver, acting in its sole and unfettered discretion, with a view of maximizing the price for the Purchased Assets (the “**Auction Rules**”), provided that the Auction Rules shall in all events provide that: (i) all bids made at the Auction shall be in accordance with the terms and conditions of the Lead Bid (provided that the bid of only the Stalking Horse Bidder shall be permitted to provide for its assumption of the Assumed Secured Debt), excluding the aggregate purchase price which will be subject to improvement through bidding in the Auction; (ii) each bid made in the course of the Auction shall exceed the aggregate purchase price payable pursuant to the preceding bid (or, in the case of the first bid made at the Auction, the Lead Bid) by no less than \$100,000 increments, solely for the purpose of determining the successful bid at the Auction, and all amounts in excess of the amount of the Lead Bid shall be entirely comprised of cash consideration; and (iii) the highest bid received at the Auction shall be the winning bid (the “**Winning Bid**”).

5.2. Upon acceptance of the Winning Bid at the Auction, there shall be a binding agreement of purchase and sale between the Person submitting the Winning Bid (the “**Purchaser**”) and the Vendor in respect of the Purchased Assets (the “**Winning Bid Agreement**”), with respect to which the Winning Bid was accepted by the Vendor. The Winning Bid Agreement shall be constituted by:

- (a) the Winning Bid;
- (b) these Terms;
- (c) the terms of the Lead Bid, as they may be amended pursuant to the Auction (provided that the bid of only the Stalking Horse Bidder shall be permitted to provide for its assumption of the Assumed Secured Debt); and
- (d) the acceptance of the Winning Bid by the Vendor.

5.3. The Receiver will make a motion to the court, within seven (7) Business Days after the completion of the Auction, for an order approving the Winning Bid Agreement with the Purchaser and to vest the right, title and interest of the respective Debtors in the Purchased Assets in the Purchaser (the **“Approval and Vesting Order”**). Thereafter, the Receiver will advise the Purchaser of the outcome of the said motion and if the Approval and Vesting Order sought is granted, the Vendor and the Purchaser shall proceed with closing the transaction as provided in Section 6.1.

5.4. The right, title and interest of the respective Debtors in the Purchased Assets shall not pass to the Purchaser nor shall the Purchaser be entitled to possession of same until the purchase price and all other payments to be made by the Purchaser pursuant to the Winning Bid Agreement have been paid in full, and the Purchaser has complied with all of its covenants contained herein and in the Winning Bid Agreement including as to the Purchaser’s deliveries, which shall have been duly executed and delivered to the Vendor.

5.5. The Vendor shall not be required to pay any commissions with respect on closing to a sale made pursuant to these Terms.

6. CLOSING DATE

- 6.1. The closing of the contemplated transaction shall take place at the office of the Vendor’s solicitors, Goldman Sloan Nash & Haber LLP, at the later of April 8, 2015 and the third (3rd) Business Day following the effective date of the Approval and Vesting Order (the **“Closing Date”**).
- 6.2. The Vendor shall not be required to produce any abstract of title, title deed or documents or copies thereof or any evidence as to title pertaining to the Purchased Assets, other than those in its possession.

7. EVENT OF FORFEITURE

7.1. If the Purchaser fails to comply with the terms and conditions of the Winning Bid Agreement, or any of them, all deposits shall be forfeited to the Vendor on account of liquidated damages, without prejudice to all other rights and remedies the Vendor may have under the Winning Bid Agreement or at law or in equity as a result of such failure to comply, and the Purchased Assets subject to the Winning Bid Agreement may be resold by the Vendor. In that event, the Vendor may in its sole discretion accept the next highest bid received at the Auction after the Winning Bid (the **“Back-up Winning Bid”**), and if necessary may in its sole discretion in such acceptance extend the Closing Date to a date no later than April 20, 2015. The Back-up Winning Bid Agreement shall be constituted by:

- (a) the Back-up Winning Bid;
- (b) these Terms;
- (c) the terms of the Lead Bid, as they may be amended pursuant to the Auction (provided that the bid of only the Stalking Horse Bidder shall be permitted to provide for its assumption of the Assumed Secured Debt); and
- (d) the acceptance of the Back-up Winning Bid by the Vendor.

The Receiver shall make a motion to the Court, within seven (7) Business Days after its acceptance of the Back-up Winning Bid Agreement, for an order to approve the Back-up Winning Bid Agreement and to vest the right, title and interest of the respective Debtors in the Purchased Assets in the purchaser thereunder, and proceed with closing the transaction forthwith.

8. GENERAL

8.1. A. Farber & Partners Inc. is acting solely in its capacity as the Receiver, without security, of the assets, undertakings and properties of the Debtors and shall have no personal or corporate liability hereunder or from any agreement contemplated hereby or as a result of any contemplated sale.

8.2. The Terms shall not merge on the closing of the transaction contemplated herein but shall survive such closing and remain in full force and effect and be binding on the Purchaser thereafter.

8.3. The Terms hereunder shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

8.4. The Terms herein shall ensure to the benefit of and be binding upon the parties thereto and their permitted heirs, executors, administrators, successors or assigns, as the case may be.

8.5. Unless otherwise provided herein, any tender of documents or money hereunder may be made upon the Vendor or the Purchaser, or their respective solicitors. Money may be tendered by Certified Cheque, Wire Transfer or Bank Draft.

8.6. The obligations of the Vendor to complete any agreement contemplated herein or hereby shall be relieved if, on or before the closing of such sale, the Purchased Assets or any part thereof which are the subject of the sale have been removed from the control of the Vendor by any means or process, enjoined, or the Assets, or any part thereof, are redeemed, whereupon the only obligation of the Vendor shall be to return the applicable deposit, without interest, deduction costs or compensation.

8.7. The Purchaser shall not assign the Winning Bid Agreement without the Receiver's prior written approval, which approval may be granted or withheld in the Receiver's sole and unfettered discretion.

8.8. Time is of the essence of any agreement entered into pursuant to these Terms, any rule of law or equity to the contrary notwithstanding.

8.9. The Vendor reserves its rights, subject to the Court approval, to withdraw the Purchased Assets or any part thereof from the Sales Process on or before the Closing Date if there is any actual or threatened litigation with respect to any of the Purchased Assets or if any Purchased Asset has been redeemed or is subject to any lien or encumbrance which the Vendor cannot remove and the purchaser will not assume. The Vendor shall be under no obligation to compensate any third party in order to complete any applicable agreement and shall return the deposit to the Purchaser without interest, costs or compensation.

8.10. Unless the context otherwise requires, words importing the singular include the plural and vice versa.

8.11. The submission of a bid by a resident of the Province of Quebec will be deemed to constitute the declaration and acknowledgment by such resident that it has requested these Terms, the form of bid referred to herein and all other documentation relating to its bid and the acceptance thereof to be drawn up in the English language.

8.12. La présentation d'une soumission par une personne résident au Québec constituera la déclaration et la reconnaissance expresse par la soumissionnaire qu'il a consenti que ces Termes, la formule de soumission mentionnées en ceci et tous documents relatifs à la soumission et à son acceptation soient rédigés en langue anglaise.

Schedule “A” to the Terms

Purchased Assets

“Purchased Assets” means collectively, all assets, undertakings and properties of the Debtors, acquired for, or used in relation to the Business, including, without limitation, the following:

- (i) the Lands;
- (ii) the Equipment;
- (iii) the Assumed Contracts, to the extent transferrable;
- (iv) the Assumed Leases, to the extent transferrable;
- (v) the Licenses, to the extent transferrable;
- (vi) the Inventory;
- (vii) the Books and Records;
- (viii) the Receivables;
- (ix) the Intellectual Property, to the extent transferrable;
- (x) the goodwill attaching to the Business, to the extent transferrable;
- (xi) all warranties and guarantees Related to the Business, to the extent transferrable;
- (xii) all riparian rights as may be required to permit access to and use of the Boat Slips and any gas docks forming part of the Locations;
- (xiii) the Securities; and
- (xiv) the Claims;

but excluding the Excluded Assets;

**IN THE MATTER OF THE RECEIVERSHIP OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.**

Commercial List File No. 14-CV-10798-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at
Toronto**

**ORDER
(Stalking Horse and Sales Process)**

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appointed Receiver of Crate Marine Sales Limited, F.S. Crate & Sons
Limited, 1330732 Ontario Limited, 1328559 Ontario Limited 1282648
Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

**IN THE MATTER OF THE RECEIVERSHIP OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
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Commercial List File No. 14-CV-10798-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at
Toronto**

NOTICE OF MOTION

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Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

THIRD REPORT OF THE RECEIVER

FEBRUARY 8, 2015

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF THE RECEIVERSHIP OF
CRATE MARINE SALES LIMITED, F.S. CRATE & SONS LIMITED,
1330732 ONTARIO LIMITED, 1328559 ONTARIO LIMITED,
1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416 ONTARIO LTD.

THIRD REPORT OF THE RECEIVER

February 8, 2015

A. FARBER & PARTNERS INC. in its capacity as the Court-appointed Receiver (the “**Receiver**”) of Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively the “**Companies**”) hereby reports to the Court as follows:

INTRODUCTION

1. On November 14, 2014, Crate Marine Sales Limited, F.S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively the “**Companies**”) each filed a Notice of Intention to Make a Proposal (the “**NOI’s**”) pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”).
2. On November 20, 2014, the currently-known largest secured creditor, Crawmet Corp. (“**Crawmet**”) filed motion material for a November 21, 2014 hearing seeking to (i) have the NOI’s immediately terminated; (ii) appoint A. Farber & Partners Inc., as a receiver over the properties, assets and undertakings of the Companies and (iii) to substitute A. Farber &

Partners Inc. as bankruptcy trustee of the Companies. At the November 21, 2014 hearing, this motion was adjourned to December 1, 2014.

3. On November 21, 2014, A. Farber & Partners Inc. was appointed Interim Receiver of certain of the Companies pursuant to section 47.1 of the BIA to preserve and protect the assets, undertakings and properties of those Companies acquired for, or used in relation to the business carried on by the Companies, including all proceeds thereof (the “**Property**”) pursuant to the November 21, 2014 Order of the Honourable Mr. Justice Penny (the “**Interim Order**”). A copy of the Interim Order is attached at **Appendix “A”**. A copy of the endorsement dated November 21, 2014 is attached at **Appendix “B”**.

4. On December 8, 2014, The Honourable Mr. Justice Newbould terminated the NOI proceedings of the Companies and appointed A. Farber & Partners Inc. as Receiver and also as trustee in bankruptcy (the “**Trustee**”) of the Companies. A copy of the Order of that date is attached as **Appendix “C”**, and a copy of the handwritten Endorsement of that date is attached as **Appendix “D”**.

5. On December 12, 2014, the Receiver and Trustee brought a motion to correct a typographical error in the Order dated December 8, 2014 and for procedural consolidation of certain of the bankruptcy estates of the Companies and other administrative relief. The First Report of the Receiver and Trustee in that regard is attached (without appendices) as **Appendix “E”**. The Honourable Justice Newbould issued an Amended Order dated December 8, 2014 (the “**Appointment Order**”) and also issued an order dated December 12, 2014 in respect of the consolidation and administrative relief, copies of which are attached as **Appendix “F”** and **Appendix “G”**, respectively.

6. On December 23, 2014, the Receiver and Trustee brought a motion to (i) approve the Second and Third Report of the Interim Receiver and the activities of the Interim Receiver set out therein; (ii) approve the fees of the Interim Receiver and its counsel; (iii) discharge A. Farber & Partners Inc. as Interim Receiver; (iv) increase the borrowing power of the Receiver; and (v) establish a property claims process pertaining to the proprietary and secured claims against tangible personal property of the Companies. The Second Report of the Receiver and Trustee in that regard is attached (without appendices) as **Appendix “H”**. On December 23,

2014, the Honourable Justice Penny issued Orders discharging the Interim Receiver, increasing the Receiver's borrowing power and approving a property claims procedure process. These orders are attached as **Appendix "I", "J" and "K"**, respectively. A copy of the endorsement dated December 23, 2014 is attached as **Appendix "L"**.

PURPOSE OF THIS REPORT

7. This is the third report of the Receiver (the **"Third Report"**). Its purpose is to seek an order:

- a) approving the First, Second and Third Reports of the Receiver and the activities of the Receiver described therein;
- b) approving the agreement of purchase and sale dated February 8, 2015 entered into between the Receiver and 2450902 Ontario Limited (the **"Stalking Horse Offer"**) for the purpose of conducting the sales process described herein; and
- c) approving the Sales Process described in this Report, the Sales Process Terms (as defined below) and in the draft Order sought.

LIMITATION OF REVIEW

8. A. Farber & Partners Inc. in its capacity as Receiver has relied upon the financial records and information provided by the Companies, as well as other information supplied by management, appraisers, accountants, auditors and advisors, and has not, except as specifically noted in this Third Report, audited, reviewed or otherwise attempted to verify the accuracy or completeness of the above information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook. It has prepared this Third Report for the sole use of the Court and of the other stakeholders in these proceedings.

A) OVERVIEW OF THE ASSETS AND BUSINESS OF THE COMPANIES

9. In order to better convey the activities of the Receiver and the considerations in favour of the Stalking Horse Offer, an explanation of the assets and business of the Companies is

required.

Marina business

10. The principal business of the Companies had been the operation of marinas at multiple locations, at which boats were stored (both in slips in the water and on land in the winter), maintained and serviced, and also bought and sold. To the knowledge of the Receiver, the sole operating entity among the Companies was Crate Marine Sales Limited (“**CMS**”). Some of the boat sales operations were done by CMS as purchaser or vendor (and in many cases in both capacities due to trade-ins of boats being accepted from purchasers), and in other cases CMS acted like a broker in selling or purchasing boats on behalf of third parties.

11. The corporate relationships among the Companies are set out in the organizational chart prepared by the Companies prior to these proceedings, a copy of which is attached as **Appendix “M”**. The Companies other than CMS either owned land used in the marina operations (primarily at Keswick), or owned other of the Companies as set out in the organization chart attached as Appendix “M”.

Marina locations

12. The locations of the marina operations of the Companies prior to these proceedings were the following:

- a) Keswick, Ontario, on Lake Simcoe;
- b) Willow Beach, Ontario, on Lake Simcoe;
- c) Lagoon City, Ontario, on Lake Simcoe;
- d) Port McNicholl, Ontario, on Georgian Bay;
- e) Port Credit, Ontario, on Lake Ontario; and
- f) Saint.-Paul-de-L’Ile-aux-Noix, Quebec, on the Richelieu River north of Lake Champlain.

13. The marina locations other than at Keswick are leased.

14. The Port McNicholl location appears to have been abandoned prior to the appointment of the Receiver. There is no active business there, and the only significant asset of note is a

travellift, which appears to be leased. A property proof of claim in the amount of \$324,000 has been filed by the equipment lessor. The Receiver believes that there is no equity in the equipment lease. The state of the lease with the landlord is not known.

15. The Willow Beach location is leased from 2192422 Ontario Inc. (“**219**”), which is a company that is owned 50% by 1382416 Ontario Ltd. (one of the Companies) and 50% by Dwight Powell Investments Inc. (“**DPII**”), who along with Dwight Powell is a creditor of the Companies. That lease appears to be in good standing as of the appointment of the Receiver.

16. The Lagoon City location is leased from 2124915 Ontario Inc., which is an arm’s length landlord under the management of Talisker Corporation. It appears that there were long-standing arrears of rent at this location prior to the appointment of the Receiver. The lease expires by its terms on April 30, 2015, and the landlord has advised that it has leased the premises to a third party (Pride Marine Group) commencing May 1.

17. The premises used for the Keswick marina operations are owned by a combination of the Companies and individuals related to the Companies. Attached as **Appendix “N”** is a chart listing the lands by municipal address, Land Titles PIN, and registered owner. Attached as **Appendix “O”** is a map that graphically depicts the information set out in the chart, with the colours corresponding to the colours also listed in the chart.

Non-marina business

18. In addition to the marina business and landholdings as noted above, the Receiver has identified that the Companies had interests in other businesses or ventures, as follows:

- a) CMS appears to have provided all funds necessary to acquire and service the lands registered in the names of members of the Crate family in the vicinity of the Keswick marina location, as depicted in Appendices “N” and “O” (the “**Adjacent Properties**”), which funds were recorded on the books of CMS as either expenses against income or notional advances to shareholders;
- b) CMS appears to have similarly provided all funds necessary to acquire and service the property at 14 Highland Ave. in Belleville, apparently as a residence for Ryan Crate who was managing the marina at Belleville that was owned by Crate Belleville Inc., and in whose name that property is registered;

- c) CMS appears to have loaned funds to Crate Belleville Inc. to start up and operate a marina at Belleville, Ontario; and
- d) CMS appears to have provided funds in respect of loans or equity contributed by 1800239 Ontario Limited, which appears to be owned by Steven Crate, Greg Crate and Lynn Marko, for the franchise, land and construction of the Boston Pizza restaurant on the Queensway in Keswick, the full particulars of which are not yet known.

B) THE RECEIVER'S ACTIVITIES SINCE APPOINTMENT

Taking Possession

19. After the issuance of the Appointment Order, the Receiver took possession of the various Crate properties in Ontario (Keswick, Lagoon City, Willow Beach and Port Credit) and Quebec (Saint- Paul de- L'Ile-aux-Noix) and secured ongoing utility, insurance and other services in the Receiver's name. The Receiver retained certain staff to assist in the ongoing security of the Keswick Facility.

20. The Receiver contacted the insurer to arrange ongoing coverage, review the adequacy of the pre-existing coverage, and have the Receiver added as a named insured.

21. The Receiver contacted the Quebec landlord for the off-site storage facility where a number of the Quebec boats are stored. The Receiver also contacted Balsdon's Trucking in Pickering, Ontario, which is storing the 50' Marquis boat which is subject to litigation in the receivership. The Receiver has asked Balsdon's Trucking to retain this boat, which the Receiver intends to continue doing pending either agreement by the competing secured creditors or adjudication by the court as to entitlement to the boat or its proceeds.

22. The Receiver entered into discussions with the landlords of the Willow Beach and Lagoon City properties regarding issues and possible arrangements or agreements that may be reached to enhance administration of the estates of the Companies. As noted above, the Lagoon City landlord has leased that location to a new tenant when the current lease ends on April 30, 2015. The attempted negotiations with this landlord were ultimately unsuccessful as the landlord proceeded to enter into that new lease before continuing suggested discussions with the Receiver. Discussions with this landlord are ongoing regarding the resolution of outstanding issues as between the landlord and the Receiver on behalf of the Companies.

Third Party Property

23. The Companies were storing approximately 700 customer-owned boats and about 40 boats owned by CMS. The Receiver retained certain staff to prepare listings of the boats. The process has been difficult as the Companies' records did not include a comprehensive list of boats in storage. Further, the boats had been shrink-wrapped for winter storage so tracing a boat in the yard to an entry on the boat listings has been difficult. These boats are discussed in more detail below.

Employees

24. Subject to claims under s. 81.4 of the BIA, the Receiver paid the employees' arrears and arranged for final T4's and records of employment for all the employees

25. The Receiver prepared and submitted the employee data to Service Canada and the employees to facilitate the employee claims under the *Wage Earners' Protection Program Act*.

26. The Receiver retained certain staff to assist with, among other matters: (i) the statutory reporting duties of the Receiver, (ii) updating accounting records to provide updated accounts needed for the realization of the accounts receivable, (iii) dealing with customer calls on ongoing receivership issues and collection efforts for accounts receivable, (iv) winterization of the final boats not yet winterized as at December 8, 2014, (v) preparing listings of the Companies' boats and customers' boats, and (vi) invoices customers for unbilled items as of the date of the Appointment Order as well as for matters arising after the Appointment Order.

Communications

27. The Receiver issued its Notice of Receivership and Receiver's Statement pursuant to s. 245(1) and s. 246(1) of the BIA.

28. The Receiver posted notice of its appointment on the doors of the premises occupied by the Companies. As well notices of the appointment and copies of the various materials filed with the Court and the Court orders were posted on the Receiver's website. The Receiver also posted its information circular addressing common questions from the various

stakeholders and boat owners. The Receiver continues to maintain the website and update it with ongoing documents and information updates on the receivership and bankruptcy proceedings.

29. The Receiver has spent considerable time speaking, corresponding and emailing with the boat owners on numerous topics including the status of the receivership, the bankruptcy, the status and winterization of their boats in storage, the impact on owners who pre-paid 2015 slip rentals, insurance, the Proof of Property Claim Process (as defined below), and the likelihood of operations next season.

Company Assets

Cash on Hand

30. CMS had seven bank accounts with three different banks. The Receiver contacted the various banks to close the accounts and arrange for the funds on hand to be transferred to the Receiver's account. The accounts, except for CMS' main chequing account at Bank of Montreal with a nominal value, have been closed. The Receiver received \$45,832.00 net of the refunded \$2,000.00 deposit which was received after the appointment of the Proposal Trustee and was still on hand as at the date of the receivership and bankruptcy.

31. The Receiver considered leaving the accounts open so customers could pay accounts receivable by credit card; however, the Receiver was concerned about potential chargebacks by Moneris Inc., the credit card processor, if customers filed claims for refunds of prepaid 2015 slip rentals and other potential payments. As of January 23, 2015 Moneris Inc. advised that they have over \$350,000.00 of chargebacks and will be amending their unsecured proof of claim accordingly.

Accounts Receivable

32. The Interim Receiver's Supplementary Report to its Second Report reported on the difficulties in reconciling and assessing the accounts receivable. The Interim Receiver's estimated re-stated accounts receivable were approximately \$889,000.00 of which \$586,648.00 were estimated as collectible. The Receiver has sent letters to all the customers and retained former CMS staff to follow up on the outstanding balances. To February 4,

2015, only \$40,263.00 has been collected, which means that all other funding required to administer the Companies and the receiverships and estates in bankruptcy has come from Receiver's borrowing.

33. Many customers are claiming offsets for the amounts they prepaid for 2015 slip rentals and other reasons. In addition, many customers are having pre-filing amounts paid by credit card reversed. Some of the reversals relate to post-filing services such as 2015 slip rentals; however, other reversals are for services provided by CMS (i.e. service and winterization) and/or provided by the Receiver (i.e. winter storage). The Receiver is adjusting accounts receivable balances accordingly for chargeback amounts reported by Moneris Inc. The Receiver anticipates that, to the extent that the amounts in the accounts received are legitimate, payment may be enhanced when the 2015 boating season starts, which will be the time when customers require further services from the marinas or seek to retrieve their boats or other property.

Boat Inventory owned by CMS

34. In the Supplementary Report to the Second Report of the Interim Receiver dated December 4, 2014, the Interim Receiver reported at that time that it was unable to ascertain with certainty where each boat owned by CMS was located. While the shrink wrapping around the boats still poses challenges in identifying boats since serial numbers are in most instances covered, the Receiver has obtained maps of each of the marina properties in Keswick, Willow Beach and Lagoon City from staff of CMS along with the customer name, brand and location of each boat on the respective properties. . Boats owned by CMS are included on these maps and the Receiver has now had CMS staff verify where each specific inventory boat is located.

Parts Inventory

35. The Receiver has engaged former employees to update the accounting for the actual parts on-hand. The Receiver is advised that the parts and retail store inventory were physically counted on October 31, 2014 in anticipation of finalizing the year-end financial statements. The Receiver was advised that the inventory count sheets for certain of the parts

inventory went missing, reportedly just prior to the Receiver's appointment. The Receiver has arranged for its staff to recount the affected areas.

Equipment

36. The Receiver has compiled a list of the machinery, equipment and vehicles used in the various locations.

37. The Receiver is also tracking the location of equipment that was not on the premises, including a truck and trailer that were in Florida at the time of the receivership. The truck and trailer had been sent to Florida to pick up new boats in October 2014, but the supplier would not release the boats until they had been paid for. Ultimately, the boats were not paid for and the truck and trailer remain secured in the suppliers' yard in Florida pending further instructions from the Receiver.

38. The Receiver has also obtained an appraisal of the equipment, parts and boat inventories noted above from Hilco Asset Sales Canada ("**Hilco**") and Services FL ("**SFL**").

Books and Records

39. The Receiver has gone through the relevant portions of the information available in the Companies' books and records in order to fulfil its duties and obligations under the Appointment Order. The books and records were poorly maintained, and were stored on old computer hardware using old software making it difficult to manage and retrieve data. There were undisclosed (and hence unprocessed) transactions and it appears that certain books and records were removed just prior to the appointment of the Receiver.

40. Examples of undisclosed transactions include:

- i) the redirection of a \$42,000.00 commission due to CMS on the sale of a brokered boat to Mr. Steven Crate personally as described in the Third Report of the Interim Receiver;
- ii) the receipt of \$5,500.00 cash by Mr. Greg Crate from a customer for 2015 slip rental which was not recorded in the books and records; and
- iii) an offset granted to a customer with a large accounts receivable balance due to the Companies. The offset being claimed by the customer was

allegedly in exchange for a pool installed on a property held in the name of Mr. Greg Crate.

41. In addition, there appear to have been significant payments from the Companies' accounts for the benefit of related parties, the bases of which do not appear fully documented.

42. The Receiver is also reviewing the 2014 boat sales (sales from inventory and brokered boat sales) given the boat and payment issues identified in the various Interim Receiver's reports.

43. The Receiver and the Trustee continue their investigations into the affairs of the Companies, including contacting various accountants, consultants and lawyers that previously provided services to the Companies.

Adjacent Properties

44. The Receiver's review of the books and records indicated that CMS had financed most, if not all, of the purchase and maintenance of the Adjacent Properties. However, the properties were held in the name of the principals of the Companies and related parties. The Receiver also became aware that certain of these Adjacent Properties had been put up for sale by the registered owners.

45. On January 13, 2015, the Receiver filed a Notice of Application seeking various relief including certificates of pending litigation against the Adjacent Properties and an order vesting title to the Adjacent Properties in the Receiver. On January 14, 2015, the Receiver brought a motion to obtain a certificate of pending litigation against the Adjacent Properties, which was granted by the Honourable Mr. Justice Newbould that day. The Receiver had the certificate of pending litigation registered on title to the Adjacent Properties.

46. A copy of the Receiver's Notice of Application for the Adjacent Properties is attached as **Appendix "P"**. A copy of the Order of January 14, 2015 is attached as **Appendix "Q"**. A copy of the registered certificate of pending litigation is attached as **Appendix "R"**.

Belleville Property Registered in the Name of Ryan Gregory Crate

47. Upon a further review of the Companies' books and records, the Receiver discovered

a property at 14 Highland Ave. in Belleville, Ontario registered in the name of Ryan Gregory Crate, the son of one of the directors of the Companies, which also appears to have been financed by CMS. The property is listed for sale.

48. On January 30, 2015, the Receiver issued an application seeking various relief including a certificate of pending litigation against this property and an order vesting title to it in the Receiver. That day, the Receiver brought a motion for a certificate of pending litigation against the Belleville property, which was granted by the Honourable Mr. Justice Newbould. The Receiver has filed a certificate of pending litigation against the Belleville property.

49. A copy of the Receiver's Notice of Application in respect of this property is attached as **Appendix "S"**. A copy of the Order of January 30, 2015 is attached as **Appendix "T"**. A copy of the registered certificate of pending litigation is attached as **Appendix "U"**.

Possible amounts owing by former management

50. The Receiver continues to review the books and records of the Companies to determine whether there are amounts that may be owing by Steven Crate, Greg Crate and/or Lynn Marko as former management and directors of the Companies.

51. The Receiver has identified that loans of approximately \$1.8 million in total are outstanding to the estate of Lloyd Crate (deceased), Steven Crate, Greg Crate and Lynn Marko on the books of 1382415 Ontario Ltd., which appears to have been for certain amounts paid by CMS for the benefit of those individuals.

52. The Receiver is also reviewing allegations of cash or other payments made by third parties to individuals including Steven Crate, Greg Crate and Lynn Marko for services or materials acquired from CMS.

Third Party Assets

53. The Receiver reviewed the available books and records and, as set out in the Interim Receiver Reports and the Receiver's Second Report, the potential ownership claims of certain boats and other tangible personal property were uncertain. As a result, the Receiver and Trustee sought relief for a proposed property claims process as described in the Second Report

(the “**Proof of Property Process**”). The Proof of Property Process was approved by the order of the Honourable Mr. Justice Penny dated December 23, 2014 (the “**Property Claims Procedure Order**”). As noted above, a copy of the Property Claims Procedure Order is attached as Appendix “K”.

54. The Receiver complied with paragraph 8 (a) of the Property Claims Procedure Order by posting a proof of property claim document package on its website and sending a copy to each of the Known Claimants (as defined in the Property Claims Procedure Order) for which it had addresses.

55. Paragraph 8(b) of the Property Claims Procedure Order directed the Receiver to cause to be published, on two separate days on or before January 9, 2015, a notice of the claims process in each of a local Keswick newspaper and a Canadian national newspaper. The Receiver had the required notices published in the Globe & Mail on January 7 and January 9, 2015. The local papers were only published weekly, so the Receiver had the required notices published in the Georgina Advocate (Keswick), the Innisfil Journal, the Barrie Advance and Orillia Today on January 8 and 15, 2015.

56. The Receiver sent numerous proof of property packages to additional parties as the Receiver became aware of them or as additional addresses were located prior to January 30, 2015. Some further proof of property packages are still being requested and supplied. The majority of the Receiver’s communications with property claimants at this point are for updates on the process.

57. As of January 30, 2015, the Receiver has received approximately 700 claims. The deadline to submit a claim for the Proof of Property Process was January 30, 2015. The Receiver is conducting a detailed review of claims received prior to the deadline to assess which boats and other property may or may not have competing claims. The Receiver will provide in a subsequent report additional information on the status of the Proof of Property Process.

Sales Options

58. The Receiver reviewed the composition of the assets that were available for sale and

determined that the best realizations were likely from a sale of the business as an operating marina.

59. Furthermore, the value of the customer base to a potential operator would be more likely to be maintained if a sales process demonstrated that a new operator would soon be in place. This would give customers some comfort that an operator would run the marina business next season, and accordingly, the customers would be more likely to keep their business at the Companies' former premises. The value would be more likely maintained as well if the marina operations were sold early enough in 2015 so a new operator could contact customers before the boats started being taken out of winter storage in anticipation of the 2015 boating season. It is not clear that it would be financially or operationally prudent for the Receiver to attempt to operate the marina business itself in the 2015 boating season.

60. It is also possible that the Companies' real estate in the Keswick area (along with the interest, if any, of the Companies in the Adjacent Properties) will be of interest to real estate developers and the Receiver therefore intends as part of the Sales Process to make the purchase opportunity known to certain real estate developers.

61. The Receiver spent considerable time negotiating the Stalking Horse Offer (as described more fully below). This was a complicated process due to a number of factors including (i) there are multiple Companies with different real estate holdings and multiple cross-collateralized mortgages (ii) the uncertainty of potential claims on the CMS-owned boats (iii) the state of the books and records and (iv) the issues identified by the Receiver related to properties adjacent to the Keswick facility and other business activities of the Companies, as outlined above.

62. The Receiver was ultimately successful in obtaining the Stalking Horse Offer and has now finalized its proposed sales and marketing process to seek potential higher offers for the purchased assets in that agreement. The Sales Process and Stalking Horse Offer are discussed in more detail below.

Security review

63. Counsel for the Receiver has provided several security opinions to the Receiver, as

follows:

- a) a restated opinion subject to the normal assumptions and qualifications regarding the validity and enforceability of the charges registered against the lands owned by the Companies, including those granted to Crawmet, DPII and Dwight Powell and which would be assumed by the Purchaser under the Stalking Horse Offer discussed below, a copy of which is attached as **Appendix “V”**;
- b) a restated opinion subject to the normal assumptions and qualifications regarding the validity and enforceability of the charges registered against the Adjacent Properties, a copy of which is attached as **Appendix “W”**. Counsel has advised that in respect of 292 Wynhurst (one of the Adjacent Properties), which is registered in the name of Lynn Marko, the charge registered as instrument no. YR1670154 in the face amount of \$1,000,000.00 in favour of Romith Investments Limited does not create or convey any interest in such property as a result of a *Planning Act* contravention, and the same consideration may mean that this charge might not create convey any interest in respect of 200 Wynhurst;
- c) a restated opinion subject to the normal assumptions and qualifications and certain variances referred to regarding the validity, enforceability and perfection of the general security agreement granted by CMS in favour of Crawmet, a copy of which is attached as **Appendix “X”**; and
- d) an opinion subject to the normal assumptions and qualifications regarding the validity, enforceability and perfection of the security agreement granted by CMS in favour of Marquis Yachts, LLC a copy of which is attached as **Appendix “Y”**.

64. Insofar as there is a motion by Marquis Yachts, LLC and Northpoint Commercial Finance, LLC, as the assignee of its interest, regarding the 50' yacht presently being held by Balsdon's Trucking, and given that the Receiver has determined that both the personal property security granted in favour of Marquis Yachts and also in favour of Crawmet are valid and enforceable as against the Receiver (subject to the normal assumptions and qualifications), the Receiver takes no position on that motion. The Receiver notes, however, that Crawmet has recently filed materials suggesting that the boat may have been sold outright to CMS rather than financed, which, if established, could affect the Receiver's position. As the priority issue between Marquis/Northpoint and Crawmet has already been brought before the Court, the Receiver has not reviewed that matter and expresses no opinion in that regard.

65. As noted in the opinion regarding the general security agreement granted by CMS in

favour of Crawmet, based on advice from Quebec counsel it would appear that since Crawmet has not effected a moveable security registration in Quebec, this general security agreement would not be effective against the Receiver and Trustee as far as the assets located in Quebec are concerned. Such assets in Quebec are, however, of modest value relative to the Purchase Price in the Stalking Horse Offer discussed below. In considering the Stalking Horse Offer, the Receiver has made an allowance for such non-effectiveness regarding the Quebec assets.

Other

Funding

66. The Receiver has issued two Receiver's Certificates to Crawmet for a total of \$1,000,000.00, as permitted by the December 23, 2014 Borrowing Order. The funds obtained were used for the ongoing costs of the receivership and the fees and expenses of the Interim Receiver and its counsel as approved in the December 23, 2014 Interim Receiver Discharge Order. Funds were also used for certain fees and disbursements of the Receiver and its counsel between the Appointment Order and December 31, 2014.

Bankruptcy

67. The Trustee has been administering the bankruptcy estates, including chairing the first meetings of creditors and first meetings of inspectors on January 20, 2015. The activities of the Trustee will be reported on separately as provided for in the BIA.

C) STALKING HORSE OFFER

68. The Stalking Horse Offer that has been negotiated and signed by the Receiver, subject to approval by this Court, is attached at **Appendix "Z"**.

69. The purchaser under the Stalking Horse Offer is 2450902 Ontario Limited (the "**Purchaser**"). The principals of the Purchaser are Benn-jay Spiegel and Dwight Powell, who are respectively principals of Crawmet and DPII, who are secured creditors of the Companies as described in the opinions of the Receiver's counsel referred to above and attached to this Third Report.

What is to be sold

70. The Stalking Horse Offer is for substantially all of the assets of the Companies. There are three main exclusions from the assets of the Companies that would be conveyed under the Stalking Horse Offer:

- a) cash on hand at closing;
- b) boats in the possession of the Companies for which there are, or were, boat slip leases or other bailment arrangements (the Receiver will bring a separate motion to the Court to deal with such boats after the Proof of Property Process has gone further); and
- c) anything that the Purchaser may choose to exclude from the assets that would otherwise be subject to the Stalking Horse Offer (but if so there are no adjustments to the purchase price) .

71. In addition to the assets of the Companies relating to the business they operated, the assets that will be sold under the Stalking Horse Offer include claims that the Companies, the Receiver or the Trustee may have, including the applications that the Receiver and Trustee have commenced regarding the Adjacent Properties and the property at 14 Highland Ave. in Belleville. Also included will be any claims that CMS or other of the Companies have in respect of the funds paid by CMS for the interest of 1800239 Ontario Limited in the Boston Pizza business, the amounts owing by Crate Belleville Inc. as well as any amounts that may be owing by individuals including the estate of Lloyd Crate, Steven Crate, Greg Crate and Lynn Marko, for reasons including the shareholder loans listed as outstanding to 1382415 Ontario Ltd..

72. The Trustee will bring its own motion for approval to sign the Stalking Horse Offer and will file a separate report in that regard.

The Purchase Price

73. The Purchase Price under the Stalking Horse Offer is set out in section 2.2 of the Stalking Horse Offer, but is essentially comprised of:

- a) the amounts owing under the mortgages granted to Crawmet, DPII and Dwight Powell, and all but \$1,000,000.00 of the amounts secured under the general security agreement and owing in favour of Crawmet, as more fully

set out in Schedule “E” to the Stalking Horse Offer (the “**Assumed Secured Debt**”), which the Purchaser will assume;

- b) cash for any and all amounts secured by the Receiver’s Charge and the Receiver’s Borrowings Charge at Closing;
- c) cash in an amount that the Receiver will estimate for the aggregate of the fees, expenses, and disbursements of the Receiver and the Trustee, and of their counsel for the period after Closing until their discharge, but if the amount of such fees, expenses and disbursements are less than the estimated amount then the Purchaser shall be paid the surplus;
- d) cash payments in the amounts of:
 - (i) Five Hundred and Fifty Thousand (\$550,000) Dollars in respect of the portion of the Lands, as defined in the Stalking Horse Offer, municipally known as 7 and 8 Mac Ave., Keswick and legally described in PIN 03475-0135 (LT) (in addition to the assumption by the Purchaser of the Assumed Secured Debt registered against title thereto), and
 - (ii) Seven Hundred and Ten Thousand (\$710,000) Dollars in respect of the portion of the Lands, as defined in the Stalking Horse Offer, municipally known as 210 Wynhurst Ave., Keswick and legally described in PINs 03475-1967 (LT) and 03475-1972 (LT);
- e) any and all other amounts and claims on account of realty tax arrears, utility arrears and source deductions, if any, which rank in priority to the mortgages in favour of Crawmet, DPII and Dwight Powell, or the Crawmet GSA or against the assets being purchased; and
- f) There are to be no adjustments to the Purchase Price in respect of any matter whatsoever.

74. The Receiver estimates that the Purchase Price as at March 31, 2015, assuming that is the Closing Date, will be approximately \$25,951,784.00, made up as follows:

Description	Price
Assumed Secured Debt	\$22,973,033.00
Cash for the Receiver’s Borrowings Charge at Closing, inclusive of 12% interest	\$1,0029,752.00
Cash for Receiver’s Charge at Closing	\$1,000,000.00

Estimated fees, disbursements and expenses of the Receiver and Trustee and their counsel from Closing to discharge	\$300,000.00
Payment for 7/8 Mac Ave.	\$550,000.00
Payment for 210 Wynhurst Ave.	\$710,000.00
amounts and claims on account of realty tax arrears, utility arrears and source deductions ranking in priority to the Assumed Secured Debt	\$389,000.00
Total	\$25,951.784

75. The Receiver has been advised the Purchaser will provide the \$250,000.00 deposit within one business day of the acceptance by the Receiver of the Stalking Horse Offer as required by its terms. If that does not take place, the Receiver will provide a further report to the Court and the Service List prior to the return of the Receiver's motion.

Review of the credit bid portions of the purchase price

76. Since the Stalking Horse Offer is in large part comprised of a credit bid through the Assumed Secured Debt, the details of which are set out in Schedule "E" to the Stalking Horse Offer, the Receiver with the assistance of its counsel has conducted various due diligence to attempt to verify the amount of the Assumed Secured Debt in order to consider whether the credit at issue qualifies to make up part of the consideration of the Stalking Horse Offer and whether that offer is reasonable in comparison with the value of the assets to be sold.

77. As noted above, counsel for the Receiver has provided opinions subject to the normal assumptions and qualifications that the charges registered in favour of Crawmet, DPII and Dwight Powell are valid and enforceable as against the Receiver, as is the general security agreement in favour of Crawmet (except respecting assets in Quebec). The priority of the charges is addressed in the opinions, and the Receiver is not aware of any other secured creditor with a general security agreement.

78. The Receiver has reviewed the amount of the Assumed Secured Debt claimed by DPIL, Dwight Powell and Crawmet. Based upon a review of information and documentation provided by DPIL, Dwight Powell and Crawmet, the affidavits filed in the NOI proceedings, and also through a review of the books and records of the Companies, the Receiver has verified that, in the circumstances and subject to a number of discrepancies that the Receiver does not believe are material, those amounts are reasonably supportable.

79. In respect of facility “D” of Crawmet (see Schedule “E” to the Stalking Horse Offer), as was noted in the affidavit of Benn-Jay Spiegel sworn November 20, 2014, the advances under this facility were initially personally extended by Mr. Spiegel to CMS. The loans for the amounts so advanced were assigned by Mr. Spiegel to Crawmet by an assignment dated November 3, 2014. The Receiver believes that these amounts are supportable as part of the Assumed Secured Debt in reliance on the following:

- a) The definition of “obligations” in the general security agreement in favour of Crawmet includes all obligations, debts and liabilities of CMS to Crawmet, wheresoever and howsoever incurred and, among other things, “whether arising from dealings between [Crawmet] and [CMS] or from other dealings or proceedings by which [Crawmet] may be or become in any manner whatever a creditor, obligee or promisee of [CMS]”; and
- b) It appears that it was the contemporaneous intention of CMS and Crawmet that Crawmet loan these amounts. The general counsel of Crawmet, Allan Lyons, has provided the Receiver with an affidavit in which he stated that, among other things, CMS requested these loans from Crawmet on a basis that was stated to be urgent, and Crawmet agreed to provide them, but Mr. Spiegel temporarily issued personal cheques to CMS since the other signing officers of Crawmet were not available to sign cheques at the time that the advances were made.

Evaluation of the prudence of proceeding with the Stalking Horse Offer

80. The Receiver considers that value of the assets of the Companies is enhanced because the Stalking Horse Agreement (i) allows a mechanism to attempt to obtain *en bloc* offers and encourage further bids (without a break fee or payment of expenses of the Purchaser), and also (ii) provides assurances to customers of the Companies that there will likely be an operator in place for the marina locations in time for the 2015 boating season.

81. Since it is not known whether any Superior Bids, as defined in the Stalking Horse

Offer, will be made, the Receiver has considered the value being offered in the Stalking Horse Offer and concludes that it is appropriate value for the assets being purchased taking into account:

- a) the value of the properties owned by the Companies as set out in the appraisals conducted by the Companies before the NOI litigation and for the stated purpose of financing, which was sealed in the NOI litigation and is attached as **Confidential Appendix “A”**;
- b) the value of the properties referred to in (a) were likely optimistic and also reflect (by their terms) an orderly sales process rather than a distressed or forced sales process of the sort that the Receiver would implement but for the Stalking Horse Offer;
- c) there would be sale costs consisting of real estate commissions estimated to be in the range of 5% commission and lawyers’ fees and other closing costs for the properties referred to in (a);
- d) the value of inventory (boats), parts, vehicles and equipment on the books and records of CMS is overstated as compared to liquidation estimates provided by Hilco and SFL;
- e) there is likely modest value for goodwill at best, given the adverse publicity and repeated instances of funds not being kept in trust and customers of the Companies having lost funds due to the actions of prior management;
- f) there is likely some value to the claims in respect of the Adjacent Properties and 14 Highland Ave. in Belleville, and the valuation of the Adjacent Properties was also included in Confidential Appendix “A” by the Companies when they commissioned it, but discounts are likely warranted for some litigation risk, expense of litigation and also the factors noted in items (b) and (c) above regarding adjustments as against appraised value (note that the valuation at Confidential Appendix “A” does not include 262 Queensway, which is one of the Adjacent Properties, but that was purchased on September 29, 2014 so the Receiver has considered its purchase price as an indication of value subject to adjustment);
- g) there is a wide range of potential value in respect of possible claims that CMS may have in respect of the funds it paid for 1800239 Ontario Limited’s interests in the Boston Pizza business, but this is subject to greater litigation risk given that the Receiver’s investigation is not yet complete, subject to adjustment for the cost of any proceeding, and subject to adjustment because the recovery of any debt owing or equity held is also not guaranteed;
- h) there is a wide range of potential value in respect of possible claims that the Companies may have against individuals, including the estate of Lloyd

Crate, Steven Crate, Greg Crate and Lynn Marko, for matters including the approximate \$1.8 million listed as owing to 1382415 Ontario Ltd., but this is again subject to greater litigation risk given that the Receiver's investigation is not yet complete, subject to adjustment for the cost of any proceeding, and subject to adjustment because the recovery of any debt owing or equity held is also not guaranteed (particularly in light of the stated intent of several creditors, including the registrations on title by Canada Revenue Agency to pursue the assets of Messrs. Crate and Ms. Marko); and

- i) there would be greater ongoing costs of the receivership if the Receiver were to sell the assets under an alternative forced sales process.

82. The Receiver has prepared a detailed analysis of the estimated ranges of the value of the assets being sold under the Stalking Horse Offer as compared to the value of the estimated Purchase Price under that offer, and has concluded that the Purchase Price in the Stalking Horse Offer is superior to the estimated ranges of recoverable value of the assets in a disposition through an alternative forced liquidation sales process. A copy of this analysis is attached as **Confidential Appendix "B"**.

Commentary on allocation of purchase price

83. The Receiver is cognizant that the allocation of the purchase price in the Stalking Horse Offer to the properties municipally known as 7/8 Mac Ave. and 210 Wynhurst Ave. in Keswick is likely to provide for less value than the charges registered against those properties by Cesaroni Management Limited ("**Cesaroni**"), Romith Investments Limited ("**Romith**") and Uplands Charitable Foundation ("**Uplands**").

84. The Receiver has been advised by the Purchaser that its investigations into the market value for those properties is considerably less than the value of the amounts owing under the charges in favour of Cesaroni, Romith and Uplands, and that the amounts allocated are what the Purchaser is prepared to pay in order to acquire those properties. The amounts offered are different than the appraisal information available to the Receiver as set out in Confidential Appendix "A".

85. The Receiver has reviewed the consideration being offered in the Stalking Horse Offer and the benefit of a mechanism to coherently market the assets being conveyed in it in a bidding process, and has concluded that the interests of the creditors and stakeholders of the

Companies on the whole is best served by accepting the Stalking Horse Offer.

86. Part of the Receiver's considerations in that regard are that it is the Receiver's understanding that the amounts owing by the Companies to Cesaroni and Romith are also secured against some or all of the lands municipally known as 200 and 292 Wynhurst and registered in the name of Lynn Marko, such that the likelihood of repayment of those amounts is reasonable having regard to the values given to those lands in Confidential Appendix "A".

87. The position of Cesaroni, Romith and Uplands on the Stalking Horse Offer and the Receiver's motion is not yet known, but will be developed in discussions among counsel prior to the return of the motion.

88. The Receiver is also cognizant that the allocation of the Purchase Price in the Stalking Horse Offer will yield no recovery allocable to the Quebec assets of the Companies, yet the Assumed Secured Debt appears to have no enforceable security against those assets. The Receiver believes that the Stalking Horse Offer nonetheless is supportable and commercially reasonable having regard to:

- a) the relative value of the Quebec assets (as set out in Confidential Appendix "B"), both in terms of cost value on the books and records of the Companies, and also in terms of fair market and forced sale values as reported by Hilco and SFL, as compared to the overall consideration offered in the Stalking Horse Offer; and
- b) the realizable value of the Quebec assets is likely minimal (or even negative) having regard to the priority amounts payable such as the portion of the Receiver's Charge and Receiver's Borrowing Charge allocable to those assets.

D) PROPOSED SALES PROCESS

89. The sales process timeline that the Receiver has proposed has been designed to attempt to ensure that the process will be complete and a buyer of the assets in place for as soon as possible following the end of March. The Receiver has done so because the value in the assets would be more likely maintained if the marina operations were sold early enough in 2015 so that a new operator can contact customers before the boats start being taken out of

winter storage in anticipation of the 2015 boating season. It is not clear that it would be financially or operationally prudent for the Receiver to attempt to operate the marina business itself in the 2105 boating season

90. The proposed sales process is set out more fully in the draft Order attached as Schedule “A” to the Receiver’s Notice of Motion, including the sales process terms attached as Schedule “A” to that Order (collectively the “**Sales Process**”), but the following is a summary the Sales Process:

Description	Date
Order re: Stalking Horse and Sales Process	February 13, 2015
Receiver sends teaser letter to parties in the same industry as the Companies and to other potential purchasers identified by the Receiver	As soon as possible after February 13, 2015
Ads in the Globe & Mail (national edition)	February 23, 2015
Ads in in the Georgina Advocate, Barrie Advance, Innisfil Journal and Orillia Today	March 2, 2015
Superior Bids must be submitted to the Receiver	March 18, 2015 at 5:00pm (Toronto time)
If no Superior Bids	
motion for an Approval and Vesting Order for the Stalking Horse Offer	By March 27, 2015
Closing of the Stalking Horse Offer	By March 31, 2015
If one or more Superior Bids	
Receiver to send invitations to the Auction to all persons submitting Superior Bids and to the Stalking Horse Bidder	By March 20, 2015 at 3:00pm (Toronto time)
Auction at the offices of the Receiver	March 23, 2015 at 10:00 am (Toronto time)
motion for an Approval and Vesting Order for the Winning Bid	By April 1, 2015
Closing of the Winning Bid	By April 8, 2015

If the Winning Bid fails to close: Motion for Approval and Vesting Order for the Back-up Winning Bid and Closing of the Back-up Winning Bid	By April 20, 2015
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E) SEALING ORDER

91. The release of the information at Confidential Appendices “A” and “B” would be detrimental to the interests of the stakeholders of the Companies prior to the closing of a transaction under the Sales Process Terms. The release of that that information would also be prejudicial to the prosecution of the claims that the Companies may have as described in the Third Report, either by the Receiver or by a purchaser. The Receiver accordingly requests that these documents be sealed until further Order of the Court.

F) CONCLUSION

92. A. Farber & Partners Inc. in its capacities as Receiver and Trustee accordingly seeks the Order attached as Schedule “A” to its Notice of Motion.

All of which is respectfully submitted this 8th day of February, 2015.

**A. FARBER & PARTNERS INC.
COURT-APPOINTED RECEIVER OF CRATE MARINE SALES LIMITED, F.S.
CRATE & SONS LIMITED, 1330732 ONTARIO LIMITED, 1328559 ONTARIO
LIMITED, 1282648 ONTARIO LIMITED, 1382415 ONTARIO LTD., and 1382416
ONTARIO LTD.**



Per: Stuart Mitchell
Senior Vice President