

**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.

SIXTH REPORT OF THE RECEIVER

MARCH 25, 2015

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SIXTH REPORT OF THE RECEIVER

March 25, 2015

A. FARBER & PARTNERS INC. (“**Farber**”) 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, 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 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 Farber as a receiver over the properties, assets and undertakings of the Companies and (iii) to substitute Farber 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, Farber 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.

4. Following two intervening hearings, on December 8, 2014, the Honourable Mr. Justice Newbould terminated the NOI proceedings of the Companies and appointed Farber as Receiver and also as trustee in bankruptcy (the “**Trustee**”) of all of the Companies.

5. Since December 8, 2014, the Receiver has taken the following steps and brought the following motions, all of which have been more fully set out in the First, Second, Third, Fourth and Fifth reports of the Receiver and the Supplementary Report to the Fifth Report of the Receiver:

(a) On December 12, 2014, the Receiver and Trustee brought a motion to correct a typographical error in the Order dated December 8, 2014 regarding a misdescription of 1282648 Ontario Limited, and for procedural consolidation of certain of the bankruptcy estates of the Companies and other administrative relief. Mr. Justice Newbould issued an Amended Order dated December 8, 2014, a copy of which is attached as **Appendix “A”**. Mr. Justice Newbould also issued an order dated December 12, 2014 in respect of the consolidation and administrative relief;

(b) 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 Farber 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. Mr. Justice Penny issued Orders granting that relief;

(c) On January 14, 2015, the Receiver and Trustee commenced an application against Steven Crate, Gregory Crate, Lynn Marko, Ryan Crate, and Robin Crate (a.k.a. Robin Silver) and sought and obtained a certificate of pending litigation without notice regarding properties held in their name in the vicinity of the lands owned by the Companies in Keswick but for which the Companies appear to have provided all funds for the acquisition and maintenance of those properties;

(d) On January 30, 2015 the Receiver and Trustee commenced a further application against Ryan Crate and sought and obtained a certificate of pending litigation with notice regarding further a property held in his name at 14 Highland Ave. in

Belleville, but for which the Companies appear to have provided all funds for the acquisition and maintenance of that property;

(e) As discussed in more detail below, on February 13, 2015, the Receiver brought a motion for approval of a stalking horse sales process, which is fully described in the Receiver's Third Report dated February 8, 2015 (the "**Third Report**");

(f) On February 19, 2015 the Receiver commenced applications for bankruptcy orders against Steven Crate, Gregory Crate, Lynn Marko and the estate of Lloyd Crate in connection with amounts owing by them to the Companies. These applications are disputed and will be proceeding for hearing on April 27 and April 28, 2015;

(g) On March 13, 2015, the Receiver brought a motion to approve its and its counsel's fees and disbursements to February 8, 2015 and to increase the Receiver's Borrowing Charge, as defined in the Appointment Order, to \$2,000,000.00. The Honourable Madam Justice Conway granted the relief sought;

(h) On March 20, 2015, after obtaining without notice a preservation Order from Mr. Justice Newbould respecting the subject matter of the motion, the Receiver brought a motion on notice seeking, *inter alia*, declarations that certain life insurance policies issued by Transamerica Life Canada and held by 1382415 Ontario Ltd. ("**415**") and 1382476 Ontario Ltd. ("**416**") on the lives of Steven Crate, Gregory Crate and Lynn Marko and the proceeds thereof are property of 415 and 416, and finding Steven Crate, Gregory Crate and Lynn Marko in contempt of the Order and Amended Order of Mr. Justice Newbould dated December 8, 2014. On March 20, 2015, Madam Justice Conway made an order which, among other things, adjourned the motion to April 29, 2015, continued the preservation Order and required the disclosure of records pertaining to transactions in respect of those proceeds.

PURPOSE OF THIS REPORT

6. This is the sixth report of the Receiver (the "**Sixth Report**"). Its purpose is to seek an order:

- a) approving the Sixth Report of the Receiver, as well as the Receiver's Fourth and Fifth Reports (including the Supplement thereto), and the activities of the Receiver described therein; and
- b) approving the agreement of purchase and sale dated February 8, 2015 (the "**Sale Agreement**") entered into between the Receiver and 2450902 Ontario Limited (the "**Purchaser**") and vesting in the Purchaser and its permitted designate all the respective right, title and interest of the Debtors in and to the Purchased Assets as defined therein, on the terms set out in the draft

Approval and Vesting Order in the Receiver's Motion Record (the
"Approval and Vesting Order").

7. All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Sale Agreement.

8. The Sixth Report and associated motion is being returned before the Court on March 31, 2015 at the same time as the Seventh Report of the Receiver and associated motion, which pertain to the property claims process that was authorized by the December 23, 2014 Property Claims Procedure Order and the activities and conclusions of the Receiver in that regard to date.

LIMITATION OF REVIEW

9. Farber 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 Sixth 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 Sixth Report for the sole use of the Court and of the other stakeholders in these proceedings.

A) THE SALES PROCESS AND RESULTS OF THE PROCESS

Background to the Sale Agreement

10. The Sale Agreement and its terms are described in detail in the Third Report, which contains the basis for the Receiver's recommendations that the Court approve the Sale Agreement for the purpose of conducting a stalking horse Sales Process and the terms of the Sales Process. Copies of the Third Report, without appendices, and the executed Sale Agreement are attached as **Appendices "B" and "C"**, respectively.

11. By way of brief summary, the principals of the Purchaser are Benn-jay Spiegel and Dwight Powell, who are respectively principals of Crawmet and Dwight Powell Investments

Inc. (“**DPII**”), who are the largest secured creditors of the Companies. The Sale Agreement is in large part comprised of a credit bid through the Assumed Secured Debt, as defined therein. It covers substantially all of the assets of the Companies (the “**Purchased Assets**”), there being three main exclusions: cash on hand at closing, boats and other tangible personal property such as trailers and snowmobiles in the possession of the Companies for which there are, or were, boat slip leases or other bailment arrangements (which are part of the subject matter of the Receiver’s separate motion regarding the property claims procedure brought jointly with its motion for the Approval and Vesting Order) and anything that the Purchaser may choose to exclude from the assets that would otherwise be subject to the Sale Agreement (but if so there are no adjustments to the purchase price).

12. The Purchase Price under the Sale Agreement is set out in section 2.2 thereof, 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 (the “**Crawmet GSA**”), as more fully set out in Schedule “E” to the Sale Agreement (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 for any matter whatsoever.

13. The Receiver has received from the Purchaser the \$250,000.00 deposit required by the terms of the Sale Agreement.

14. In the Third Report, the Receiver estimated that the Purchase Price as at March 31, 2015, assuming that is the Closing Date, would be approximately \$25,951,784.00, made up as follows:

Description	Price
Assumed Secured Debt	\$22,973,033.00 ¹
Cash for the Receiver's Borrowings Charge at Closing, inclusive of 12% interest	\$1,029,752.00
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	\$25,951,784.00

¹ This number is in error, and should have been shown as \$21,973,033.00. The total shown is correct nonetheless and this number was correctly shown by the Receiver in Confidential Appendix "B" to the Third Report.

15. During the period until the anticipated Closing Date of March 31, 2015, the Receiver and the Purchaser will settle the actual Purchase Price in accordance with the provisions of Section 2.2 of the Sale Agreement.

The Sales Process Order Hearing

16. The Receiver's motion for approval of the Sale Agreement for the purpose of conducting the stalking horse Sales Process and approval of the terms of the Sales Process was heard by the Honourable Mr. Justice Pattillo on February 13, 2015. The only substantive opposition was from Cesaroni Management Limited ("**Cesaroni**"), Romith Investments Limited and Uplands Charitable Foundation (collectively, the "**Objecting Creditors**") respecting the amounts of the Purchase Price allocated to the properties municipally known as 7/8 Mac Ave. and 210 Wynthurst Ave. in Keswick (the "**Designated Parcels**"), as set out above. This opposition arose from the fact that such allocation is likely to provide for less value than the charges registered against the Designated Parcels by the Objecting Creditors.

17. At the hearing on February 13, 2015, counsel for the Purchaser, Harvey Chaiton, informed the Court that in the event that, upon the completion of the Sales Process, the Sale Agreement is approved by the Court except as it relates to one or more of the Designated Parcels, the Purchaser will still be bound by and complete the Sale Agreement for the other Purchased Assets in accordance with the terms of the Sale Agreement, with the purchase price to be reduced by the amount allocated to the non-approved Designated Parcels set out in section 2.2(d).

18. In addition, the Receiver advised the Court of its willingness to add to the Order it was seeking a without prejudice provision stating that nothing in such Order would constitute approval of the purchase price allocated to the non-approved Designated Parcels set out in section 2.2(d)

19. At the conclusion of argument on February 13, 2015, Mr Justice Patillo reserved judgment. His Honour released his Endorsement on February 18, 2015 approving the Sale Agreement for the purpose of conducting the stalking horse Sales Process and the terms of the Sales Process, and deciding that the issue of the fairness to the Objecting Creditors of

including the Designated Parcels in the Sale Agreement for the consideration provided cannot and should not be decided in advance of approval of the relief sought by the Receiver on the motion. Copies of Mr. Justice Pattillo's Endorsement of February 18, 2015 and his Order of that day approving, among other things, the Sale Agreement for the purpose of conducting the stalking horse Sales Process and the terms of the Sales Process, (the "**Sales Process Order**") are attached as **Appendices "D"** and "**E**", respectively. The Sales Process Order contains in paragraph 12 the without prejudice provision suggested by the Receiver.

20. Mr Justice Patillo granted another Order on February 18, 2015 on a motion brought by the Trustee (the "**Trustee Order**"). That Order, among other things, authorized and directed the Trustee to enter into the Sale Agreement for the limited purpose of being bound by Sections 1.1(s) and 2.7 thereof. Attached as **Appendix "F"** is a copy of the Trustee Order.

21. The Receiver has been advised by the Purchaser and its counsel that they have recently had communications with one or more of the Objecting Creditors or their counsel, and that the issues among them respecting the amounts of the Purchase Price allocated to the Designated Parcels remain unresolved. On March 25, 2015, counsel to the Receiver sent a letter to counsel for Cesaroni requesting certain information and documentation relating to the charge granted to Cesaroni by one of the Companies on certain of the Designated Parcels and a charge granted to Cesaroni by Lynn Marko on a parcel registered in her name, which charges appear to be cross-collateralized. Attached as **Appendix "G"** is a copy of such letter dated March 25, 2015.

Steps Taken Pursuant to the Sales Process Order

22. Pursuant to the Sales Process Order and the Sales Process Terms attached thereto and approved thereby, the Receiver:

- (a) compiled a list of approximately 990 real estate companies and 197 marina/boating companies in Canada and the US. The Receiver reviewed and edited the list to screen for potentially interested parties. Ultimately, the Receiver reached out to 38 real estate developers and 12 marina/boating companies;
- (b) placed an ad in the national edition of the Globe & Mail on February 23, 2015, a copy of which is attached as **Appendix "H"** hereto;

- (c) placed ads in each of the Georgina Advocate, the Barrie Advance, the Innisfil Journal and Orillia Today on February 26, 2015 (ahead of the planned March 2, 2015 date contemplated in the Sales Process Order), in the form attached as **Appendix “T”** hereto;
- (d) advised the corporate finance, mergers, acquisitions and divestitures arm of Farber Financial Group of the opportunity;
- (e) had an article published in the online Boating Industry CA magazine advertising the sales process, a copy of which is attached as **Appendix “J”** hereto ;
- (f) had a classified ad published in the online Marina.org webpage of the Marina Recreation Association, a website advertising marinas for sale in Canada and the US, a copy of which is attached as **Appendix “K”** hereto; and
- (g) sent teaser letters to those parties that had expressed interest to the Receiver prior to the Sales Process Order and to those additional interested parties identified pursuant to the Receiver’s efforts noted above. A copy of the form of teaser letter is attached as **Appendix “L”** hereto.

23. As a result of the Sales Process, a total of 53 parties expressed interest in some or all of the Property available for sale. The Receiver also notified these parties of the Stalking Horse Bid Represented by the Sale Agreement and that, to be eligible to buy or bid on the Property, interested parties would have to submit a Superior Bid, as defined in the Sale Agreement and Sales Process Terms, of at least \$26,451,784.

24. Ultimately, only one party expressed ongoing interest (the “**Interested Party**”) and was able to establish the financial capacity to submit a potential Superior Bid. The Interested Party signed a confidentiality agreement and was given access to the Receiver’s online data room. The Receiver dealt with the Interested Party and its requests for additional information.

25. On the day of the bid submission deadline, March 18, 2015, the Interested Party advised that, while very interested in the opportunity, it would not be submitting an offer. No other offers were received prior to the bid submission deadline of 5:00 p.m. on March 18, 2015. Accordingly, as directed in paragraph 9(d) of the Sales Process Order, the Receiver is bringing its motion for the Approval and Vesting Order in respect of the Sale Agreement. No offers have been received since the bid submission deadline.

26. In view of the results of the Sales Process, the terms of paragraph 9(d) of the Sales Process Order and the Receiver’s conclusion (contained in paragraph 81 of the Third Report)

that the value being offered in the Sale Agreement is appropriate value for the Purchased Assets, taking into account the factors listed in such paragraph 81, the Receiver recommends that the Court grant the Approval and Vesting Order.

27. The Receiver and the Purchaser, and their respective counsel, have been preparing for the closing of the Sale Agreement since the bid submission deadline. If the Approval and Vesting Order is granted, the Receiver expects that the parties will be in a position to complete the Sale Agreement shortly thereafter.

28. The Purchaser recently informed the Receiver of its election pursuant to Section 9.11 of the Sale Agreement to direct title to the Lands to the Purchaser and title to the balance of the Purchased Assets to Krates Keswick Inc., an Affiliate of the Purchaser. This has been reflected in the draft Approval and Vesting Order in the Receiver's motion record.

B) SEALING ORDER

29. The Third Report has two confidential appendices, which at the Receiver's request were sealed until further Order of this Court by the terms of the Sales Process Order. Confidential Appendix "A" to the Third Report is an appraisal of the Lands included in the Purchased Assets done before the NOI litigation and for the stated purpose of financing, which were sealed in the NOI litigation. Confidential Appendix "B" to the Third Report is a detailed analysis prepared by the Receiver of the estimated ranges of the value of the Purchased Assets as compared to the value of the estimated Purchase Price. On the basis of such analysis, the Receiver concluded in paragraph 82 of the Third Report that the Purchase Price is superior to the estimated ranges of recoverable value of the assets in a disposition through an alternative forced liquidation sales process.

30. The reasons for the Receiver's requesting the sealing until further Order of this Court of Confidential Appendices "A" and "B" to the Third Report are set out in paragraph 91 thereof. Mr. Justice Patillo granted the Receiver's request in paragraph 5 of the Sales Process Order.

31. The Third Report of the Trustee dated February 12, 2015 filed in support of its motion for the Trustee Order (the "**Trustee Report**") has one confidential appendix, Confidential

Appendix “A”, which sets out the detailed considerations of the Trustee on the consideration offered to the Trustee in Section 2.7 of the Sale Agreement for its participation or assistance in conveying or transferring Purchased Assets. As indicated in paragraph 18 of the Trustee Report, the Trustee has considered:

- (a) the value of the Claims in the Sale Agreement, including the portion thereof that would otherwise accrue to the benefit of the Trustee, and
- (b) the value of the Trustee’s participation or assistance in conveying or transferring the Purchased Assets,

and concluded that the consideration offered is appropriate value.

32. The reasons for the Trustee’s requesting the sealing until further Order of this Court of Confidential Appendix “A” to the Trustee Report are set out in paragraph 24 thereof.

33. Although, as discussed above, in the Sales Process Order Mr. Justice Pattillo ordered the sealing of Confidential Appendices “A” and “B” to the Third Report until further Order of this Court, in the Trustee Order His Honour ordered the sealing of Confidential Appendix “A” to the Trustee Order until “final completion of the sales process [such phrase having been added by Mr. Justice Pattillo on his signing of the Order] or further Order of this Court”.

34. For the reasons set out in the Trustee’s Report, it was and continues to be the view of Farber in its capacity as Trustee that Confidential Appendix “A” to the Trustee Report continue to be sealed pending further Order of the Court and not just to the final completion of the Sales Process, and the view of Farber in its capacities as Receiver and Trustee that in respect of the continuing sealing of the confidential appendices to the Third Report and the Trustee Report, there be consistency between the two reports.

35. Accordingly, the Receiver requests that the Approval and Vesting Order continue the sealing of Confidential Appendices “A” and “B” to the Third Report until further Order of this Court, as is the case in the Sales Process Order, and Farber in its capacity as Trustee requests that an order be made in the bankrupt estates of the Companies sealing Confidential Appendix “A” to the Trustee Report until further Order of this Court, which would result in

such Confidential Appendix “A” remaining sealed on final completion of the Sales Process until unsealed by a subsequent Order.

C) THE RECEIVER’S OTHER ACTIVITIES SINCE FEBRUARY 8, 2015

36. In the Sales Process Order, Mr. Justice Pattillo approved the Receiver’s First Report, Second Report and Third Report, and the activities, decisions and conduct of the Receiver and its counsel as described therein, covering the period December 8, 2014 to February 8, 2015. As indicated above, on March 13, 2015 Madam Justice Conway made an order approving the Receiver’s and its counsel’s fees and disbursements for the same time period.

37. This section of the Sixth Report describes the Receiver’s activities for the period February 9, 2015 to the date of this Report, other than to those in respect of the Sales Process and the Sale Agreement, described above, and other than those relating to the Property Claims Procedure Order, which are described in the Seventh Report of the Receiver, to be filed.

Communications

38. The Receiver responded to numerous telephone and email inquiries from third parties regarding the anticipated 2015 operations of the Keswick marina, and how the ongoing sales process may or may not affect the 2015 operations of the marina.

39. The Receiver also continues to respond to third party inquiries about the status of customer accounts and the status of 2015 slip rental fees collected by the Companies prior to the NOI filings, and about advice the third parties received from their credit card processor.

40. For customers, the Receiver facilitated onsite review of banking records to trace the use of purported trust funds.

41. The Receiver has attended at the Companies’ premises to address and respond to the numerous requests for accounting information and records with regard to the investigations of various parties into the pre-filing transactions and books and records of the Companies.

Employees

42. The Receiver has prepared Wage Earner Protection Program packages and issued them to the former employees of the Company and to Services Canada. The Receiver has received and responded to various queries from Services Canada and the employees about these packages.

43. The Receiver prepared records of employment and 2014 T4 – Statement of Remuneration Paid – slips for all employees of the Companies.

Assets of the Companies

44. The Receiver has co-ordinated the centralization of the assets of the Companies at the Keswick marina from its other locations across Ontario and Quebec, and continues to do so. The exception in that regard pertains to the chattels at the Brechin, or Lagoon City, location, which are the subject of a disputed property claim by the relevant landlord. This is one of the matters that are addressed in the Receiver's Seventh Report.

45. The Receiver continues to expand its efforts to collect outstanding accounts receivable from current (usually outstanding invoices for boats and maintenance) and future (usually 2015 boat slip rental fees) customers. The Receiver continues to review credit card charge backs to customers to determine the impact of the Receiver's efforts to recover the customer accounts receivable due to the Companies.

46. The Receiver continues to negotiate the sale of a vehicle left in Florida by the Companies prior to the insolvency proceedings.

47. The Receiver continues to attend at the Companies' premises and provide supervision of former staff who are providing on-site services for the Receiver. The Receiver has also attended to the security and cataloguing of customer boats and to provide ongoing security and maintenance of the sites and Property.

48. The Receiver has received correspondence from the alleged owner of a travelift which is located at the Belleville marina for which the Companies provided funding. The Receiver's counsel continues to engage in correspondence with counsel for the alleged owner about the

legal ownership of the travelift, and has reviewed the equipment lease pertaining to the travelift. This is one of the matters that are addressed in the Receiver's Seventh Report.

49. The Receiver continues to investigate the the affairs of the Companies, including various boat transactions entered into by the Companies. The Receiver has also contacted various accountants, consultants and lawyers that previously provided services to the Companies.

50. The Receiver is engaging in discussions with 2192422 Ontario Inc., the owner of the Willow Beach property and a boat, to confirm 1382416's 50% equity interest therein and to investigate an alleged pledge of the 1382416 owned-shares to the other shareholder and/or Mr. Dwight Powell personally as security for amounts allegedly loaned to the Companies prior the NOI.

51. The Receiver has made ongoing demands for documents and property of the Companies, including the demand for the return of the minute book of 1382416 Ontario Ltd. The Receiver has taken steps to issue these demands to the legal counsel and accountants previously employed by the Companies, as well as sending representatives personally to investigate and safeguard the property of the Companies.

52. The Receiver has made demand on Crate Belleville Inc. ("CBI") for payment of \$710,408.57, which according to the records of Crate Marine Sales Limited ("CMS") is owed by CBI to CMS. This amount consists of expenditures made by CMS on CBI's behalf for the acquisition, refurbishment and installation of docks in Belleville and for various other CBI transactions. CBI has made no payments to the Receiver in response to this demand. The Receiver has been considering initiating legal proceedings in respect of this matter.

The Ongoing Receivership Administration

53. The Receiver prepared and filed its Fourth Report dated March 6, 2015 relating to approval of its and its counsel's fees and disbursements up to February 8, 2015 and to secure an increase in the Receiver's borrowings charge, both of which were granted by Madam Justice Conway in her Order dated March 13, 2015. Attached as **Appendix "M"** is a copy of the Receiver's Fourth Report, without appendices.

54. The Receiver facilitated the execution of Receiver's Certificate No. 3, which has provided an additional \$1,000,000 for funding the expenses and costs of the receivership administration, including the Receiver's, and its counsel's, fees and disbursements.

55. The Receiver has engaged in ongoing correspondence with its counsel regarding the administration of the Companies.

Litigation Matters

The Companies' Interest in a Boston Pizza Franchise

56. The Receiver's review of the books and records indicates that CMS has records of an outstanding receivable of approximately \$1,060,000 from 1800239 Ontario Limited ("**1800**"). 1800 is a corporation controlled by the former management of the Companies: Steven Crate, Greg Crate and Lynn Marko. 1800 in turn is one of the registered shareholders of two separate corporations, 2186015 Ontario Inc. ("**Landco**"), and 2186018 Ontario Inc. ("**Opco**"). Landco is the registered owner of the land municipally known as 253 The Queensway South (the "**Boston Pizza Lands**"), which is across the street from the Keswick marina facilities. Opco has leased the Boston Pizza Lands from Landco, and uses it to operate a Boston Pizza franchise.

57. The Receiver's review indicates that CMS has financed most, if not all, of 1800's interest with regard to Landco and Opco, including directly paying cash calls by 6015 and 6018. The Receiver has been considering initiating legal proceedings in respect of this matter.

Possible Amounts Owed by Former Management

58. The Receiver continues to review the books and records of the Companies regarding the amounts owing by Steven Crate, Greg Crate and/or Lynn Marko as former management and directors of the Companies.

59. 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. The Receiver has engaged in correspondence with third

parties and their lawyers regarding these allegations and has demanded information in their regard.

Adjacent Properties

60. As reported in the Receiver's Third Report, 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 lands registered in the names of members of the Crate family in the vicinity of the Keswick marina location (the "**Adjacent Properties**"), which funds were recorded on the books of CMS as either expenses against income or notional advances to shareholders. However, the properties were held in the name of the principals of the Companies and related parties.

61. 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.

62. The Receiver and its counsel continue to investigate, document, review, and report on the relevant transactions and on the certificates of pending litigation registered on the Adjacent Properties. The Receiver and its counsel have received a motion record by counsel for the former management of the Companies to vacate the certificates of pending litigation and have engaged in correspondence with opposing counsel about same.

Belleville Property Registered in the Name of Ryan Gregory Crate

63. 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 was listed for sale.

64. 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.

Bankruptcy Petitions

65. The Receiver has investigated, documented, reviewed, and reported on various unpaid loans advanced by the Companies to the estate of Lloyd Crate (deceased), Steven Crate, Greg Crate and Lynn Marko. After issuing demands that were not satisfied, the Receiver issued bankruptcy applications against these parties. The Receiver and its counsel have received notices of dispute from the estate of Lloyd Crate (deceased), Steven Crate, Greg Crate and Lynn Marko and the return of the bankruptcy applications has been scheduled for April 27 and 28, 2015.

Insurance Policies Proceeds Litigation

66. As described in the Receiver's Fifth Report dated March 10, 2015, and its Supplement thereto dated March 19, 2015, in February, 2015, the Receiver learned that during the NOI period and after the receivership and bankruptcy of the Companies, Steven Crate, Gregory Crate and Lynn Marko, took steps to withdraw \$354,647.02 of proceeds from certain Transamerica Life Canada life insurance policies owned by two of the Companies, 415 and 416, and to distribute the proceeds beyond the control of those Companies and the Receiver. Most of the funds were transferred to a bank account of Jessica Leanne Crate, the daughter of Gregory Crate, both before and after the appointment of the Receiver and Trustee on December 8, 2014, and then by a series of transactions on and after the appointment of the Receiver and Trustee, disbursed from such bank account to various parties including James Crate, a lawyer at Fahey Crate Law Professional Corporation.

67. The Receiver took steps to carefully investigate the withdrawal of the insurance policies proceeds and the disposition of the proceeds, including by corresponding with the insurer, Transamerica Life Canada, and with The Toronto-Dominion Bank, to obtain the

relevant information and documentation and determine when and how the funds were withdrawn. These steps are described in detail in the Receiver's Fifth Report and Supplement thereto, copies of which are attached as **Appendix "N"** and **"O"**, respectively.

68. The Receiver brought a motion without notice for a preservation order in respect of the policies proceeds. This motion was heard by the Honourable Mr. Justice Newbould on March 10, 2015 at which time His Honour granted the preservation order sought; namely, that pending further Order of this Court, Steven Crate, Gregory Crate, Lynn Marko, Jessica Leanne Crate and James Crate and Fahey Crate Law Professional Corporation, and any other person having knowledge of the Order, preserve, and not deal with, the policies proceeds in any manner without the express written consent of the Receiver and Trustee.

69. After the preservation order was granted, the Receiver continued with its investigation. On March 20, 2015, the Receiver brought a motion on notice for, among other things, the return of the policies proceeds and finding Steven Crate, Gregory Crate and Lynn Marko in contempt of the Order and Amended Order of Mr. Justice Newbould dated December 8, 2014, in response to which Steven Crate, Gregory Crate and Lynn Marko have filed an affidavit of Lynn Marko. The Receiver's motion has been adjourned to April 29, 2015. However, Madam Justice Conway empowered the Receiver with further investigatory powers to determine when and how the insurance policy proceeds have been disbursed, and to whom. As a result, the Receiver and its counsel have been engaging these further powers to demand books and records from payees of the policies proceeds in order to attempt to trace the funds.

D) CONCLUSION

70. Farber in its capacity as Receiver accordingly seeks an Order in the form included in its Motion Record.

All of which is respectfully submitted this 25th day of March, 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.

A handwritten signature in black ink, reading "Stuart Mitchell". The signature is written in a cursive, flowing style with a horizontal line underlining the name.

Per: Stuart Mitchell
Senior Vice President

TAB A



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

THE HONOURABLE MR.

JUSTICE NEWBOULD

)
)
)

MONDAY, THE 8TH DAY

OF DECEMBER, 2014

BETWEEN:

Court File No. 31-1932502

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF CRATE
MARINE SALES LIMITED**

BETWEEN:

Court File No. 31-1932534

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF F.S.
CRATE & SONS LIMITED**

BETWEEN:

Court File No. 31-1932548

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 1330732
ONTARIO LIMITED**

BETWEEN:

Court File No. 31-1932557

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 1328559
ONTARIO LIMITED**

BETWEEN:

Court File No. 31-1932540

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF 1282648
ONTARIO LTD.**

AMENDED ORDER

(Terminating the Proposal Debtors' Proposal Proceedings and Appointing a Receiver)

THIS MOTION made by Crawmet Corp. ("**Crawmet**") for an Order:

1. validating the service and filing of the consolidated reply motion record, factum and brief of authorities of Crawmet be filed solely in court file number 31-1932502;
2. pursuant to section 50.4(11) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c.B-3 (the "**BIA**"), declaring that the period for filing a proposal by Crate Marine

Sales Limited, F.S. Crate & Sons Limited, 1282648 Ontario Ltd., 1328559 Ontario Limited and 1330732 Ontario Limited (collectively, the "**Debtors**") be terminated;

3. pursuant to section 243(1) of the BIA and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing A. Farber & Partners Inc. ("**Farber**") as receiver (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario; and
4. substituting Farber as bankruptcy trustee (the "**Trustee**") of the Debtors and 1382415 Ontario Ltd. and 1382416 Ontario Ltd. (together with the Debtors, the "**Proposal Debtors**").

ON READING the affidavit of Benn-Jay Spiegel sworn November 20, 2014, the supplementary affidavit of Benn-Jay Spiegel sworn November 30, 2014, the Report of Dodick Landau Inc., in its capacity as Proposal Trustee of the Debtors (the "**Proposal Trustee**"), the Affidavits of Steven Crate each sworn November 28, 2014, the First Report of Farber in its capacity as Interim Receiver of the Debtors (the "**Interim Receiver**"), the Second Report of the Interim Receiver, the Supplementary Report to the Second Report of the Interim Receiver, the Second Report of the Proposal Trustee, the Affidavit of Steven Crate sworn December 5, 2014, the Affidavit of Benn-Jay Spiegel sworn December 7, 2014 and the Third Report of the Interim Receiver, on hearing the submissions of counsel for Crawmet, counsel for the Debtors, counsel for the Proposal Trustee, counsel for the Interim Receiver and such other counsel as are present, and on reading the consents of Farber to act as the Receiver and the Trustee,

FILING

1. **THIS COURT ORDERS** that the service and filing by Crawmet, the Proposal Trustee, the Interim Receiver and the Debtors of consolidated materials be hereby validated and directs that these materials be filed solely in Court File No. 31-1932502.

TERMINATION OF THE PROPOSAL PROCEEDINGS

2. **THIS COURT ORDERS AND DECLARES** that, pursuant to section 50.4(11) of the BIA, the period for filing a proposal by each of the Proposal Debtors in their respective proceedings be and hereby is terminated and that A. Farber & Partners Inc. be and hereby is substituted as the bankruptcy trustee of the Proposal Debtors.

APPOINTMENT

3. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, A. Farber & Partners Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Proposal Debtors acquired for, or used in relation to a business carried on by the Proposal Debtors, including all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

4. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Proposal Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Proposal Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on

whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Proposal Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Proposal Debtors and to exercise all remedies of the Proposal Debtors in collecting such monies, including, without limitation, to enforce any security held by the Proposal Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Proposal Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Proposal Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Proposal Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

(k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

(i) without the approval of this Court in respect of any transaction not exceeding \$100,000 provided that the aggregate consideration for all such transactions does not exceed \$500,000; and

(ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

(l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

(m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

(n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

(o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Proposal Debtors;

(p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Proposal Debtors, including, without limiting the generality of the

foregoing, the ability to enter into occupation agreements for any property owned or leased by the Proposal Debtors;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Proposal Debtors may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Proposal Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

5. **THIS COURT ORDERS** that (i) the Proposal Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Proposal Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due

to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE PROPOSAL DEBTORS OR THE PROPERTY

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Proposal Debtors or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Proposal Debtors or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

10. **THIS COURT ORDERS** that all rights and remedies against the Proposal Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written

consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Proposal Debtors to carry on any business which the Proposal Debtors is not lawfully entitled to carry on, (ii) exempt the Receiver or the Proposal Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Proposal Debtors, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Proposal Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Proposal Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Proposal Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Proposal Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the

collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

14. **THIS COURT ORDERS** that all employees of the Proposal Debtors shall remain the employees of the Proposal Debtors until such time as the Receiver, on the Proposal Debtors' behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom 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 Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Proposal Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in

priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

19. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

20. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

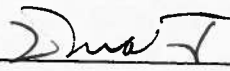
SERVICE AND NOTICE

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<http://www.farberfinancial.com/insolvency-engagements/crate-marine-sales-limited-et-al>>'.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Proposal Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Proposal Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
29. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
30. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
31. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "Receiver") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the ____ day of _____, 20__ (the "Order") made in an action having Court file number ____-CL-_____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 20__.

[RECEIVER'S NAME], solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF CRATE MARINE SALES LIMITED, ET. AL.

Court File No. 31-1932502

<p>ONTARIO SUPERIOR COURT OF ONTARIO IN BANKRUPTCY</p> <p>Proceedings commenced at TORONTO</p>	<p>ORDER</p>	<p>CHAITONS LLP Barristers and Solicitors 5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9</p> <p>Harvey Chaiton (LSUC #21592F) Tel: (416) 218-1129 Fax: (416) 218-1849</p> <p>Maya Poliak (LSUC #54100A) Tel: (416) 218-1161 Fax: (416) 218-1844</p> <p>Lawyers for Crawmet Corp.</p>
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TAB B

**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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- “X” Opinion letter of Receiver’s counsel regarding the validity of the security agreement granted by CMS in favour of Crawmet Corp.
- “Y” Opinion letter of Receiver’s counsel regarding the validity of the security agreement granted by CMS in favour of Marquis Yachts
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Confidential Appendix “B” Receiver’s analysis of the value of the assets being sold under the Stalking Horse Offer as compared to the value of the purchase price under that offer

**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 DPPII, Dwight Powell and Crawmet. Based upon a review of information and documentation provided by DPPII, 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

TAB C

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT is made as of the 8th day of February, 2015.

BETWEEN:

A. FARBER & PARTNERS INC.
in its capacity as 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.,
and not in its personal capacity
(the "**Vendor**")

- and -

2450902 ONTARIO LIMITED
(the "**Purchaser**")

WHEREAS:

- A. Until December 8, 2014, Crate Marine Sales Limited ("**Crate Marine**") operated the Business at the Locations (as such terms are hereinafter defined);
- B. On November 14, 2014, Crate Marine, F. S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd. (collectively, the "**Debtors**") filed Notices of Intention to Make a Proposal pursuant to section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c.B-3;
- C. On December 8, 2014, the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made an order (such order, as amended, the "**Appointment Order**"), *inter alia*: (i) appointing A. Farber & Partners Inc. ("**Farber**") receiver (the "**Receiver**") over the assets, undertakings and properties of the Debtors, acquired for, or used in relation to the Business, including all proceeds thereof; and (ii) appointing Farber as trustee in bankruptcy of the Debtors (the "**Trustee**");
- D. The Vendor will bring a motion for the Sales Process Order (as hereinafter defined) to authorize the Vendor to enter into this Agreement and conduct a sales process with respect to the Purchased Assets (as hereinafter defined); and
- E. The Purchaser has agreed to purchase from the Vendor, and the Vendor has agreed to sell to the Purchaser, the respective right, title and interest of the Debtors in and to the Purchased Assets on the terms and conditions set out herein.

NOW THEREFORE in consideration of the mutual covenants and agreements set forth in this Agreement and the sum of Two (\$2.00) Dollars now paid by each of the Vendor and Purchaser to the other and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged) the parties hereto covenant and agree as follows:

ARTICLE 1 – DEFINITIONS

1.1 Definitions. The following terms will have the following meanings:

- (a) "**138**" means 1382416 Ontario Ltd.;
- (b) "**219**" means 2192422 Ontario Ltd.;
- (c) "**Acceptance Date**" means the date that this Agreement is executed by each of the parties hereto;

- (d) **"Additional Excluded Assets"** has the meaning ascribed thereto in Section 2.6 hereof;
- (e) **"Affiliate"** means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate;
- (f) **"Agreement"** means this agreement, as it may be supplemented, amended, restated or replaced from time to time by written agreement between the parties;
- (g) **"Assumed Contracts"** has the meaning ascribed thereto in Section 2.9 hereof;
- (h) **"Assumed Leases"** has the meaning ascribed thereto in Section 2.9 hereof;
- (i) **"Assumed Locations"** means those Locations described in Sections 1.1(II)(i)-(iii), inclusive, subject to the provisions of Sections 2.6 and/or 2.9 hereof;
- (j) **"Assumed Secured Debt"** has the meaning ascribed thereto in Section 2.2(a) hereof;
- (k) **"Auction"** has the meaning ascribed thereto in Section 6.1(b) hereof;
- (l) **"Authority"** means any governmental authority, body, agency, commission, board, bureau, or department, whether federal, provincial or municipal, having or claiming jurisdiction over the Lands, and **"Authorities"** means all such authorities, bodies, agencies, commissions, bureaus, departments and boards;
- (m) **"Bid Deadline"** has the meaning set out in Schedule "A" to the Sales Process Order;
- (n) **"Boat Slips"** means the boat slips forming part of the Locations;
- (o) **"Boat Slip Leases"** means the right, title and interest of the respective Debtors to all rental agreements, leases, agreements to lease, subleases, license agreements and occupancy or other agreements relating to the use of the Boat Slips;
- (p) **"Books and Records"** means all books, records, files and papers Related to the Business in the Vendor's possession or control;
- (q) **"Business"** means the operation collectively by the Debtors of a used and new boat and yacht dealership and the marinas from the Locations, including, without limitation, (i) lease of the Boat Slips, and (ii) provision of various services and facilities relating to the storage, servicing and maintenance of boats and yachts;
- (r) **"Business Day"** means any day that is not a Saturday, Sunday or statutory holiday in the Province of Ontario;
- (s) **"Claims"** means the right, title and interest of the (i) respective Debtors to and in all past, present and future claims, suits, proceedings, liabilities, obligations, losses, damages, penalties, judgments, costs, expenses, fines, disbursements, legal fees on such basis as may be ordered by a court and other professional fees and disbursements, interest, demands, causes of action and actions of any nature or any kind whatsoever; (ii) respective Debtors, the Vendor and the Trustee to and in the proceeding commenced by the Vendor under Court File No. CV-15-10830-00CL; and (iii) respective Debtors, the Vendor and the Trustee to and in the proceeding commenced by the Vendor under Court File NO. CV-15-10849-00CL; and
- (t) **"Contracts"** means the right, title and interest of the respective Debtors to and in all pending and/or executory contracts, agreements, leases and arrangements Related to the Business to or by which any of the Debtors or any of the Purchased Assets or Business is bound or affected, other than the Leases;

- (u) **"Closing Date"** or **"Closing"** means the date which is three (3) Business Days immediately following the date upon which the Vesting Order is granted or such other date as the Vendor and the Purchaser shall mutually agree upon, but in no event later than March 31, 2015;
- (v) **"Crawmet Charges"** means collectively, the charges/mortgages of land as further described in Schedule "D" attached hereto;
- (w) **"Crawmet GSA"** means the general security agreement made by Crate Marine in favour of Crawmet Corp. dated as of the 22nd day of December, 2011;
- (x) **"Customer Boats"** means all boats in the possession of the Debtors or the Receiver that are or were subject to Boat Slip Leases or other bailment arrangements;
- (y) **"Deposit"** shall have the meaning ascribed thereto in Section 2.3(a) hereof;
- (z) **"DPII"** means Dwight Powell Investments Inc.;
- (aa) **"Ereg"** shall have the meaning ascribed thereto in Section 8.5 hereof;
- (bb) **"ETA"** means the *Excise Tax Act* (Canada);
- (cc) **"Equipment"** means the right, title and interest of the respective Debtors to all furniture, furnishings, equipment, chattels, vehicles and other tangible personal property of every nature and kind, which are owned by any Debtor and incorporated in, situate upon and/or used in connection with the Lands and/or the operation of the Business, including, without limitation, those items more particularly described on Schedule "B" attached hereto;
- (dd) **"Excluded Assets"** means collectively, the following:
 - (i) all cash on hand, certificates of deposit or similar instruments, including those in banks or other depositories in an account of the Vendor; and
 - (ii) any Additional Excluded Assets;
- (ee) **"HST"** means any harmonized sales tax or value added tax exigible or applicable in Ontario pursuant to the ETA as it may relate to the subject transaction;
- (ff) **"Intellectual Property"** means the right, title and interest of the respective Debtors in the following items Related to the Business:
 - (i) the business and trade names;
 - (ii) all copyrights and trade-marks (whether used with wares or services and including the goodwill attaching to such trade-marks), registrations and applications for trade-marks and copyrights; and
 - (iii) all rights and interests in and to all telephone numbers, websites, e-mail addresses and business styles;
- (gg) **"Inventory"** means the right, title and interest of the respective Debtors to all goods and supplies that are held for sale or lease or that have been leased or that are to be furnished or have been furnished under a contract of service, Related to the Business, as of midnight on the night immediately prior to the Closing Date including without limitation those boats more particularly described in Schedule "F" attached hereto but, for greater certainty, shall not include Customer Boats;
- (hh) **"ITA"** means the *Income Tax Act* (Canada);

- (ii) **"Lands"** means the right, title and interest of the respective Debtors in those lands and premises more particularly described on Schedule "A" attached hereto;
- (jj) **"Leases"** means collectively, the Personal Property Leases, Boat Slip Leases and Real Property Leases;
- (kk) **"Licenses"** means the respective right, title and interest of the Debtors to all licenses, permits, filings, authorizations, approvals or indicia of authority Related to the Business or necessary for the conduct of the Business;
- (ll) **"Locations"** means collectively, the marinas and dealerships, to the extent applicable, operated by the Debtors at the following locations:
 - (i) 290 The Queensway South, Keswick, Ontario L4P 2B3;
 - (ii) 150 Laguna Parkway, Brechin, Ontario L0K 1B0;
 - (iii) 1354 Metro Road North, Willow Beach, Ontario L0E 1F0;
 - (iv) 1 Port St. East, Mississauga, Ontario L5G 4N1; and
 - (v) 951A Rue Principale, St.-Paul-Ile-Aux-Noix, Quebec J0J 1G0;
- (mm) **"Permitted Encumbrances"** means the encumbrances and other documents affecting title to the Lands, as described in Schedule "C" attached hereto, together with any valid and enforceable "purchase-money security interests" (as such term is defined in the *Personal Property Security Act* (Ontario)) and true leases in and to the Equipment and the Inventory having priority to the Crawmet GSA, other than any of the foregoing which have been barred pursuant to the Property Claims Procedure Order;
- (nn) **"Person"** is to be broadly interpreted and includes any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Authority or other entity however designated or constituted;
- (oo) **"Personal Property Leases"** means the right, title and interest of the respective Debtors to all chattel leases, equipment leases, rental agreements, conditional sales contracts and other similar agreements Related to the Business;
- (pp) **"Powell Charges"** means collectively, the charges/mortgages of land as further described in Schedule "D" attached hereto;
- (qq) **"Property Claims Procedure Order"** means the Order made by the Court on December 23, 2014 establishing a claims procedure for proprietary and secured claims in a boat or other tangible personal property in the possession of the Debtors or any other Person on behalf of the Debtors on or after the date of the Appointment Order;
- (rr) **"Purchase Price"** means the consideration payable by the Purchaser for the transfer of the respective right, title and interest of the Debtors to the Purchased Assets in accordance with Section 2.2 hereof;
- (ss) **"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 Assumed Locations;
 - (xiii) the Securities; and
 - (xiv) the Claims;
- but excluding the Excluded Assets;
- (tt) **"Purchaser's Solicitors"** means the firm of Chaitons LLP, Barristers and Solicitors, 5000 Yonge Street, 10th Floor, Toronto, Ontario M2N 7E9 (Attention: Harvey Chaiton) Telephone No. (416) 218-1129, Telecopier No. (416) 218-1849;
 - (uu) **"Real Property Leases"** means the right, title and interest of the respective Debtors to all leases, agreements, contracts and other similar agreements directly or indirectly, used in, arising from, or relating in any manner to the occupation by any of the Debtors of the Assumed Locations;
 - (vv) **"Receivables"** means the right, title and interest of the respective Debtors to all accounts receivable, bills receivable, trade accounts, book debts, insurance claims, loans made by any of the Debtors to any of their respective shareholders and/or any other Person(s), and choses-in-action, now or hereafter due or owing to any of the Debtors, Related to the Business together with any unpaid interest accrued on such items and any security or collateral for such items, including recoverable deposits, attributable to the period prior to Closing;
 - (ww) **"Receiver's Certificate"** has the meaning ascribed thereto in Section 8.2 hereof;
 - (xx) **"Receiver's Charge"** has the meaning set out in the Appointment Order;
 - (yy) **"Receiver's Borrowings Charge"** has the meaning set out in the Appointment Order;
 - (zz) **"Related to the Business"** means, directly or indirectly, used in, arising from, or relating in any manner to the Business and/or the Purchased Assets;
 - (aaa) **"Requisition Period"** has the meaning ascribed thereto in Section 3.5 hereof;
 - (bbb) **"Rights"** has the meaning ascribed thereto in Section 9.12 hereof;
 - (ccc) **"Sales Process Order"** means an order to be sought from the Court upon terms acceptable to the parties hereto, each acting reasonably, that alone or in combination, among other things authorizes the Vendor to enter into this Agreement and to conduct a sales process for the right, title and interest of the respective Debtors to the Purchased Assets and Excluded Assets;

- (ddd) **"Secured Debt"** means any and all amounts secured by the Crawmet Charges, the Crawmet GSA and the Powell Charges, including any and all principal, interest, fees and other amounts as set out in Schedule "E" herein;
- (eee) **"Securities"** means all shares and securities held by any of the Debtors in the capital of any other corporations, including, without limitation, the shares owned by 138 in 219, as further described in Section 5.4(k) hereof and specifically excluding the shares held by any of the Debtors in the capital of any other of the Debtors;
- (fff) **"Stalking Horse Bid"** has the meaning ascribed thereto in Section 6.1(a) hereof;
- (ggg) **"Superior Bid(s)"** shall mean an all cash offer or offers by any Person(s) other than the Purchaser 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 this Stalking Horse Bid as determined pursuant to the Sales Process Order, 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 in cash of the Assumed Secured Debt 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.
- (hhh) **"Taxes"** means all taxes, charges, fees, levies, imposts and other assessments, including all income, goods and services, value added, capital, capital gains, withholding, excise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments or similar charges in the nature of a tax and any interest, fines and penalties, imposed by any Authority and whether disputed or not;
- (iii) **"Vendor's Deliveries"** shall have the meaning ascribed thereto in Section 2.8 hereof;
- (jjj) **"Vendor's Knowledge"** means to the best of the knowledge, information and belief of the Vendor, its officers, directors, employees, agents and representatives, in all instances, without independent verification;
- (kkk) **"Vendor's Solicitors"** means the firm of Goldman Sloan Nash & Haber LLP, Barristers and Solicitors, 480 University Avenue, Suite 1600, Toronto, Ontario M5G 1V2 (Attention: Michael B. Rotsztein) Telephone No. (416) 597-7870, Telecopier No. (416) 597-3370;
- (lll) **"Vesting Order"** means an order to be sought from the Court vesting the Trustee's and the Debtors' respective right, title and interest in the Purchased Assets in the Purchaser or its permitted assignee; and
- (mmm) **"Winning Bidder"** has the meaning ascribed thereto in Section 6.1(b) hereof.

1.2 Schedules. The following are the Schedules attached to this Agreement:

Schedule "A":	Description of the Lands
Schedule "B":	Equipment
Schedule "C":	Permitted Encumbrances
Schedule "D":	Description of the Crawmet Charges and the Powell Charges
Schedule "E":	Secured Debt
Schedule "F":	Inventory of Boats

1.3 Interpretation. In and for the purpose of this Agreement, except as otherwise expressly provided:

- (a) "this Agreement" means this agreement as may from time to time be supplemented or amended, and includes the Schedules;
- (b) all references in this Agreement to designated Articles, Sections, subsections, paragraphs, clauses or Schedules are to the designated Articles, Sections, subsections, paragraphs, clauses or Schedules of or attached to this Agreement;
- (c) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, subsection, paragraph or clause;
- (d) the headings are for convenience only and do not form a part of this Agreement and are not intended to interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof;
- (e) the singular of any term includes the plural, and vice versa, the use of any term is generally applicable to any gender and where applicable, a body corporate, the word "or" is not exclusive and the word "including" is not limiting (whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto); and
- (f) all dollar amounts referred to in this Agreement are stated in Canadian Dollars and any payment contemplated by this Agreement shall be made by cash, certified cheque, wire transfer or any other method that provides immediately available funds.

1.4 Governing Law. This Agreement will be governed by and interpreted, and the rights and remedies of the parties hereto determined, in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The parties hereto hereby agree and attorn to the jurisdiction of the Court.

ARTICLE 2 – TRANSFER, PURCHASE PRICE AND PAYMENT

2.1 Agreement. The Purchaser hereby agrees to purchase the Purchased Assets from the Vendor and the Vendor hereby agrees to sell the Purchased Assets to the Purchaser, subject to the terms and conditions set forth herein.

2.2 Purchase Price. The purchase price payable by the Purchaser to the Vendor (or as it may otherwise direct) for the Purchased Assets shall be equal to the aggregate of the following (the "**Purchase Price**"), which amounts shall be adjusted as of the Closing Date in accordance with the provisions hereof:

- (a) the Secured Debt less the sum of One Million (\$1,000,000) Dollars in respect of amounts secured by the Crawmet GSA (the "**Assumed Secured Debt**");
- (b) any and all amounts secured by the Receiver's Charge and the Receiver's Borrowings Charge at Closing;
- (c) the amount estimated by the Receiver to be the aggregate fees, disbursements and expenses of the Receiver and the Trustee, and of their Counsel, including without limitation the fees, disbursements and expenses for the matters described in Section 2.11(e), for the period from and after Closing to the discharges of the Receiver and the Trustee respectively. Should the aggregate of such fee and disbursements be less than the amount so paid, any surplus shall be refunded to the

Purchaser no later than thirty (30) days after the later of the date of discharge of the Receiver and the date of the discharge of the Trustee.

- (d) the additional sum of (i) Five Hundred and Fifty Thousand (\$550,000) Dollars in respect of the portion of the Lands 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 legally described in PINs 03475-1967 (LT) and 03475-1972 (LT); and
- (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 Crawmet Charges, the Crawmet GSA and/or the Powell Charges on or against the Purchased Assets.

2.3 Payment of Purchase Price. The Purchaser shall satisfy the Purchase Price as follows:

- (a) by payment to the Vendor, in Trust, within one (1) Business Day following the Acceptance Date, a sum equal to Two Hundred and Fifty Thousand (\$250,000) Dollars in lawful money of Canada (the "**Deposit**") by way of a certified cheque drawn on a solicitor's trust account from a Canadian chartered bank (a "**Bank**") listed in Schedule 1 to the Bank Act (Canada) (a "**Certified Cheque**"), wire transfer using the Large Value Transfer System administered by the Canadian Payments Association (a "**Wire Transfer**"), or bank draft drawn on a Bank purchased by the Purchaser's solicitor (a "**Bank Draft**"), to be credited against the Purchase Price on Closing;
- (b) by the assumption of the Assumed Secured Debt on Closing, to be credited against the Purchase Price, accompanied by releases and discharges from Crawmet Corp., DPII, and Dwight Powell of the Debtors of and from the Assumed Secured Debt; and
- (c) the balance of the Purchase Price for the Purchased Assets by payment of such amount to the Vendor or as the Vendor may direct on the Closing Date by Certified Cheque, Wire Transfer or Bank Draft.

2.4 Allocation of Purchase Price. The Vendor and the Purchaser hereby acknowledge and agree that the Purchase Price shall be allocated amongst the Purchased Assets as the parties hereto may mutually agree prior to Closing, each acting reasonably, failing which, such determination shall be made by the Court or as otherwise may be directed by the Court, as submitted by either party hereto. The Purchaser and the Vendor shall follow such allocations in determining and reporting their liabilities for any Taxes and without limitation, shall file their respective income tax returns prepared in accordance with such allocations. Provided that nothing herein shall require the Vendor or the Trustee to file any income tax returns that it is not otherwise required to file.

2.5 Deposit. The Deposit shall be held by the Vendor without interest and shall be:

- (a) credited to the Purchaser against the Purchase Price on the Closing Date if the purchase and sale of the Purchased Assets is completed pursuant to this Agreement; or
- (b) refunded to the Purchaser without deduction if the purchase and sale of the Purchased Assets is not completed pursuant to this Agreement, provided that the Purchaser is not in default under this Agreement, which refund shall be accepted by the Purchaser in full satisfaction of all damages, losses, costs and expenses incurred by the Purchaser as a result of such non-completion; or
- (c) retained by the Vendor as liquidated damages, if the purchase and sale of the Purchased Assets is otherwise not completed pursuant to this Agreement, as a result of the Purchaser's breach hereunder, without prejudice to any other rights and remedies it may have under this Agreement or at law or in equity as a result of such non-completion.

2.6 Additional Excluded Assets. Save and except as otherwise expressly set out herein, the Purchaser may, at its option, exclude any of the Purchased Assets (the "**Additional Excluded Assets**") from the transaction contemplated hereby at any time prior to Closing upon delivery of prior written notice to the Vendor, whereupon such Additional Excluded Assets shall be deemed to form part of the Excluded Assets, provided, however, that there shall be no reduction in the Purchase Price as a result of such exclusion.

2.7 Capacity of Vendor. The Vendor is entering into this Agreement solely in its capacity as receiver of the assets, undertakings and properties of Debtors and not in its personal or any other capacity and the Vendor and its agents, officers, directors and employees will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith. Any claim against the Vendor shall be limited to and only enforceable against the property and assets then held by or available to it in its said capacity as receiver of the assets, undertakings and properties of the Debtors and shall not apply to its personal property and assets held by it in any other capacity. The term "Vendor" as used in this Agreement shall have no inference or reference to the present registered owner of the Purchased Assets. Provided that notwithstanding the foregoing and/or anything contained herein to the contrary, the Vendor hereby acknowledges and agrees that in the event that the Trustee's participation and/or assistance is required in order to fulfil the obligations of the Vendor hereunder and/or otherwise transfer any of the Purchased Assets to the Purchaser in accordance with the terms and conditions hereof, the Trustee shall provide such participation and/or assistance to the extent required, subject to obtaining such inspector and/or Court approval as may be required, and provided that the Purchaser shall first fund all costs and expenses and all payments to third parties and other amounts required to be paid or expended in connection with such participation and/or assistance.

2.8 Deliveries. The Vendor hereby covenants and agrees, commencing five (5) Business Days following the Acceptance Date, to provide access to the Purchaser during regular business hours on Business Days, to such of the following materials (collectively, the "**Vendor's Deliveries**") as may be in its possession, for the purposes of review by the Purchaser and, if desired, making photocopies or scanned copies at the Purchaser's expense:

- (a) **Survey:** copy of any plans of survey of the Lands, whether or not showing the location of all buildings situate thereon and easements;
- (b) **Contracts:** copies of the Contracts;
- (c) **Leases:** copies of the Leases;
- (d) **Licenses:** copies of the Licenses;
- (e) **Authorizations:** signed authorizations for off-title investigations, provided that such authorizations expressly prohibit any inspections to be conducted by any Authority in respect of the Purchased Assets;
- (f) **Other:** any other documentation and/or information in the possession of the Vendor pertaining to the Purchased Assets and/or the Business which the Purchaser may reasonably request.

The Purchaser acknowledges that the Vendor makes no representation and/or warranty as to the accuracy, completeness, correctness, fitness for purpose or comprehensiveness of the Vendor's Deliveries, and any information contained therein, or as to the Purchaser's entitlement to use or rely on same, and that the Purchaser shall be required to make its own investigations to satisfy itself in this regard.

2.9 Assumed Contracts and Assumed Leases. Save and except as hereinafter set out, the Purchaser shall give notice to the Vendor in writing, at least five (5) Business Days prior to the Closing Date, of those Contracts and Leases that it elects to assume on Closing (which Contracts and Leases shall be referred to as the "**Assumed Contracts**" and the "**Assumed Leases**", respectively). This Agreement and any document delivered under this Agreement will not constitute an assignment or an attempted assignment of any Contract and/or Lease contemplated to be assigned to the Purchaser under this Agreement which is not assignable without the consent of a third party if such consent has not been obtained and such assignment or attempted assignment would constitute a breach of such Contract and/or Lease, in which event, the provisions of Section 9.12 hereof shall govern.

2.10 Assumed Obligations. On Closing, the Purchaser shall assume and become liable for, and shall pay, satisfy, assume, discharge, observe, perform and fulfill, as applicable, the Assumed Secured Debt, together with all obligations under the Assumed Contracts, the Assumed Leases and the Licenses to the extent attributable to the period from and after Closing. Save and except as hereinbefore set out in this Section 2.10 and as provided in Sections 2.2 (b) and (c), the Purchaser shall not assume or be obligated or responsible to pay, perform, satisfy or otherwise discharge any liabilities of the Vendor, or the Business, whether incurred prior to or subsequent to the Closing Date.

2.11 Property Claims Procedure Order Matters. The following provisions shall apply to the Customer Boats, Equipment and Inventory, which are subject to the Property Claims Procedure Order:

- (a) capitalized terms not otherwise defined in this Section shall have the meanings ascribed thereto in the Property Claims Procedure Order;
- (b) the Purchaser acknowledges that the Vendor has continuing duties, responsibilities, actions and roles under the Property Claims Procedure Order and that on Closing there may be (i) Customer Boats remaining at the Assumed Locations as a result of, among other things, Property Claims not having been asserted against such Customer Boats or final entitlement thereto not having been determined pursuant to the provisions of the Property Claims Procedure Order (collectively, the "Remaining Customer Boats"), (ii) Equipment and Inventory with respect to which Property Claims have not been barred pursuant to the provisions of the Property Claims Procedure Order (collectively the "Disputed Equipment and Inventory");
- (c) on Closing, the Vendor shall provide the Purchaser with listings of the Remaining Customer Boats and of the Disputed Equipment and Inventory, respectively;
- (d) there shall be no reduction of the Purchase Price in respect of any Disputed Equipment and Inventory;
- (e) after Closing, and for as long as is necessary for the Vendor to (i) complete the duties, responsibilities, actions and roles required of it by the Property Claims Procedure Order and by any other applicable order of the Court, and (ii) release or remove or arrange for the release or removal from the Assumed Locations of Remaining Customer Boats, the Purchaser shall at its expense cooperate with the Vendor in respect of, and facilitate, the foregoing. Without limiting the generality of the foregoing, for so long as is necessary as provided above, the Purchaser shall, at no charge to or consideration from the Vendor, but at the Vendor's risk, (aa) permit the Remaining Customer Boats to continue to remain at the Assumed Locations, (bb) permit the Vendor and its duly authorized agents to have access to the Assumed Locations to comply with the Property Claims Procedure Order and any other applicable order of the Court and to take all necessary actions to preserve, protect and insure the Remaining Customer Boats as would a prudent owner thereof, and (cc) permit the Remaining Customer Boats to be removed from the Assumed Locations by the Vendor and its duly authorized agents or by Persons who pursuant to the Property Claims Procedure Order and or any other applicable order of the Court are finally determined to be entitled thereto (collectively, the "Entitled Persons"), at times mutually acceptable to the Purchaser and to the Vendor or the Entitled Persons, as the case may be.

ARTICLE 3- COMPLETION, POSSESSION AND ADJUSTMENTS

3.1 Completion. The completion of the transaction contemplated by this Agreement will occur on the Closing Date, or such other date as may be agreed to in writing by the Vendor and the Purchaser, and the place of Closing will be the offices of the Vendor's Solicitors, or such other location as the parties may mutually agree upon.

3.2 Possession. The Purchaser may enter upon the Lands and take possession of the Purchased Assets immediately following Closing.

3.3 No Adjustments. There shall be no adjustments to the Purchase Price in respect of any matter whatsoever.

3.4 Risk. The Purchased Assets will be at the Vendor's risk until the Vendor's certificate (as contemplated by the Vesting Order) is delivered to the Purchaser's Solicitors on the Closing Date and thereafter at the Purchaser's risk. Pending completion, the Vendor will hold all insurance policies and any proceeds derived therefrom in trust for the parties as their respective interests may appear and in the event of loss or damage to the Purchased Assets occurring before such time by reason of fire, tempest, lightning, earthquake, flood or other act of God, explosion, riot, civil commotion, insurrection, war or otherwise howsoever, the amount of such insurance proceeds paid or payable to the Vendor with respect thereto will be applied in reduction of the Purchase Price and the transfer of the Purchased Assets to the Purchaser will proceed in the manner described herein and without any reduction or adjustment to the Purchase Price or any other change in the terms of this Agreement.

3.5 Requisition Period and Title Matters. Purchaser shall be allowed until 6:00 p.m. on the 27th day of February, 2015 (the "**Requisition Period**") to examine the title to the Lands at the Purchaser's own expense. Provided that the title to the Lands is good and free from all registered restrictions, charges, liens, and encumbrances except those to be removed from the Lands by the Vesting Order and except for the Permitted Encumbrances. If, on or before the expiration of the Requisition Period any valid objection to title is made in writing to the Vendor and which the Vendor is unable or unwilling to remove, remedy or satisfy and which the Purchaser will not waive, this Agreement not withstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and the Vendor shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, the Purchaser shall be conclusively deemed to have accepted Vendor's title to the Lands.

ARTICLE 4 – VENDOR'S REPRESENTATIONS AND WARRANTIES

4.1 Vendor's Representations and Warranties. The Vendor represents and warrants to the Purchaser as follows:

- (a) the Vendor is a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation, and subject to the Vendor obtaining Sales Process Order and the Vesting Order, it has full power, authority and capacity to enter into this Agreement and to carry out the transactions contemplated herein; and
- (b) the Vendor is not a "non-resident" for the purposes of the ITA.

4.2 Survival of Representations and Warranties. The representations and warranties contained in Section 4.1 hereof or any other agreement, certificate or instrument delivered pursuant to this Agreement shall survive the Closing and, notwithstanding the Closing, shall continue in full force and effect for the benefit of the Purchaser, until the earlier of (i) the date of the Vendor's discharge as Receiver; and (ii) the expiry of a period of twelve (12) months from the Closing Date, after which time the Vendor shall be released from all obligations in respect of such representations and warranties except with respect to any claims asserted by the Purchaser in writing (setting out in reasonable detail the nature of the claim and the appropriate amount thereof) before the expiration of such period.

ARTICLE 5 – PURCHASER'S COVENANTS, REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGEMENTS

5.1 Purchaser's Covenants. The Purchaser covenants and agrees that it will effective on and after the Closing Date, assume and be fully responsible for:

- (i) all obligations which are to be observed or performed from and after completion of this transaction under the Permitted Encumbrances; and
- (ii) any other obligations and liabilities assumed by the Purchaser as provided for by this Agreement.

5.2 Purchaser's Representations and Warranties. The Purchaser hereby represents and warrants to the Vendor as follows, as applicable:

- (i) the Purchaser is and will be as of Closing, a corporation duly incorporated and validly existing under the laws of its jurisdiction of incorporation and is duly qualified to purchase and own the

Purchased Assets and the Purchaser has full power, authority and capacity to enter into this Agreement and carry out the transaction contemplated herein;

- (ii) all necessary action on the part of the Purchaser has been taken to authorize and approve the execution and delivery of this Agreement and the completion of the transaction contemplated herein;
- (iii) no consent or approval of or registration, declaration or filing with any Authority is required for the execution or delivery of this Agreement by the Purchaser, the validity or enforceability of this Agreement against the Purchaser, or the performance by the Purchaser of any of its obligations hereunder;
- (iv) the Purchaser will be a "registrant" under Part IX of the ETA as of the Closing Date and will notify the Vendor of its registration number prior to such time, and the Purchaser shall indemnify the Vendor with respect to the amount of any HST exigible in respect of the transaction contemplated by this Agreement should the Purchaser not pay such amount on Closing; and
- (v) the Purchaser is not a non-Canadian for the purposes of the *Investment Canada Act* (Canada).

5.3 Survival of Representations and Warranties. The representations and warranties contained in Section 5.2 hereof or any other agreement, certificate or instrument delivered pursuant to this Agreement shall survive the Closing, and notwithstanding the Closing, shall continue in full force and effect for the benefit of the Vendor, for a period of twelve (12) months from the Closing Date, after which time the Purchaser shall be released from all obligations in respect of such representations and warranties except with respect to any claims asserted by the Vendor in writing (setting out in reasonable detail the nature of the claim and the appropriate amount thereof) before the expiration of such period.

5.4 Purchaser's Acknowledgements. Save as otherwise provided herein, the Purchaser hereby acknowledges and agrees as follows:

- (a) it is relying entirely upon its own investigations and inspections in entering into this Agreement and has satisfied itself with respect to such investigations and inspections;
- (b) there is no representation, warranty or condition, express or implied, statutory or otherwise, of any kind as to the Purchased Assets or any of the Debtors including, without limitation, that the present use or future intended use by the Purchaser of the Purchased Assets is or will be lawful or permitted, and/or relating in any way to the condition or state of repair of the Lands, the Equipment, and/or the Inventory or to title, outstanding liens or charges, description, fitness for purpose, merchantability, quantity, condition, defect (patent or latent), value, and/or quality thereof;
- (c) it is purchasing the Purchased Assets on an "as is, where is" basis including without limitation, outstanding work orders, stop work orders, deficiency notices, infractions, open permits, compliance requests, development fees, education levies imposts, lot levies, local improvements, sewer charges, zoning and building code violations and any outstanding requirements which have been or may be issued by any Authority, the structural integrity of the Lands, together with any other improvements on the Lands;
- (d) the Vendor shall have no liability or obligation with respect to the value, state, condition or extent of the Purchased Assets, whether or not the matter is within the Vendor's Knowledge and that pursuant to Property Claims Procedure Order dated December 23, 2014, Persons may assert proprietary or security interests in certain of the Purchased Assets which, if accepted by the Vendor and, with respect to Purchased Assets in which Crawmet Corp. is asserting a propriety or security interest, not disputed by Crawmet Corp., or otherwise determined to be valid, would result in the Persons being entitled to the relevant Purchased Assets;
- (e) the Vendor has made no representations or warranties with respect to or in any way related to the Lands, including without limitation, the following:

- (i) the conformity of the Lands to past, current or future applicable zoning or building code requirements;
- (ii) the existence of soil instability, past soil repairs, soil additions or conditions of soil fill;
- (iii) the sufficiency of any drainage;
- (iv) whether the Lands is located wholly or partially in a flood plain or a flood hazard boundary or similar area;
- (v) the existence or non-existence of underground storage tanks;
- (vi) the presence or absence of toxic wastes, hazardous materials or contaminants in, on or about the Lands or any other environmental issue or condition;
- (vii) any other matter affecting the stability or integrity of the Lands;
- (viii) the availability of public utilities and services for the Lands; and/or
- (ix) the existence of zoning or building entitlements affecting the Lands;
- (f) any information provided by the Vendor describing the Purchased Assets has been prepared solely for the convenience of prospective purchasers and is not warranted to be complete or accurate or correct and none of such information forms a part of this Agreement;
- (g) no adjustment shall be allowed to the Purchaser for changes to the Purchased Assets from the Acceptance Date to the Closing Date;
- (h) the Vendor shall not be required to furnish or produce any document, record, survey or evidence of title with respect to the Purchased Assets, except those in its possession;
- (i) the description of the Lands is believed by the Vendor to be correct, but if any misstatement, error or omission is found in the particulars thereof, this Agreement shall not be rendered null and void and the Purchaser shall not be entitled to an abatement in the Purchase Price;
- (j) it is understood that the tenants named in the Real Property Lease for the Marina in Brechin, Ontario, the term of which expires on April 30, 2015, are "Steve Crate and Greg Crate, in trust, for a company to be incorporated under the name 'Crates Lagoon City Marine Inc' or a similar name", the landlord under such Real Property Lease is seeking an order from the Court, among other things, excluding the leased premises from the receivership of the Debtors and precluding the removal of any assets or equipment from the premises in the absence of proof of ownership of that asset by one of the Debtors and the landlord has advised the Vendor that it has entered into a lease relationship with Pride Marine Group which is to commence after the expiry of the present Real Property Lease term; and
- (k) it is understood that the lands on which the Willow Beach Marina is located are owned by 219, whose shareholders appear to be 138, as to 50%, and DPII, as to 50%, and the shares of 219 owned by 138 may be encumbered by a share pledge or other security in favour of DPII and/or Dwight Powell. 219 may be the owner of the equipment, inventory and other personal property on the Willow Beach Marina premises. The tenant named in a lease letter of intent (which may apply to the Willow Beach Marina) from DPII (unsigned by it) addressed to Powell Contracting Limited, is "Crates Willow Beach", apparently an unincorporated operating division of 138, which appears to have signed the lease letter of intent;
- (l) the Vendor has no knowledge as to whether physical share certificates for any of the Securities may be available and/or in the possession of the Debtors;
- (m) the Vendor has no knowledge other than as set out above in this Section 5.4(k) as to whether or not the Securities have been pledged or encumbered in favour of a third party, or whether the same may be the subject of any control agreement.

The Purchaser further acknowledges that the Vendor is selling the Purchased Assets on an "as is, where is" basis as they exist on the Closing Date and that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets and that the Purchaser has conducted or will have conducted prior to Closing such inspections of the condition of and title to the Purchased Assets as it deemed appropriate and has satisfied itself with regard to these matters. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply to this transaction of purchase and sale and have been waived by the Purchaser.

ARTICLE 6 – SALE PROCESS AND CONDITIONS OF CLOSING

6.1 Sale Process.

- (a) The Vendor shall bring a motion for the Sales Process Order on or before February 13, 2015. The Sales Process Order shall recognize the Purchase Price as a baseline or "stalking horse bid" (the "**Stalking Horse Bid**"), and shall also provide for a marketing process of the Purchased Assets by the Vendor with the potential for competitive bidding, to be administered by the Vendor. The Purchaser acknowledges and agrees that the aforementioned process is in contemplation of determining whether a Superior Bid can be obtained for the Purchased Assets.
- (b) In the event that one or more Persons submit a Superior Bid on or before the Bid Deadline, an auction of the Purchased Assets shall be held within three (3) Business Days of the Bid Deadline (the "**Auction**"). The Auction will be conducted in accordance with the process set forth in the Sales Process Order. Upon the completion of the Auction, there shall be a binding agreement of purchase and sale between the winner of the Auction (the "**Winning Bidder**") and the Vendor. The Vendor shall make a motion to the Court, within seven (7) Business Days following the Auction, for an order approving the agreement reached with the Winning Bidder and to vest the Purchased Assets in the Winning Bidder and, if granted, shall proceed with closing the transaction forthwith.
- (c) Notwithstanding anything contained herein to the contrary, in the event that the Purchaser is not the Winning Bidder, then upon the making of the order by the Court contemplated in subsection 6.1(b) above, the Deposit shall immediately be released from trust and paid to the Purchaser. If no Superior Bid(s) is received by the Bid Deadline, the Vendor shall bring a motion to the Court to obtain the Vesting Order and, if granted, shall proceed with completing the transaction contemplated hereby forthwith.

6.2 Purchaser's Conditions. The Purchaser shall not be obliged to complete the transaction contemplated hereunder unless, on or before the Closing Date, the Purchaser becomes the Winning Bidder and all of the terms, covenants and agreements set forth in this Agreement to be complied with or performed by the Vendor on or before the Closing Date shall have been complied with or performed by the Vendor, and all representations and warranties of the Vendor are true and correct as of the Closing Date as though made on and as of that date.

6.3 Vendor's Conditions. The Vendor shall not be obliged to complete the transaction contemplated hereunder unless, on or before the Closing Date, the following conditions shall have been satisfied:

- (a) all of the terms, covenants and agreements set forth in this Agreement to be complied with or performed by the Purchaser on or before the Closing Date shall have been complied with or performed by the Purchaser, and all representations and warranties of the Purchaser are true and correct as of the Closing Date as though made on and as of that date;
- (b) the Purchaser becomes the Winning Bidder;
- (c) the making of the Vesting Order by the Court approving the sale by the Vendor to the Purchaser of the Purchased Assets in accordance with this Agreement and vesting the Trustee's and the Debtors' respective right, title and interest therein in the Purchaser, free and clear of any claims, save and except for the Permitted Encumbrances;
- (d) the Vesting Order shall not have been stayed, set aside or varied in any material respect; and

- (e) no stay shall be effective in respect of the Closing nor any order restraining or prohibiting Closing shall have been made by the Court.

6.4 Court Approval. The Purchaser hereby further acknowledges and agrees that this Agreement and the contemplated sale of the Purchased Assets are subject to the condition (not capable of waiver) that prior to Closing the Vendor shall have obtained the Vesting Order from the Court. The Vendor shall diligently pursue such application or applications and shall promptly notify the Purchaser of the disposition thereof. The Purchaser, at its own expense, shall promptly provide to the Vendor all such information and assistance within the Purchaser's power as the Vendor may reasonably require to obtain the Vesting Order. If the Court shall not have granted the Vesting Order on or before March 27, 2015 or any extension thereof as may have been mutually agreed to between the parties hereto, this Agreement shall be automatically terminated and neither party shall have any further obligation to the other respecting this Agreement.

6.5 Non-Fulfillment. If any of the conditions contained in this Article 6 shall not have been fulfilled or performed on or before the date provided for satisfaction of such condition(s) and the party or parties entitled to waive the same, if capable of waiver, shall not have done so, this Agreement shall be deemed to be terminated without further act by the Vendor or the Purchaser and the further obligations of the Vendor and the Purchaser under this Agreement shall terminate, and the Deposit shall be returned to the Purchaser without deduction or interest and neither party shall have any further obligations or liabilities hereunder.

6.6 Planning Act. This Agreement is subject to the express condition that it will be effective only if the parties have complied with the provisions of Section 50 of the *Planning Act* (Ontario), as of the Closing Date.

ARTICLE 7 – PREPARATION OF CLOSING DOCUMENTS

7.1 Delivery of Closing Documents by Vendor. On or before the Closing Date, the Vendor will cause the Vendor's Solicitors to deliver to the Purchaser's Solicitors the following items, duly executed by the Vendor (if applicable) and in registrable form wherever appropriate, to be dealt with pursuant to Article 8 of this Agreement:

- (a) a copy of the Vesting Order and the Receiver's Certificate;
- (b) the listings of the Remaining Customer Boats and of the Disputed Equipment and Inventory in accordance with Section 2.11(c) hereof;
- (c) a statement showing the amounts secured under the Receiver's Charge and the Receiver's Borrowings Charge as of the Closing Date;
- (d) a bill of sale relating to the Equipment and the Inventory;
- (e) an assignment by the Vendor and assumption by the Purchaser, effective as of Closing Date, of the Assumed Contracts;
- (f) an assignment by the Vendor and assumption by the Purchaser, effective as of Closing Date, of the Assumed Leases;
- (g) an assignment by the Vendor and assumption by the Purchaser, effective as of Closing Date, of the Licenses;
- (h) an assignment by the Vendor and assumption by the Purchaser, effective as of Closing Date, of all warranties and guarantees relating to the Purchased Assets, to the extent transferrable;
- (i) the certificate(s) representing the Securities, duly endorsed by the Vendor in blank if in the Vendor's possession or control;
- (j) all keys for the Lands which are in the possession or control of the Vendor, or a direction to release such keys in lieu thereof;
- (k) a certificate of a senior officer of the Vendor declaring that the Vendor is not a "non-resident" for the purposes of Section 116 of the ITA;

- (l) a certificate of a senior officer of the Vendor certifying that each of the warranties and representations of the Vendor set out herein are true and accurate on the Closing Date except as disclosed therein and that the Vendor has complied with and performed all the terms, covenants and agreements set out herein to be complied with or performed by the Vendor on or before the Closing Date; and
- (m) to the extent applicable, the joint elections contemplated by Sections 9.5 and 9.6 hereof.

7.2 Delivery of Closing Documents by Purchaser. On or before the Closing Date, the Purchaser will cause the Purchaser's Solicitors to deliver to the Vendor's Solicitors the following items, duly executed by the Purchaser (if applicable), to be dealt with in accordance with Article 8:

- (a) the balance of the Purchase Price for the Purchased Assets in accordance with the provisions of Section 2.3(c) hereof;
- (b) the assumption of the Assumed Secured Debt together with the releases and discharges from Crawmet Corp., DPII, and Dwight Powell required pursuant to s.2.3(b);
- (c) a certificate of a senior officer of the Purchaser certifying that each of the warranties and representations of the Purchaser set out herein are true and accurate on the Closing Date except as disclosed therein;
- (d) an assignment by the Vendor and assumption by the Purchaser, effective as of Closing Date, of the Assumed Contracts;
- (e) an assignment by the Vendor and assumption by the Purchaser, effective as of Closing Date, of the Assumed Leases;
- (f) an assignment by the Vendor and assumption by the Purchaser, effective as of Closing Date, the Licenses;
- (g) an assignment by the Vendor and assumption by the Purchaser, effective as of Closing Date, of all warranties and guarantees Related to the Business, to the extent transferrable;
- (h) to the extent applicable, the joint elections contemplated by Sections 9.5 and 9.6 hereof, and otherwise the amount of any HST required to be paid on Closing in connection with the Purchaser's purchase of the Purchased Assets, other than those for which it may self-assess and indemnify the Vendor, and, to the extent the responsibility of the Purchaser, all other Taxes in connection with the Purchaser's purchase of the Purchased Assets;
- (i) the HST statutory declaration and indemnity contemplated by Section 9.5 of this Agreement;
- (j) a certificate of a senior officer of the Purchaser certifying that each of the warranties and representations of the Purchaser set out herein are true and accurate on the Closing Date except as disclosed therein and that the Purchaser has complied with and performed all the terms, covenants and agreements set out herein to be complied with or performed by the Purchaser on or before the Closing Date; and
- (k) any other documents relative to the completion of this Agreement as may reasonably be required by the Vendor or the Vendor's Solicitors.

ARTICLE 8 – CLOSING PROCEDURE

8.1 Purchaser Deliveries. By 12:00 p.m. on the Closing Date, the Purchaser will deliver in escrow to the Vendor's Solicitors, a Certified Cheque, Wire Transfer or Bank Draft payable to the Vendor or as the Vendor may direct in the amount due to the Vendor pursuant to Section 2.3(c) hereof, as adjusted pursuant to Section 3.3 hereof, and the documents referred to in Section 7.2 hereof, such Certified Cheque, Wire Transfer or Bank Draft and documents to be released in accordance with Section 8.3 hereof.

8.2 Vendor Deliveries. On the Closing Date, the Vendor will deliver in escrow to the Purchaser's Solicitors, the documents and items referred to in Section 7.1 and 8.1 hereof, such documents and items to be released in accordance with Section 8.3 hereof. Upon receipt of such Purchaser Deliveries, the Vendor shall cause the Vendor's solicitors to file a Receiver's certificate (the "**Receiver's Certificate**") with the Court, substantially in the form of the certificate scheduled to the Court's model approval and vesting order, confirming in part that the transaction contemplated by this Agreement has been completed and payment of the Purchase Price has been received, which Receiver's Certificate shall be attached to the applications to register the Vesting Order against the Lands.

8.3 Closing. Immediately following delivery of the items referred to in Sections 8.1 and 8.2 hereof and the filing with the Court of the Receiver's Certificate, the Purchaser shall cause the Purchaser's Solicitors to register the applications to register the Vesting Order together with the Receiver's Certificate against the Lands and, upon registration, the balance due on Closing, documents and items delivered in escrow pursuant to this Article and listed in Sections 7.1, 7.2, 8.1 and 8.2 hereof shall be released from escrow

8.4 Concurrent Requirements. It is a condition of this Agreement that all requirements of this Article 8 are concurrent requirements and it is specifically agreed that nothing will be completed on the Closing Date until everything required to be paid, executed, delivered and registered on the Closing Date has been so paid, executed, delivered and registered.

8.5 Electronic Registration. In the event that a system for electronic registration ("**Ereg**") is operative and mandatory in the applicable land registry office, the Purchaser agrees to cause all necessary procedures to be taken, as may be required by the Vendor or the Vendor's Solicitors, to complete this transaction using Ereg in accordance with the Law Society of Upper Canada's guidelines. If Ereg is operative on the Closing Date, (i) the Purchaser agrees to use a lawyer authorized to use Ereg and who is in good standing with the Law Society of Upper Canada, (ii) the Purchaser's Solicitors will enter into the Vendor's Solicitors' standard form of escrow closing agreement or document registration agreement, which will establish the procedures for closing this transaction provided same are in accordance with Law Society guidelines, and (iii) if the Purchaser's Solicitors are unwilling or unable to complete this transaction using Ereg, then the Purchaser's Solicitors must attend at the Vendor's Solicitors' office or at another location designated by the Vendor's Solicitors at such time on Closing as directed by the Vendor's Solicitors to complete the transaction using Ereg utilizing the Vendor's Solicitors' computer facilities, in which event, the Purchaser shall pay to the Vendor's Solicitors a reasonable fee therefor.

ARTICLE 9 – GENERAL

9.1 Time. Time is of the essence and will remain of the essence notwithstanding the extension of any of the dates hereunder.

9.2 No Waiver. No failure or delay on the part of either party in exercising any right, power or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. Except as may be limited herein, either party may, in its sole discretion, exercise any and all rights, powers, remedies and recourses available to it under this Agreement or any other remedy available to it and such rights, powers, remedies and recourses may be exercised concurrently or individually without the necessity of making any election.

9.3 Tender. It is agreed that any tender of documents or money may be made upon the respective solicitors for the parties and that it will be sufficient to tender a solicitor's certified trust cheque rather than cash.

9.4 Fees and Expenses. Each party will pay its own legal fees incurred in connection with the transaction contemplated hereunder. The Purchaser will be responsible for all registration fees and land transfer tax payable in connection with such transaction.

9.5 HST Election. The Vendor and the Purchaser shall jointly elect under section 167(1) of the ETA to have subsection 167(1.1) apply to the sale of the Purchased Assets to the Purchaser such that no HST shall be payable in respect of such sale. The Vendor and the Purchaser shall take all necessary actions in order to complete and file such valid joint election on or before the date on which the Purchaser must submit its HST return for the reporting period in which the Closing occurs. Provided that notwithstanding the foregoing, the Parties hereto hereby acknowledge and agree that any HST applicable to the sale of the Purchased Assets shall be in addition to the Purchase Price. On or before the Closing Date, the Purchaser or its permitted assignee or designee as the beneficial owner(s) of the Purchased Assets shall deliver to the Vendor a statutory declaration of a senior officer of the Purchaser or such beneficial owner(s), attaching thereto evidence of said party's HST registration number from the relevant Authority,

and whereby such officer certifies that such party's HST registration number remains in full force and effect and that such party will be the legal and/or beneficial owner of the Purchased Assets. The Purchaser and any beneficial owner(s) of the Purchased Assets shall further indemnify and save harmless the Vendor from any and all HST, penalties, costs, interest or other amounts which may be payable by or assessed against the Vendor under the ETA as a result of or in connection with such parties' failure to remit any HST applicable in this transaction to the applicable Authorities.

9.6 Section 22 Election. The Purchaser and the Vendor shall execute jointly an election in prescribed form under Section 22 of the ITA in respect of the Receivables and shall each file such election with their respective tax returns for their respective taxation years that include the Closing Date. The Vendor shall not be liable for any income tax that may be payable as a result of this election. Provided that nothing herein shall require the Vendor or the Trustee to file any income tax returns that it is not otherwise required to file.

9.7 Entire Agreement. This Agreement and the agreements, instruments and other documents entered into pursuant to this Agreement set forth the entire agreement and understanding of the parties with respect to the subject matter hereof and supersede all prior agreements and understandings among the parties with respect to the matters herein and there are no oral or written agreements, promises, warranties, terms, conditions, representations or collateral agreements whatsoever, express or implied, other than those contained in this Agreement.

9.8 Amendment. This Agreement may be altered or amended only by an agreement in writing signed by the parties hereto.

9.9 Further Assurances. Each of the parties hereto will at all times and from time to time and upon reasonable request do, execute and deliver all further assurances, acts and documents for the purpose of evidencing and giving full force and effect to the covenants, agreements and provisions in this Agreement.

9.10 Notices. Any demand or notice which may be given pursuant to this Agreement will be in writing and delivered or telecopied to the parties addressed as follows:

to the Purchaser:

2450902 Ontario Limited
132 Sheppard Avenue West, Suite 100
Toronto, Ontario M2N 1M5

Attention: Allan Lyons
Telecopier: (416) 222-1940
E-mail: allan.lyons@4162225355.com

with a copy to:

Chaitons LLP
5000 Yonge Street, 10th Floor
Toronto, Ontario M2N 7E9

Attention: Harvey Chaiton
Telecopier: (416) 218-1849
E-mail: harvey@chaitons.com

to the Vendor:

Farber Financial Group
150 York Street
Suite 1600
Toronto, Ontario M5H 3S5

Attention: Stuart Mitchell
Telecopier: (416) 496-3839
E-mail: smitchell@farberfinancial.com

with a copy to:

Goldman Sloan Nash & Haber LLP
480 University Avenue, Suite 1600
Toronto, Ontario M5G 1V2

Attention: Michael B. Rotsztain
Telecopier: (416) 597-3370
E-mail: rotsztain@gsnh.com

or at such other address as either party may specify in writing to the other. The time of giving and receiving any such notice will be deemed to be on the day of delivery or transmittal or if such day is not a Business Day, the first Business Day thereafter.

9.11 Assignment. The Purchaser may not assign its interest in this Agreement or direct title to any other person without the prior written consent of the Vendor, which consent may not be unreasonably withheld or delayed. Whether or not this Agreement is assigned as aforesaid, the Vendor acknowledges and agrees that the Purchaser shall be entitled, prior to the Vendor serving the Notice of Motion for the Vesting Order, to direct title to any of the Purchased Assets to an Affiliate of the Purchaser, any of its shareholders and/or any Affiliates of such shareholders, as the Purchaser may direct in writing, and in such event, the Vendor shall seek the Vesting Order in accordance with the Purchaser's direction. In this regard, the Vendor agrees to endeavour to provide the Purchaser with a minimum of five (5) Business Days notice of its intention to serve the Notice of Motion for the Vesting Order. In no event shall any assignment or direction for title to the Purchased Assets relieve the Purchaser of any of its obligations under this Agreement to and including Closing and the Purchaser shall remain jointly and severally liable with any such assignee or Affiliate for the performance of all of the terms and conditions on the part of the Purchaser to be performed pursuant to the terms and conditions of this Agreement including the execution of all closing documents.

9.12 Non-Transferable and Non-Assignable Purchased Assets. To the extent that any of the Purchased Assets to be transferred to the Purchaser on the Closing, or any claim, right or benefit arising under or resulting from such Purchased Assets (collectively, the "Rights") is not capable of being transferred without the approval, consent or waiver of any third Person, or if the transfer of a Right would constitute a breach of any obligation under, or a violation of, any applicable law unless the approval, consent or waiver of such third Person is obtained, then, except as expressly otherwise provided in this Agreement and without limiting the rights and remedies of the Purchaser contained elsewhere in this Agreement, this Agreement shall not constitute an agreement to transfer such Rights unless and until (i) such approval, consent or waiver has been obtained, or (ii) an order from the Court has been obtained by the Vendor transferring all such Rights to the Purchaser, provided that the Purchaser shall first fund all costs and expenses and all payments to third parties and other amounts required to be paid or expended in connection with seeking such order. After the Closing and until all such Rights are transferred to the Purchaser, the Vendor shall until it is discharged by the Court as Receiver:

- (a) hold the Rights in trust for the Purchaser;
- (b) comply with the terms and provisions of the Rights as agent for the Purchaser at the Purchaser's cost and for the Purchaser's benefit;
- (c) cooperate with the Purchaser in any reasonable and lawful arrangements designed to provide the benefits of such Rights to the Purchaser; and
- (d) enforce, at the request of the Purchaser and at the expense and for the account of the Purchaser, any rights of the Vendor arising from such Rights against any third Person, including the right to elect to terminate any such Rights in accordance with the terms of such Rights upon the written direction of the Purchaser.

In order that the full value of the Rights may be realized for the benefit of the Purchaser, the Vendor shall until it is discharged by the Court as Receiver, at the request and expense and under the direction of the Purchaser, in the name of the Vendor or otherwise as the Purchaser may specify, take all such action and do or cause to be done all such things as are, in the opinion of the Purchaser, necessary or proper in order that the obligations of the Vendor under such Rights may be performed in such manner that the value of such Rights is preserved and enures to the benefit of the Purchaser, and that any moneys due and payable and to become due and payable to the Purchaser in

and under the Rights are received by the Purchaser. The Vendor shall until it is discharged by the Court as Receiver promptly pay to the Purchaser all moneys collected by or paid to the Vendor in respect of every such Right. The Purchaser shall indemnify and hold the Vendor harmless from and against any claim or liability under or in respect of such Rights arising because of any action of the Vendor taken pursuant to this Section.

9.13 Counterparts. This Agreement may be executed in any number of original counterparts, with the same effect as if all the parties had signed the same document, and will become effective when one or more counterparts have been signed by all of the parties and delivered to each of the other parties. All counterparts will be construed together and evidence only one agreement, which, notwithstanding the dates of execution of any counterparts, will be deemed to be dated the reference date set out above and accepted on the date of the last signature, and only one of which need be produced for any purpose.

9.14 Binding Effect. This Agreement will enure to the benefit of and be binding upon the successors and permitted assigns of the parties, as applicable.

9.15 Execution by Facsimile or PDF. This Agreement may be executed by the parties and transmitted by facsimile (via telecopier) or PDF (via email) and, if so executed and transmitted, this Agreement will be for all purposes as effective as if the parties had delivered an executed original Agreement.

9.16 Non-Registration. The Purchaser hereby covenants and agrees not to register this Agreement or notice of this Agreement or a caution, certificate of pending litigation, or any other document providing evidence of this Agreement against title to the Lands. Should the Purchaser be in default of its obligations under this Section, the Vendor may (as agent and attorney of the Purchaser) cause the removal of such notice of this Agreement, caution, certificate of pending litigation or other document providing evidence of this Agreement or any assignment of this Agreement from the title to the Lands and the Purchaser shall be deemed to be in default of its obligations hereunder. The Purchaser irrevocably nominates, constitutes and appoints the Vendor as its agent and attorney in fact and in law to cause the removal of such notice of this Agreement, any caution, certificate of pending litigation or any other document or instrument whatsoever from title to the Lands.

9.17 Severability. Any provision of this Agreement which is determined to be void, prohibited or unenforceable shall be severable to the extent of such avoidance, prohibition or unenforceability without invalidating or otherwise limiting or impairing the other provisions of this Agreement.

9.18 Confidentiality. The Purchaser agrees that all non-public information and documents supplied by the Vendor or anyone on its behalf to the Purchaser or anyone on the Purchaser's behalf shall, unless and until Closing occurs, be received and kept by the Purchaser and anyone acting on the Purchaser's behalf on a confidential basis and shall not without the Vendor's prior written consent be disclosed to any third party. If for any reason Closing does not occur, all such documents shall forthwith be returned intact to the Vendor and no copies or details thereof shall be retained by the Purchaser or anyone acting on its behalf. The Purchaser further agrees that unless and until the terms of this Agreement become public knowledge in connection with the Sales Process Order and/or the Vesting Order, the Purchaser shall keep such terms confidential and shall not disclose the same to anyone except the Purchaser's Solicitors, agents or lenders acting in connection herewith and then only on the basis that such persons also keep such terms confidential as aforesaid.

9.19 Solicitors as Agents and Tender. Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement may be given or delivered and accepted or received by the Purchaser's Solicitors on behalf of the Purchaser and by the Vendor's Solicitors on behalf of the Vendor and any tender of closing documents and the balance of the Purchase Price may be made upon the Vendor's Solicitors and the Purchaser's Solicitors, as the case may be.

9.29 Media Releases. Save and except as hereinafter set out, neither party to this Agreement may discuss with the media, issue any press release or other public announcement or release information with respect to this Agreement to the public unless same has been pre-approved in writing by the other party, provided the foregoing shall not apply to Court filings including reports by the Receiver. Notwithstanding the foregoing, the parties hereto hereby agree that upon the issuance by the Court of the Sales Process Order, either party hereto may issue an announcement or another form of notice to the customers of the Business, in such a form as may be acceptable to the other party, acting reasonably, advising that a sales process has been commenced for the sale of the Purchased Assets and upon the successful completion of same, the Purchaser, if it is the Winning Bidder, intends to continue the operation of the Business.

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IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

A. FARBER & PARTNERS INC. in its capacity as 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., and not in its personal capacity



Per: _____
Name: Stuart Mitchell
Title: Senior Vice President

Per: _____
Name: _____
Title: _____

I/We have the authority to bind the Corporation.

2450902 ONTARIO LIMITED

Per: _____
Name: Benn-Jay Spiegel
Title: Authorized Signing Officer

Per: _____
Name: Dwight Powell
Title: Authorized Signing Officer

We have the authority to bind the Corporation.

The undersigned hereby acknowledges and agrees to be bound by the terms of Sections 1.1(s) and 2.7 hereof, provided that it has no further obligations, liabilities and/or benefits hereunder.

A. FARBER & PARTNERS INC. in its capacity as Trustee in Bankruptcy 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., and not in its personal capacity

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

I/We have the authority to bind the Corporation.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

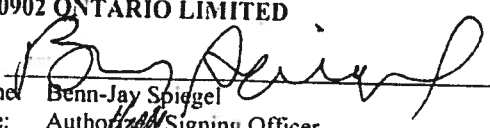
A. FARBER & PARTNERS INC. in its capacity as Court-Appointed Receiver of Crate Marine Sales Limited, F. S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited, 1282648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd., and not in its personal capacity

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

I/We have the authority to bind the Corporation.

2450902 ONTARIO LIMITED

Per: 
Name: Benn-Jay Spiegel
Title: Authorized Signing Officer

Per: _____
Name: Dwight Powell
Title: Authorized Signing Officer

We have the authority to bind the Corporation.

The undersigned hereby acknowledges and agrees to be bound by the terms of Sections 1.1(s) and 2.7 hereof, provided that it has no further obligations, liabilities and/or benefits hereunder.

A. FARBER & PARTNERS INC. in its capacity as Trustee in Bankruptcy 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., and not in its personal capacity

Per: _____
Name: _____
Title: _____

Per: _____
Name: _____
Title: _____

I/We have the authority to bind the Corporation.

SCHEDULE "A"
LEGAL DESCRIPTION OF THE LANDS

OWNER: F. S. CRATE & SONS LIMITED

PIN 03475-0147 (LT)

Block C, Plan 224 North Gwillimbury; Part of Block D, Plan 224 North Gwillimbury, designated as Part 6 on Plan 65R-19902, Georgina. Amended 2003/04/28 By Deb Wallen, ADLR.

PIN 03475-0140 (LT)

Lot 44, Plan 224, North Gwillimbury; Lot 45, Plan 224, North Gwillimbury; Lot 46, Plan 224, North Gwillimbury; Lot 47, Plan 224, North Gwillimbury; Lot 48, Plan 224, North Gwillimbury; Part Block D, Plan 224, North Gwillimbury; Part of Block E, Plan 224, North Gwillimbury; Part of Block F, Plan 224, North Gwillimbury; Part of Lot 9, Concession 3, North Gwillimbury, as in Instrument Numbers A38709A and A64512A.

Together with a right if any as in Instrument Numbers A61914A, A7428A, B86062B, A61914A, except easements therein, Part 1 on Plan 65R-13692, Georgina.

Together with a right as in Instrument Number A7428A. Subject to Spousal Interest as in Instrument Number R407105, Georgina.

Subject to Instrument Numbers A64512A, A38709A and A61914A; Georgina.

OWNER: 1328559 ONTARIO LIMITED

PIN 03475-0923 (LT)

Part Lot 40, Plan 224, North Gwillimbury, designated as Part 3 on Plan 65R-19902; Georgina.

Subject to Instrument Numbers R735544, R717319 and R717320, Georgina.

PIN 03475-0901 (LT)

Part of Lots 8 and 9, Concession 3 (GN) and Part of the Bed of Lake Simcoe lying in Front of Lots 8 and 9 and Part of Lots 35, 36, 37, 38 and 39, Plan 224, designated as Parts 8, 9, 10, 11, 12, 13, 14, 22, 23 and 24 on Plan 65R-19902, Georgina.

Together with a right of way over Wynhurst Road, Plan 198 and Plan 224 and over Block A, Plan 198 and Lot 33, Plan 224, Georgina

Together with a right of way over Block C and Part of Block D, Plan 224, lying between the production north westerly of the north easterly and south westerly limits of Block C to the Maskinonge River with the right to dredge that Part of the right of way over Block D a distance south easterly from the Maskinonge River sufficient to permit and allow the owner of these lands to have an entrance from the Maskinonge River to these lands, Georgina.

Subject to a right of way in favour of Part of Lot 8, Concession 3, designated as Part 1 on Plan 66R-2527 over Parts 23 and 24 on Plan 65R-19902 as in Instrument Number LT23068, Georgina.

Subject to an easement in favour of The Hydro-Electric Power Commission of Ontario over Parts 11, 12 and 23 on Plan 65R-19902 as in Instrument Number NG9316, Georgina.

Subject to a right of way in favour of Part of Lot 8 and Part of the Bed of Lake Simcoe lying in front of Lots 8 and 9, Concession 3 and all of Lots 42, 43 and Part of Lots 35, 36, 37, 38, 39, 41 and Part of Block D, Plan 224, designated as Parts 15, 16, 17, 18, 20 and 21 on Plan 65R-19902 over said Parts 9, 10, 11, 12, 14, 22, 23 and 24 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Subject to an easement in favour of said Parts 15, 16, 17, 18, 20 and 21 on Plan 65R-19902 over said Part 13, Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Subject to an easement in favour of said Parts 15, 16, 17, 18, 20 and 21 on Plan 65R-19902 over said Parts 13, 22 and 24 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Together with a right of way over said Parts 16, 17, 18 and 20 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Subject to an easement in favour of Part of Lot 8, Concession 3 and Part of the Bed of Lake Simcoe being Part 1 on Plan 66R-2527 over said Parts 10, 11, 12, 14, 22, 23 and 24 on Plan 65R-19902 as in Instrument Number LT1251520. (Amended 2001/07/24 by Deb Wallen, ADLR).

PIN 03475-0902 (LT)

Part of Lot 41, Plan 224, designated as Part 19 on Plan 65R-19902, Georgina.

Together with a right of way over Wynhurst Road, Plan 198 and Plan 224 and over Block A, Plan 198 and Lot 33, Plan 224, Georgina.

Together with a right of way over Block C and Part of Block D, Plan 224, lying between the production north westerly of the north easterly and south westerly limits of said Block C to the Maskinonge River with the right to dredge that part of the right of way over Block D a distance south easterly from the Maskinonge River sufficient to permit and allow the owner of these lands to have an entrance from the Maskinonge River to these lands, Georgina.

Subject to a right of way in favour of Part of Lot 8 and Part of the Bed of Lake Simcoe lying in front of Lots 8 and 9, Concession 3 and all of Lots 42, 43 and Part of Lots 35, 36, 37, 38, 39, 41 and Part of Block D, Plan 224 being Parts 15, 16, 17, 18, 20 and 21 over said Part 19 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Together with a right of way over said Parts 16, 17, 18 and 20 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Subject to an easement in favour of Part of Lot 8, Concession 3 and Part of the Bed of Lake Simcoe being Part 1 on Plan 66R-2527 over said Part 19 on Plan 65R-19902 as in Instrument Number LT1251520, Georgina.

PIN 03475-1967 (LT)

Part of Lot 8, Concession 3, designated as Part 4 on Plan 65R-22164, except Part 2 on Plan 65R-27407 (NG), Georgina.

Together with a right as in Instrument Number R649951, Georgina.

PIN 03475-1972 (LT)

Part of Lot 8, Concession 3 (NG), designated as Parts 1 and 2 on Plan 65R-27407, Georgina.

Together with a right as in Instrument No. R649951, Georgina.

OWNER: 1282648 ONTARIO LIMITED

PIN 03475-0924 (LT)

Part of Lot 40, Plan 224, North Gwillimbury, designated as Part 2 on Plan 65R-19902, Georgina.

Together with a right as in Instrument Number R717318, Georgina

PIN 03475-0925 (LT)

Part of Lot 40, Plan 224, North Gwillimbury, designated as Parts 4 and 5 on Plan 65R-19902, Georgina.

Together with a right of way as in Instrument Number R717318, Georgina

PIN 03475-0146 (LT)

Part of Block D, Plan 224, North Gwillimbury, designated as Part 7 on Plan 65R-19902, Georgina.

Subject to Instrument Number R717318, Georgina.

PIN 03475-0898 (LT)

Part of Lots 37, 38 and 39, Plan 224, designated as Parts 15 and 16 on Plan 65R-19902, Georgina.

Together with a right of way over Wynhurst Road Plan 198 and Plan 224 and over Block A on Plan 198 and Lot 33 on Plan 224, Georgina.

Together with a right of way over Block C and Part of Block D on Plan 224 lying between the production north westerly of the north easterly and south westerly limits of said Block C to the Maskinonge River with the right to dredge that part of the right of way over Block D a distance south easterly from the Maskinonge River sufficient to permit and allow the owner of these lands to have an entrance from the Maskinonge River to these lands, Georgina.

Together with a right of way over Part of Lot 8, Concession 3, Part of Lots 35, 36, 37, 38, 39 and 41 on Plan 224, designated as Parts 9, 10, 11, 12, 14, 19, 22, 23 and 24 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Together with an easement over Part of Lot 8, Concession 3, Part of Lots 35 and 36 on Plan 224, designated as Parts 13, 22 and 24 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Subject to a right of way in favour of Part of Lots 8, 9 and Part of the Bed of Lake Simcoe lying in front of Lots 8 and 9, Concession 3 and Part of Lots 35, 36, 37, 38, 39 and 41 on Plan 224, designated as Parts 8, 9, 10, 11, 12, 13, 14, 19, 22, 23 and 24 on Plan 65R-19902 over said Part 16 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

PIN 03475-0900 (LT)

Part of Lot 8 and Part of the Bed of Lake Simcoe lying in front of Lots 8 and 9, Concession 3 and all of Lots 42 and 43 and Part of Lots 35, 36, 37, 38, 39, 41 and Part of Block D on Plan 224, designated as Parts 20 and 21 on Plan 65R-19902, Georgina.

Together with a right of way over Wynhurst Road, Plan 198 and Plan 224 and over Block A on Plan 198 and Lot 13 on Plan 224, Georgina;

Together with a right of way over Block C and Part of Block D on Plan 224 lying between the production north westerly of the north easterly and south westerly limits of the said Block C to the Maskinonge River with the right to dredge that part of the right of way over Block D a distance south easterly from the Maskinonge River sufficient to permit and allow the owner of these lands to have an entrance from the Maskinonge River to these lands, Georgina.

Together with a right of way over Part Lot 8, Concession 3 and Part of Lots 35, 36, 37, 38, 39 and 41 on Plan 224, designated as Parts 9, 10, 11, 12, 14, 19, 22, 23 and 24 65R-19902 as in Instrument Number LT1251518, Georgina.

Together with an easement over Part of Lot 8, Concession 3 and Part of Lots 35 & 36 on Plan 224, designated as Part 13 on Plan 65R-19902 to maintain the building erected on said Part 21 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Together with an easement over Part of Lot 8, Concession 3 and Part of Lots 35 and 36 on Plan 224, designated as Parts 13, 22 and 24 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Subject to a right of way in favour of Part of Lots 8 and 9 and Part of the Bed of Lake Simcoe lying in front of Lots 8 and 9, Concession 3 and Part of Lots 35, 36, 37, 38, 39 and 41 on Plan 224, designated as Parts 8, 9, 10, 11, 12, 13, 14, 19, 22, 23 and 24 on Plan 65R-19902 over Part 20 on Plan 65R-19902 as in Instrument Number 1251518, Georgina.

PIN 03475-0899 (LT)

Part of Lot 41, Plan 224, designated as Parts 17 and 18 on Plan 65R-19902, Georgina;

Together with a right of way over Wynhurst Road, Plan 198 and Plan 224 and over Block A on Plan 198 and Lot 33 on Plan 224, Georgina.

Together with a right of way over Block C and Part of Block D on Plan 224 lying between the production north easterly and south westerly limits of Block C to the Maskinonge River with the right to dredge that part of the right of way over Block D a distance south easterly from the Maskinonge River sufficient to permit and allow the owner of these lands to have an entrance from the Maskinonge River to these lands, Georgina.

Together with a right of way over Part of Lot 8, Concession 3 and Part Lots 35, 36, 37, 38, 39 and 41 on Plan 224, being Parts 9, 10, 11, 12, 14, 19, 22, 23 and 24 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Together with an easement over Part of Lot 8, Concession 3 and Part Lots 35 and 36 on Plan 224, designated as Parts 13, 22 and 24 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

Subject to a right of way in favour of Part Lots 8 and 9 and Part of the Bed of Lake Simcoe lying in front of Lots 8 and 9, Concession 3 and Part of Lots 35, 36, 37, 38, 39 and 41 on Plan 224, designated as Parts 8, 9, 10, 11, 12, 13, 14, 19, 22, 23 and 24 on Plan 65R-19902 over said Parts 17 and 18 on Plan 65R-19902 as in Instrument Number LT1251518, Georgina.

OWNER: 1330732 ONTARIO LIMITED

PIN 03475-0150 (LT)

Parcel 8-1, Section C224 being Part of Lot 8, Concession 3 (GN) and Part of the Bed of Lake Simcoe, designated as Part 1 on Plan 65R-2527, Georgina.

Together with a right over Part 2 on Plan 65R-2527 as in Instrument Number LT23068, Georgina.

Together with a right of way for all those now and hereafter entitled, over, along and upon Lot 33 on Plan 224, Georgina.

Together with an easement over Part of Lot 8, Concession 3 and Part of Lots 35, 36, 37, 38, 39 and 41 on Plan 224 being Parts 10, 11, 12, 14, 19, 22, 23 and 24 on Plan 65R-19902 as in Instrument Number LT1251520, Georgina.

OWNER: CRATE MARINE SALES LIMITED

PIN 03475-0135 (LT)

Part of Lot 1, East Side of Matilda Street, Plan 245 (NG); Part of Lot 2, East Side of Matilda Street, Plan 245 (NG); Part of Lot 3, East Side of Matilda Street, Plan 245 (NG); Part of Lot 1, West Side of Queen Street, Plan 245 (NG); Part of Block F, Plan 224 (NG); Part of Lot 9, Concession 3 (NG), designated as Parts 1, 2 & 3 on Plan 65R-3745, Georgina.

Subject to a right as in Instrument Number R351383, Georgina.

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SCHEDULE "B"
LIST OF EQUIPMENT

SCHEDULE B
Crates Marine Sales Limited - Listing of Machinery, Equipment and Office Equipment

Item No.	Description	Other Information	Model
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The Purchased Assets listed in this Schedule may be subject to Permitted Encumbrances and claims pursuant to the Property Claims Procedure Order.

Keswick Equipment
Main Shop Equipment

1	Rotor/sander table	Rigid	EB44241
2	Thickness planer	Craftex	B350
3	Band saw	General International	90-20071
4	Standup Sander	Rockwell Delta	31-710
6	Joiner	Polras	
6	120" Metal Swivel Cutting Band Saw		
7	Cut-off saw with stand	DeWalt	DW718
8	table saw	Rockwell	
9	Dust collector	Craftex	B405
10	Paint shaker		
11	Portable dust collector	Craftex	B1140
12	Portable generator	Honda	EB3600X
13	Moisture extractor	Inject-dry	HP Plus
14	Portable compressor w/Honda motor		EO2184
16	Ladders (5)	various heights	
16	Caged ladders (4)	Canway Equipment	
17	Line backers (2)		
18	Portable shop vac		
19	Booster packs (2)	Truck Pros	ES6000

Showroom / Mechanics

20	Boat cradles (11)	Marine Cradles	various
21	Heavy duty cradles (2)	Ardel Marine	various
22	Portable Jack Stands (2)		
23	5 ton Jack		
24	20 ton Jack		
25	Portable dolly	Eagle 66	
26	5 ton chain falls (2)	Jet	L80
27	Strut remover		
28	Oxygen/acetylene tanks with torches		
29	Hydraulic shop press 20 ton	Jet Hydraulic	HSP20
30	Drill press	Long Chang Machine	LCN-14
31	Variable speed grinder	Steel City	16420
32	Parts washer/degreaser	Zep	6100
33	Compressor - 5.5HP	Weg	PPM1750
34	Icemaker	Scotsman	B948S
35	Riding lawnmower	Big Dog	830347
36	Air compressor 100 PSI	King Canada	8439
37	Gear oil pump (2)		
38	Oil extractor		

Service Building
Service/Parts/Shipping

39	7 PC's with monitors and k/b	various	
40	2 3-drawer filing cabinets		
41	Parts shelving		
42	Fasteners shelving/bins		

Inventory List

2/6/2015

Item No.	Description	Other Information	Model
43	5 L-shaped desks		
44	Microwave		
45	Bar fridge		
46	Lexmark x842e printer	Lexmark	
Customer Reception			
47	5 PC's with monitors and k/b	various	
48	4 tall office chairs		
49	4 office chairs		
50	2 4-drawer filing cabinets		
51	2 2-drawer filing cabinets		
52	2 reception chairs and wooden mariner table lamp		
Upstairs Office			
53	Boardroom table and 6 chairs		
54	4 desks, various sizes		
55	6 office chairs		
56	Bar fridge		
57	3 wall shelving units match desk (red oak veneer)		
58	Matching desk, 3-shelf cabinet, 2 small tables		
59	2 shelving units (light wood)		
60	2 black lounge chairs		
61	Royal paper shredder		
62	Xerox Workcentre 4250 s/n 8749	Xerox	
63	3 PC's with monitors and k/b		
64	HP Laserjet P2055dn	HP	
65	Samsung. Sox-4826FN multifunction printer	Samsung	
66	1 4-drawer lateral filing cabinet		
67	7 4-drawer filing cabinets		
68	3 dark brown wall shelving units		
69	1 2-drawer lateral filing cabinet		
70	Swingline paper shredder		
71	Large safe	Harry Stone	
72	2 servers (IBM and Dell) with monitor, k/b, APS, network switch, Cisco router		
73	Panasonic phone system KX-tde200c	Panasonic	
74	Panasonic TVP120 phone system	Panasonic	
Showroom Building			
Upstairs			
75	Desk with 4 hightop chairs		
76	Beige leather couch		
77	Steel cabinet		
78	3 drawer filing cabinet		
79	PC with monitor and k/b		
80	2 office desks with matching small credenza		
81	2 office chairs		
82	3 4-drawer filing cabinets		
83	Lexmark MX 310dn multipurpose fax machine	Lexmark	
84	4 misc chairs		
85	Boardroom table with 7 chairs		
86	6 limited edition Original Six NHL prints on canvas by D McLaren (25/25)		
Sales Reception Office			
87	Laminator		
88	Sharp MX-M450N copier	Sharp	
89	Upright steel cabinets		
90	2 2-drawer filing cabinets		
91	Built in desk		
92	3 PC's		

Item No.	Description	Other information	Model
93	Brother MFC 9340cdw	Brother	
Salesmen offices (5)			
94	3 desks with matching small credenza		
95	2 high corner desks with 6 hightop chairs		
96	3 offic chairs		
97	6 mlec chairs		
98	6 PCs with monitors and k/b	various	
99	HP deskjet840c	HP	
100	3 drawer filing cabinet		
101	Windtunnel upright vacuum cleaner	Hoover	
102	12 golf carts- various sizes		
103	Various adjustable boat stands and boat cradles (in use)		
South Clubhouse			
104	Dual door cooler – Habco – SE40s		
105	Dishwasher – Kitchenaid		
106	Mini dual door cooler – True – TBB-24GAL-48G		
107	2 – Sony Bravia flat screens – KDL46EX400		
108	Surround sound speakers		
109	Various glassware		
110	Microwave – Sanyo – EM-S8600S		
111	Express toaster – APW WYOTT		
112	Coffee maker – Cuisinart		
113	Commercial toaster – Fusion		
114	Kettle		
115	Griddle – Cuisinart		
116	4 – 4' high round bar tables		
117	10 bar chairs		
118	2 – leather couches		
119	4 - leather foot rests		
120	Glass coffee table – 1 large, 1 small		
121			
122	6 - outdoor tables		
123	23 outdoor chairs with cushions		
124	3 – umbrellas with stands		
126	Various cleaning supplies		
128	2 – portable a/c units, 8000BTU – Mobil Comfort – KY-80, Maytag – NMPEB08FRA* A		
127	Fitness Centre & Washroom Area – South Clubhouse		
128	Machine's have the name Maxam on them, Hamilton 905-387-4447		
129	Squat machine		
130	4 station exercise machine with accessories		
131	Bench press		
132	Punching bag		
133	2 – Tread machines – Vision Fitness – T9700		
134	Elliptical – Vision Fitness		
135	2 – Dumbell stands		
136	2 – Free weight stands		
137	Dumbells – from 5 lbs to 75lbs		
138	Free weights – from 2.5lbs to 45lbs		
139	Panasonic tube tv		
140	Pioneer receiver – VSK-D307		
141	4 speakers		
142	2 – Commercial dryers (coin operated) – Speed Queen		
143	2 – commercial washing machines (coin operated) – Speed Queen		
144	Soap dispenser		

Gas Dock

Inventory List

2/6/2016

Item No.	Description	Other Information	Model
145	2 - Stand up coolers		
146	Computer, keyboard		
147	Shelving		
148	Freezer for bagged ice - Leer Limited - 1002UC50MS	and Propane tank cage with 13 - 20 lbs tanks (possible 3rd party property)	
149	4 20-ton block and tackle with 4 boat slings		

Willow Beach Equipment

150	Stand up cart/dolly
151	Small pressure washer - Simoniz SPH-190
152	Grass trimmers - 2 Twist nEdge - TE476, Ryobi - 2800R, Featherite - XT260 L3
153	Motor stand
154	Stand up lighting with lamps
155	Golf cart
156	Riding lawn mower
157	2 - push mowers
158	Various tools (many are older tools for old motors) and shop manuals

Lagoon City Equipment		LOCATION	QUANTITY
159	Metal display racks	Front shop	2
160	Wooden boat-shaped shelf	Front shop	1
161	4' Horizontal file cabinets	Front shop	2
162	4' x 2' Metal file cabinets	Front shop	3
163	Office desks	Front office	3
164	Wood filing cabinets	Front office	4
165	Office chairs	Front office	4
166	Small wood bookshelf	Front office	1
167	Old computers, monitors and peripheral devices	Front office	3
168	Old wooden office desks	Back office	3
169	Old office chairs	Back office	3
170	Old boat/engine parts (scrap)	Shop	Lot
171	Old stern drive	Shop	1
172	7' x 4' metal racking	Parts room	6
173	6' x 3' metal racking	Parts room	1
174	Stern drive oil pumps	Shop	2
175	Blue 60 gallon plastic barrels - empty	Shop	20
176	Blue 60 gallon plastic barrels - filled with antifreeze	Shop	3.5
177	2HP Magna compressor, model M104CO200-20A	SN: L1420019 (120 PSI)	1
178	Robin EX17 6.0 gas powered fire pump	SN D10 2776197	1
179	480 Battery charger	Shop	1
180	Black & Decker portable battery charger w/ cables	Shop	1
181	X-Stream power washer	SN RX708C10003374	1
182	Canbuilt 10-ton hydraulic press	SN HP021594	1
183	Balcrank workbench	Shop	1
184	Parts washer	Shop	1
185	10' aluminum ladder	Shop	1
186	Old 1/2 HP drill press	Shop	1
187	Movable 8' red metal staircase (on wheels)	Shop	1
188	Old parts (scrap)	Shop	Lot
189	Cans of paint - Various	Shop	Lot
190	Assorted shop tools - Cutoff saw, vice, grinder	Shop	Lot
191	Old outboard motor parts	Upstairs	Lot
192	Stern drives	Upstairs	3
193	Old Mercury 18 outboard motor (for parts)	Upstairs	1
194	Old Johnson outboard motor (for parts)	Upstairs	1
195	Old Seahorse outboard motor (for parts)	Upstairs	1
196	Assorted scrap and garbage	Upstairs	Lot
197	6' x 3' metal racking	Upstairs	5

Item No.	Description	Other Information	Model
188	6' x 9' aluminum sheaving	Upstairs	4
189	Round kitchen table (wood)	Kitchen	1
200	Old microwaves	Kitchen	3
201	Toaster oven	Kitchen	1
202	Old chairs	Kitchen	4
203	Small refrigerator	Kitchen	1
204	Bubblers	Downtown storage	4
205	GE commercial washers (coin operated), Model WCCB1030J1WC	ST116562G	3
206	Inqis commercial driers (coin operated), Model TO-81001	9CM38616	3
207	Taylor forklift (old)	No SN or model; flat tire	1
208	Boat slings	Yard storage house	8
209	Trailer - old	No VIN; near forklift	1
210	3-Ton chain fall/hoist	Slip 234	4
211	6-Ton chain fall/hoist	slip 216	4
212	Assorted picnic benches	By boat-slips	Lot
213	Mobile waste removal trailer & pump		1
214	Conolift hydraulic boat trailer	Compound in yard across street	1
215	32 x 180 Shrink Wrap	Full boxes of leftover shrink wrap	5
216	40 x 150 Shrink Wrap	Full boxes of leftover shrink wrap	3
217	40 x 149 Shrink Wrap	Full boxes of leftover shrink wrap	6
218	28 x 94 Shrink Wrap	Full boxes of leftover shrink wrap	6
219	32 x 186 Shrink Wrap	Full boxes of leftover shrink wrap	6
220	Mobile staircase (on wheels)	Compound in yard across street	1
221	Blue CRATES golf cart	street	1
222	5' Electric boat lift (in water)	Back of yard across street	1
223	Blue 50-gallon barrels - empty	Back yard across street - garbage	Lot
224	1988 Ford F350 4x4 yard truck	plated)	1
225	International Boom Truck (very old) w/ boom attachment	plated); no SN available for aerial	1
226	Richelleu trailer	Vin L110216086004	1
227	Sailboat mast crane (motorized)	34JC43-0071G1	1
228	Marine Travelift 35 BFM (movable boat lift)	2753 hours	1
Port McNicholl			
229	Marine Travelift 75 tonne	SN 3480-0910; 70,000 lbs.	1
Belleville			
230	Marine Travelift 60 BFM (movable boat lift)	SN 3495-0713	1

**CRATE MARINE SALES LIMITED
COMPANY VEHICLE LISTING**

The Purchased Assets listed in this Schedule may be subject to Permitted Encumbrances and claims pursuant to the Property Claims Procedure Order

EQUIPMENT #	DESCRIPTION	YR/MI	SERIAL #	MODEL
1	2003 FORD		1FTWWS37X0B25028	350
2	2010 MACK	400,000 approx	1M1AW07Y7AN008782	600
3	2007 FORD	155,597	1F0AF80P47EB25083	550
4	2010 FORD		1FTFW1E7XAF23034	F-150
5	2009 FORD	310,242	1FTFX14V03FB08228	F-150
7	2009 FORD	395,730	1FTFX14V08KA71730	F-150
9	1999 FORD		2F0KF28F48LA84121	F-350
10	2005 FORD		1FTTB34P75HA17416	E 350 VAN
13	2000 HONDA	254,780	2H0ZL8014YH030001	CIVIC
15	2004 FORD	276,989	1FTFX14B04FA07210	F-150
16	2004 GMC		1GTHK2MUM2307209	SIERRA
19	2012 FORD		1FT8W3B78CEA30703	F-350
20	1999 INTERNATIONAL		1H9GLAET7X0Q211630	TRANSPORT
21	2010 FORD	168,310	1FTFW1E72AFB00040	F-450
22	2007 FORD		1F0AF80P47EA10027	F-350 TAN
23	2013 FORD	31,802	1FTFW1E7B0KF88072	F-150
24	2013 FORD	74,611	1FTFW1E7B0FD3262	F-150
27	2004 FLEETWOOD	77,030	0B4MP07004300000	PAGE ARROW
28	2011 FORD		1M0L878N0T004103	TRANSIT CONNECT
741	2010 FORD	240,788	1FTFW1E7B0FA0400	F-150
CB1	1999 DODGE		1B7HP16Y000020042	DODGE
Y1	1999 GMC		1GTEC19N8WE030201	1500
Y2	2000 FORD		2FTRP18WYCA41403	F-150
Y3	2004 FORD		1PTRM12N64NC00174	F-150
Y4	MACK			AEROMAX L-900

TRAILERS AND LIFTS

A	TRAILER	SMALL - YARD ONLY		CONCLIFT
B	TRAILER	LARGE - YARD ONLY		CONCLIFT
T1	2009 TRAILER	BLACK 5TH WHEEL	2C9B08J280P050018	CONCLIFT YH-015
T2	2009 TRAILER	WHITE XL 5TH WHEEL	2C9B08Y2X0P050029	CONCLIFT YH-1620
T3	1986 TRAILER	CARGO - P3379	8R1B3V0E771002876	ROUSSY FRP
T4	1986 TRAILER	SEMI-REM	2M8T21016V0002272	84233202
G	TAYLOR FORKLIFT	YARD	0-24-18882	T8E-120-01
H	YALE FORKLIFT	SMALL - YELLOW	E187V18814X	GLC058RGNJAE002
J	TRACTOR	BUCKET TRACTOR		CASE
L	TRAVELLIFT	refurbished 2010	3166-0303	608PM 8
M	1999 TRAILER	not road worthy	60004	CONCLIFT
N	2005 SHORELANDER	E18 49H	1MDAVP128BA080260	TRAILER 80T
T5	2013 CONCLIFT	BLACK 5TH WHEEL	2C9B08Y2X0P050003	CONCLIFT YH-015
808	2009 WALTRON	RED YH5	2A8B04010R032000	WALTRON
T6	1992 FLATBED	Y99 668	2PEP04030W0334601	Mobile 1122
PN LN	Marine Traveler		3480-0010	75 tonne traveler

BOAT INVENTORY

Name of file: CRATE MARINE SALES LIMITED

Address: 951A, Principale Street, St-Paul-De-L'Isle-Aux-Noix, Qc., J0J 1G0

Location of goods: Same

Customer: H.H. Davis & Assoc. Inc.

PICTURE NO.	DESCRIPTION	QTY
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LOT # 1 EQUIPEMENTS

PRINCIPAL OFFICE AND SALES

130	KENMOORE air conditionning	1
131	2 drawers lateral brown wooden filling cabinet	1
132	Black secretary chair on wheels	1
133-140-		
141	3 drawers, 60" x 28" black wooden working tables	2
134	NORTEL multilines phone, model T7208E	1
136-138	Brown leather swivel visitor chairs with chrome feet	4
137	3 drawers, 39" x 28" x 30" black wooden furniture	1
135-139	Metal chrome desk lamps with mirror abajour	2
142	Gray fabric armchair on wheels	1
144	SHARP tape calculator, model EL-2192GII	1
144	MERIDIAN multilines phone, model NT8B20	1

BOAT INVENTORY

Name of files: CRATE MARINE SALES LIMITED

Address: 951A, Principale Street, St-Paul-De-L'Isle-Aux-Neix, Qc., J0J 1G0

Location of goods: Same

Customer: H.H. Davis & Assoc. Inc.

PICTURE NO.	DESCRIPTION	QTY
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143 2 drawers, 20" x 20" x 27" brown wooden furniture 1

143 BROTHER multifunction printer, model MFC-J4410DW,
serial U63337C3F455655 1

GARAGE

180 13' Aluminium ladder 1

181 30" X 60" Top melamine table with metal chrome feet 1

182 SONY cassette radio 1

183 KOSS DVD reader, model KS5121-2 1

184 102" x 24" x 42" wooden serving counter with stainless
steel top 1

185 Metal and wooden gray stool 1

186 Aluminium ladder, 8 steps 1

189-190 46" x 44" chromed metal frame partitions with plexiglass
center 15

191 MERIDIAN multilines phone, model NT8B20 1

192 CANON photocopier, model NP2120, non-functional 1

BOAT INVENTORY

Name of file: **CRATE MARINE SALES LIMITED**

Address: **951A, Principale Street, St-Paul-De-L'Isle-Aux-Noix, Qc., J0J 1G0**

Location of goods: **Same**

Customer: **H.H. Davis & Assoc. Inc.**

ITEM NO.	DESCRIPTION	QTY
230-231	Assorted hydraulic jacks floor	2
232-233	Black metal staircase, 4 stairs carpeted	2
234	Black wooden staircase, 6 steps	1
235-242-		
243	Assorted wooden and metal workbenches	3
236	Commercial pedestal fan	1
238	4 shelves 60" chrome shelving on wheels	1
239	Alumium ladder, 6 steps	1
240	72" black metal shelf with 4 shelves and lockers	1
241	SHOP VAC Commercial vacuum cleaner	1
244	White plastic 2 stairs step	1
245	BOSH portable grinder	1
246	6" KING table grinder	1
247	Black plastic wheelbarrow	1
248	Lot of 2 Aluminium ladder, 8 and 5 steps	1

BOAT INVENTORY

Name of file: **CRATE MARINE SALES LIMITED**

Address: **951A, Principale Street, St-Paul-De-L'Isle-Aux-Noix, Qc., J0J 1G0**

Location of goods: **Same**

Customer: **H.H. Davis & Assoc. Inc.**

PICTURE NO.	DESCRIPTION	QTY
----------------	-------------	-----

249	MOTOMASTER portable booster pack, model Eliminator	1
-----	--	---

GARAGE'S OFFICE

193	Blue plastic visitor chairs with chromed base	2
-----	---	---

	33" x 33" top brown melamine working table with brown metal base	1
--	--	---

195-196	Computer system composed of: HP Core 2.4.0 GB, 3.0 GHZ table computer 19" LCD Compaq monitor, model LA1905WG Wireless keyboard and mouse	1
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195-197- 198	Computer system composed of: CLONE table computer, 4.0 GO, 3.10GZ 19" LCD ViewSonic monitor, model VA902B LEXMARK multifunction printer, model Platinum PRO905 Wireless keyboard and mouse	1
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200	22" x 19" x 43" black metal shelving unit with 5 brown wooden shelves	1
-----	---	---

201-202	6 drawers 72" x 36" brown melamine desk	1
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203	Gray office chair on wheels	1
-----	-----------------------------	---

BOAT INVENTORY

Name of file: CRATE MARINE SALES LIMITED

Address: 951A, Principale Street, St-Paul-De-L'Ile-Aux-Noix, Qc., J0J 1G0

Location of goods: Same

Customer: H.H. Davis & Assoc. Inc.

PICTURE NO.	DESCRIPTION	QTY
----------------	-------------	-----

204	4 drawers beige metal filing cabinets	2
-----	---------------------------------------	---

201	MERIDIAN multilines phone, model NT8B20	1
-----	---	---

MEZZANINE'S OFFICE

206	MERIDEAN phone system	1
-----	-----------------------	---

207	ARRIS external modem	1
-----	----------------------	---

208	LYNKSYS wireless router, 2.4 GHZ	1
-----	----------------------------------	---

209	4 drawers 72" x 30" gray melamine desk	1
-----	--	---

209	Gray office armchair on wheels	1
-----	--------------------------------	---

209	Blue plastic visitor chair with chromed base	1
-----	--	---

209	Wooden easel	2
-----	--------------	---

177 to 179	Lot composed of: feet racks (support) for boat storage	1
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TOTAL

BOAT INVENTORY

Name of file: CRATE MARINE SALES LIMITED

Address: 951A, Principale Street, St-Paul-De-L'Isle-Aux-Noix, Qc., J0J 1G0

Location of goods: Same

Customer: H.R. Davis & Assoc. Inc.

PICTURE NO.	DESCRIPTION	QTY
----------------	-------------	-----

LOT #2 ROLLING STOCK

OUTDOOR

52-53	2006 CON-O-LIFT Fifthwheel boat trailer	1
169-170	Size: 30' Axles: 2 Model: 915 Serial: 2C9BBSJ266P050015 Registered: L52-63Z (Ontario) With hydraulic system	
56-57	FORD 2006 Pick-up	1
171-172	Model: F-350 Lariat Serial: 1PTWW33PX6EB25036 Registered: 774-5RY (Ontario) KM: Not available (+/- 300 000 km, according to the debtor's declaration)	
173-174	FORD 2011 (vehicle service) Model: Transit Connect Serial: NM0LS7BN0BT054163 Registered: FJW5479 (Québec) KM: 73 301	1

BOAT INVENTORY

Name of file: CRATE MARINE SALES LIMITED

Address: 951A, Principale Street, St-Paul-De-L'Isle-Aux-Noix, Qc., J0J 1G0

Location of goods: Same

Customer: H.H. Davis & Assoc. Inc.

PICTURE NO.	DESCRIPTION	QTY
----------------	-------------	-----

61-62	FORD 2010 Pick-up	1
175-176	Model: F-150 XLT	
	Serial: 1FTFW1EVXAPA39034	
	Registered: 525-6YB (Ontario)	
	KM: 167 140	

TOTAL

SCHEDULE "C"
PERMITTED ENCUMBRANCES OF THE LANDS

- (i) Any reservations, restrictions, rights of way, easements or covenants that run with the Lands;
- (ii) Registered agreements with any municipal, provincial or federal governments or authorities and any public utilities or private suppliers of services, including, without limitation, subdivision agreements, development agreements, site plan agreements, cost sharing agreements, engineering, grading or landscaping agreements and similar agreements;
- (iii) Easements and servitudes, including those registered on title, which do not materially and adversely impair the use of the Lands for the purpose for which they are presently held or used;
- (iv) Registered easements for the supply of utilities or telephone services to the Lands and for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services and all licences, easements, rights-of-way, rights in the nature of easements and agreements with respect thereto not registered on title to the Lands, including without limitation, agreements, easements, licences, rights-of-way and interests in the nature of easements for sidewalks, public ways, sewers, drains, utilities, gas, steam and water mains or electric light and power, or telephone telegraphic conduits, poles, wires and cables;
- (v) Easements or rights of way in favour of any governmental body, any private or public utility, any railway company or any adjoining owner;
- (vi) Defects or irregularities or encroachments, rights of way or other discrepancies in title or possession disclosed by any errors or omissions in existing surveys of the Lands or of neighbouring properties and any title defect, encroachment or breach of a zoning or building by-law or any other applicable law, by-law or regulation which might be disclosed by a more up-to-date survey of the Lands;
- (vii) Minor encroachments by the Lands over neighbouring lands which do not materially and adversely impair the use of the Lands;
- (viii) With respect to instruments registered via Teraview Electronic Registration System ("TERS System"), any error or omission in the receipt, transmission or recording of such instrument, or of any of the particulars contained in such instruments, subsequent to creation and electronic delivery of same to Teranet Real Property Information Services Inc. via the TERS System;
- (ix) Zoning, land use and building restrictions, bylaws, regulations and ordinances of federal, provincial, municipal or other governmental bodies or regulatory authorities, including, without limitation, municipal by-laws and regulations and airport zoning regulations;
- (x) Laws, by-laws and regulations affecting the Lands;
- (xi) Outstanding work orders, stop work orders, deficiency notices, notices of violation, infractions, open permits and compliance requests affecting the Lands;
- (xii) The reservations, limitations, provisos and conditions, if any, expressed in any original grant from the Crown, unpatented mining claims and native land claims;
- (xiii) The standard exceptions and qualifications contained in the *Land Titles Act* (Ontario), the *Registry Act* (Ontario) and the *Condominium Act, 1998* (Ontario), as applicable;
- (xiv) Any right of expropriation, access or user vested in any governmental or public body or authority;
- (xv) The Crawmet Charges; and,

- (xvi) The Powell Charges.

PIN 03475-0140 (LT)

- (xvii) Together with any rights, interests and easements if any as set out in Instrument Numbers A61914A, A7428A, B86062B, A61914A, except easement therein, Part 1 on Plan 65R-13692 and as more particularly set out in the Property Description in the aforementioned PIN;
- (xviii) Subject to any rights, interest and easements set out in Instrument Nos. A64512A, A38709A and A61914A as more particularly set out in the Property Description in the aforementioned PIN;
- (xix) Instrument No. R427546, registered on March 26, 1987 is a Notice of Site Plan Agreement in favour of The Town of Georgina;

PINs 03475-0923 (LT), 03475-0901 (LT), 03475-0902 (LT), 03475-1967 (LT) and 03475-1972 (LT)

- (xx) Together with any rights, interests and easements more particularly set out in Instrument No. LT1251518, Instrument No. R649951 and any other rights, interests and easements set out in the Property Descriptions in the aforementioned PINs;
- (xxi) Subject to any rights, interest and easements set out in Instrument Nos. LT23068, NG9316, LT1251518, LT1251520, R735544, R717319, R717320 and the Right of Way in LT23068 as more particularly set out in the Property Descriptions in the aforementioned PINs;
- (xxii) Instrument No. NG9316, registered on October 15, 1924, is a Transfer of Easement in favour of The Hydro-Electric Power Commission of Ontario.
- (xxiii) Instrument No. IF338, registered on June 29, 1950 is a By-Law re Subdivision Control;
- (xxiv) Instrument No. LT1251519, registered on February 26, 1988, is a Transfer of Easement from Dawson's Marina Limited to Dawson's Marina Limited for purpose of ingress, egress, and laying down of services and maintenance, over the lands described as Part 3 on Plan 65R-19902 and Parts 10, 11, 12, 14, 19, 22, 23 and 24 on plan 65R-19902.
- (xxv) Instrument No. LT1251520, registered on February 26, 1988, is a Transfer of Easement from Dawson's Marina Limited to Dawson's Marina Limited for purpose of ingress, egress, and laying down of municipal and utility services and maintenance, over the lands described as Part 3 on Plan 65R-19902 and Parts 10, 11, 12, 14, 19, 22, 23 and 24 on plan 65R-19902.

PINs 03475-0924 (LT), 03475-0925 (LT), 03475-0146 (LT), 03475-0898 (LT), 03475-0900 (LT) and 03475-0899 (LT)

- (xxvi) Together with any rights, interests and easements more particularly set out in Instrument Nos. R717318 and LT1251518 and any other rights, interests and easements set out in the Property Descriptions in the aforementioned PINs;
- (xxvii) Subject to any rights, interest and easements set out in Instrument Nos. R717318 and LT1251518 as more particularly set out in the Property Descriptions in the aforementioned PINs;
- (xxviii) Instrument No. IF338, registered on June 29, 1950, is a By-Law re Subdivision Control;

PIN 03475-0150 (LT)

- (xxix) Together with any rights, interests and easements more particularly set out in Instrument Nos. LT23068, LT1251520 and any other rights, interest and easements set out in the Property Description in the aforementioned PIN;
- (xxx) Instrument No. LT1251520, registered on February 26, 1988, is a Transfer of Easement from Dawson's Marina Limited to Dawson's Marina Limited for purpose of ingress, egress, and laying down of municipal and utility services and maintenance, over the lands described as Part 3 on Plan 65R-19902 and Parts 10, 11, 12, 14, 19, 22, 23 and 24 on plan 65R-19902;

PIN 03745 – 0135 (LT)

- (xxxi) Instrument No. R351383, registered on August 23, 1984, is a Transfer of Easement in favour of "H. M. The Queen – Ontario"; and Instrument No. R692439, registered on January 29, 1997, is a Transfer of Easement in favour of The Corporation of the Town of Georgina.

SCHEDULE "D"
CRAWMET AND POWELL CHARGES

Crawmet Charges

1. Instrument No. YR1763076, registered on December 22, 2011 is a charge/mortgage of land in favour of Crawmet Corp. in the original principal amount of \$2,000,000.
2. Instrument No. YR2077245, registered on December 20, 2013 is a charge/mortgage of land in favour of Crawmet Corp. in the original principal amount of \$7,000,000.

Powell Charges

1. Instrument No. YR1011208, registered on July 3, 2007 is a charge/mortgage of land in favour of Dwight Powell Investments Inc., in the original principal amount of \$7,500,000.
2. Instrument No. YR1347517, registered on July 23, 2009 is a charge/mortgage of land in favour of Dwight Powell, in the principal amount of \$550,000.
3. Instrument No. YR2077239, registered on December 20, 2013 is a charge/mortgage of land in favour of Dwight Powell Investments Inc., in the original principal amount of \$7,500,000.

SCHEDULE "E"
SECURED DEBT AS AT MARCH 31, 2015
 Unless otherwise specified all values below are in Canadian dollars

DWIGHT POWELL INVESTMENTS INC. ("DPII") and DWIGHT POWELL ("DP")

Facility No.	Original Principal Amount	Outstanding Principal Amount	Interest to and including March 31, 2015	Fees	Balance as at March 31, 2015
A (DPII)	\$7,500,000.00	\$7,536,685.88 ¹	\$238,464.75	\$5,050.00	\$7,780,200.63
B (DP)	\$550,000.00	\$550,000.00 ²	\$18,318.86	\$2,650.00	\$570,968.86
Estimated legal fees and disbursements					\$15,000.00
TOTAL POWELL SECURED LOANS					\$8,366,169.49

CRAWMET CORP.

Facility No.	Original Principal Amount	Outstanding Principal Amount	Interest to and including March 31, 2015 ³	Balance as at March 31, 2015
A	\$2,085,244.24	\$1,970,303.99	\$100,214.94	\$2,070,518.93
B	\$318,440.00	\$310,536.66	\$13,061.14	\$323,597.80
C	\$900,000.00	\$900,000.00	\$59,188.91	\$959,188.91
D	US\$1,940,270	US\$1,940,270.00	\$220,924.22	\$2,161,194.22
	\$44,163.58	\$44,163.57	\$3,133.80	\$47,297.37
E	\$525,000.00	\$317,610.42	\$19,504.37	\$337,114.79
F	\$246,862.00	\$246,862.00	\$16629.69	\$263,491.69
G	\$300,000.00	\$300,000	\$18,907.55	\$318,907.55
H	\$300,000.00	\$200,767.00	\$10,049.14	\$210,816.14
I	US\$66,075.01	\$43,376.31	\$3,969.23	\$47,345.54
J	\$7,000,000.00	\$6,935,412.52	\$301,078.39	\$7,236,490.91
Legal Fees and Disbursements to January 31, 2015				\$ 230,803.94
Estimated legal fees and disbursements to completion				\$75,000.00
TOTAL CRAWMET SECURED LOANS CAD				\$12,073,228.03
TOTAL CRAWMET SECURED LOANS USD				\$2,208,539.76

¹ Outstanding as at October 28, 2014, interest at 7.5% per annum.

² Outstanding as at October 23, 2014, interest at 7.5% per annum.

³ Interest at 10% per annum on all loan facilities with the exception of facility J. Facility J, interest at 9% per annum.

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SCHEDULE "F"
INVENTORY OF BOATS

See attached.

CRATE MARINE SALES LTD
Inventory Listing of Crate Owned Boats provided by Crate Marine
Crate Marine Sales Limited
Schedule of Boat Inventory

SCHEDULE F

The Purchased Assets listed in this Schedule may be subject to Permitted Encumbrances and claims pursuant to the Property Claims Procedure Order

STOCK NO	DESCRIPTION	TYPE	New or Used	SERIAL NO	DATE RCVD	
NEW BOATS						
4762	10 SEA-DOO	RXT	SD	N	YDV12689C010	31-Oct-10
5538	14 REGAL	2550	CC	N	RGMMP242D414	25-May-14
5725	14 PHOENIX	S22-50TB	BT	N	5VWBT222XFE006450	12-Jun-14
USED BOATS						
3956	87 CARVER	28 RIVEARA	AC	U	CDRJ01141687	18-Apr-07
4322	69 CHRIS-CRAFT	42COMAND	AC	U		01-Oct-08
4335	31 CHRIS-CRAFT	CLASSIC	R	U		14-Oct-08
4483	88 CARVER	3257 MONTEGO	EC	U	CDRN5133E888	10-Sep-09
4638	02 REGAL	2600 LSR	BR	U	RGMWHO24J102	01-Jun-10
4696	89 CARVER	3607	AC	U	CDRG00538989	13-Aug-10
4745	07 ZODIAC	DINGHY	INF	U	XDCR222KK607	05-Oct-10
5128	95 TROJAN	350 EXPRESS	EC	U	TRJR1027K495	27-Apr-12
5195	63 CHRIS-CRAFT	30	CON	U		07-Aug-12
5312	97 CARVER	32 VOYAGER	SF	U	CDRM20041697	30-Jan-13
5341	06 DONZI 43		PB	U	DNAZC006K506	25-Feb-13
5779	12 BOAT TRAILER	MANNING	BT	U	IM9TB433OCC495563	31-Jul-14
5347	97 DONZI 22	& TRAILER	PB	U	DNAC2008D697	27-Feb-13
5363	89 CRUISERS	3060	EC	U	CRS8448BC989	28-Mar-13
5437	10 LARSON	288	BR	U	LAR89725E910	21-Jun-13
5496	90 WELLCRAFT	31 SCARAB EX	PB	U	WELP6159J990	04-Sep-13
5564	92 SEA-RAY	180	BR	U	SERV4423A292	21-Jan-14
5565	06 RINKER	27	CC	U	RNK73048803	21-Jan-14
5567	10 REGAL	2100	BR	U	RGMCB203D010	22-Jan-14
5600	08 MONTEREY	214 FSC & TRA	CC	U		14-Apr-14
5601	03 SEA-RAY	41	AC	U	SERFR9467203	14-Apr-14
5732	11 REGAL	2300 & PHOENIX T	BR	U	R6MDR327D11 Trailer S	22-May-14
5647	11 CRUISERS	330 EXPRESS	EC	U	CRSFDA70D011	05-Jun-14
5670	04 KEY WEST	CONQUEST	BR	U	KWEDD130I304	18-Jun-14
5671	97 LARSON	290 CABRIO	BR	U		19-Jun-14
5672	97 DORAL	1997 240 DORAL	AC	U	QJA06303A797	23-Jun-14
5679	00 WELLCRAFT	WILKER 18	R	U		26-Jun-14
5777	88 DORAL 26		AC	U	A152917888	24-Sep-14
5781	99 REGAL	32 COMMODORE	EC	U		25-Sep-14
5795	12 SEA-RAY	240 SUNDANCER	AC	U	US-SERT4011I112	02-Oct-14
5808	03 BAYLINER	245 & GALVANI	BR	U	259403963	17-Oct-14
5816	99 RINKER	232 CAPTIVA & T	BR	U	KNK61752C999	23-Oct-14
5820	96 THOMPSON	26 SANTA	AC	U	TMS37895K595	03-Nov-14
5662	88 CARVER	2807 RIVIERA	AC	U	CDRJ0023088	16-Jun-14
5704	87 PROWLER	9M AAFT CABIN	AC	U		14-Jul-14
4682	88 PROWLER	10M	AC	U		26-Jul-10
5400	78 SEA-RAY	30 SEDAN BRIDG	SF	U		13-May-13
5424	04 Bayliner 245		CC	U	QC3507805	31-May-13
5485	11 Four Winns V305		EC	U	PFWCJ003K011	05-Apr-14
5508	13 Regal 35SC		SC	U		26-Sep-14
5533	11 Coblatt 262WSS W Trailer		R	U	FGE65002G011 / QC3088553	04-Oct-14
5700	03 CARVER 57	PILOT HOUSE	MY	U	CDRNA123H203	09-Jul-14
Other						
4858	09 DYNAMAX	DYNA AIRE	DYN	N	1D9FE362391358008	24-Mar-11
4859	09 DYNAMAX	DYNA AIRE	DYN	N	1D9FE362591358009	14-Apr-11

TAB D

**SUPERIOR COURT OF JUSTICE**

Court House
361 University Avenue
TORONTO, ON M5G 1T3
Tel. (416) 327-5284
Fax (416) 327-5417

FACSIMILE

TO	FAX NO.	PHONE NO.
Michael B. Rotsztain and R. B. Bissell	(416) 597-3370	(416) 597-9922
H. Chaiton and M. Poliak	(416) 218-1849	(416) 218-1129
E. Bisceglia	(905) 695-5201	(905) 695-5200
C. Prophet and H. Murray	(416) 862-7661	(416) 862-3509
J. D. Marshall	(416) 361-2763	(416) 367-6024
J. McReynolds	(416) 947-0079	(416) 947-1093

Total No. of Pages Including Cover Sheet: Six

Date: February 18, 2015

RE: CRATE MARINE SALES LIMITED
COURT FILE NO.: CV-14-00010798-OOCL

Please contact Gladys Gabbidon at (416) 327-5052 if you do not receive all pages. Thank you.

CITATION: Crate Marine, 2015 ONSC 1062
COURT FILE NO.: CV-14-00010798-00CL
DATE: 20150218

SUPERIOR COURT OF JUSTICE – ONTARIO

(COMMERCIAL LIST)

IN THE MATTER OF THE RECEIVERSHIP OF Crate Marine Sales Limited,
F. S. Crate & Sons Limited, 1330732 Ontario Limited, 1328559 Ontario Limited,
128648 Ontario Limited, 1382415 Ontario Ltd., and 1382416 Ontario Ltd.

RE: Crate Marine Sales Limited et al.

BEFORE: L. A. Pattillo J.

COUNSEL: *M. B. Rotsztain* and *R. B. Bissell*, for the Receiver and Trustee
H. Chaiton and *M. Poliak*, for Crawmet, and 2450902 Ontario Ltd.
E. Bisceglia, for Cesaroni Management Ltd.
C. Prophet and *H. Murray*, for Romith Investments Limited and
Uplands Charitable Foundation
J. D. Marshall, for Marquis Yachts
J. McReynolds, for 2124915 Ontario Inc.
HEARD: February 13, 2015

ENDORSEMENT

Introduction

[1] On December 8, 2014, A. Farber & Partners was appointed as Receiver (“Receiver”) and as Trustee in Bankruptcy (“Trustee”) 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”).

[2] The Receiver brings this motion for various orders including approval of an agreement of purchase and sale dated February 8, 2015 (the “Stalking Horse Offer”) and a sales process which includes an auction for all of the assets of the Companies save and except for certain excluded

assets. Subsidiary issues are approval of the Receiver's first three Reports and its conduct as set out in the Reports and a sealing order of Confidential Appendices "A" and "B".

Background

[3] The Companies are related companies that operate marinas at multiple locations including a large marina in Keswick, Ontario, on Lake Simcoe. Crate Marine Sales Limited ("Crate Marine") is the sole operating entity. The remainder of the Companies either own land used in the marina operations (primarily at Keswick) or own other of the Companies.

[4] In addition to land, the assets of the Companies consist primarily of cash, accounts receivable, boats, parts and equipment as well as interests in other businesses or ventures involving members of the Crate family. The Receiver has obtained and filed certificates of pending litigation against certain properties in the vicinity of the Keswick marina location (the "Adjacent Properties") and against a property in Belleville, Ontario.

[5] After review of the assets available for sale, the Receiver has determined that the best realizations are likely to be obtained from a sale of the business as an operating marina. Furthermore, the sooner a sale takes place, the more likely the value of the customer base to a new owner/operator will be maintained as the 2015 boating season is not far off. The Receiver also recognizes that the Companies' real estate in the Keswick area as well as the possible interest in the Adjacent Properties will also likely be of interest to real estate developers.

The Stalking Horse Offer

[6] The negotiations to obtain the Stalking Horse Offer involved considerable time and were complicated due to a number of factors including (i) the Companies have different real estate holdings and multiple cross-collateralized mortgages; (ii) the uncertainty of potential claims on the Crate Marine owned boats; (iii) the state of the books and records; and (iv) the issues identified by the Receiver related to the Adjacent Properties and other business activities of the Companies.

[7] The Stalking Horse Offer is in large part comprised of a credit bid through assumed debt. The purchaser under the Stalking Horse Offer is 2450902 Ontario Limited (the "Purchaser") whose principals, Benn-Jay Spiegel and Dwight Powell are the respective principals of Crawmet Corp ("Crawmet") and Dwight Powell Investments Inc. ("DPII") who in turn are secured creditors of the Companies.

[8] The Stalking Horse Offer is for substantially all of the assets of the Companies. The three main exclusions are cash on hand at closing; boats in possession of the Companies where there are or were boat slip leases or other bailment arrangements; and anything the Purchaser may choose to exclude from the purchased assets without any adjustment of the purchase price. The assets to be sold also include the claims of the Companies and the Receiver and Trustee in respect of the Adjacent Lands, the Bellville property and other claims.

[9] The Receiver estimates that the purchase price under the Stalking Horse Offer at the time of the anticipated closing date will be approximately \$25,951,784.00 made up of assumed secured debt of Crawmet, DPII and Dwight Powell in the amount of \$22,973,033.00; cash for all

amounts secured by the Receiver's Charge and the Receiver's Borrowing Charge at Closing (approximately \$2,000,000.00); cash for the estimated Receiver/Trustee fees and counsel fees from Closing to discharge (approximately \$300,000); cash for realty tax arrears, utility arrears and source deductions (\$389,000.00); and cash amounts for two properties in Keswick known municipally as 7 and 8 Mac Ave (\$550,000) and 210 Wynthurst Ave. (\$710,000) (collectively the "Properties").

[10] The Stalking Horse Offer contains no break fee or payment for the Purchaser's expenses.

[11] The Receiver considered the value being offered in the Stalking Horse Offer and concluded, for the reasons noted in the Third Report, that it is appropriate value for the assets being purchased. Having regard to the consideration being offered in the Stalking Horse Offer and the benefit of a mechanism to coherently market the assets being conveyed, the Receiver concluded that the interests of the creditors and stakeholders of the Companies were, on the whole, best served by accepting the Stalking Horse Offer.

The Proposed Sale Process

[12] The Receiver has proposed a sales process that involves notice to identified potential purchasers as well as more generally; a time period of approximately one month for submission of bids and if there are one or more superior bids to the Stalking Horse Offer, an auction at the Receiver's office involving the Purchaser and the superior bidders followed by a motion to the court for approval and a vesting order. The entire process is scheduled to take less than two months to complete.

Analysis

[13] A stalking horse offer combined with a court-approved bidding procedure is commonly used in insolvency situations to facilitate the sale of businesses and assets.

[14] In *Brainhunter Inc., Re.* (2009), 62 C.B.R. (5th) 41 (Ont. S. C. J.) at para. 13, Morawetz J. sets out four factors that the court should consider in exercising its discretion to determine whether to authorize a stalking horse process. The case involved a stalking horse sales process under the *Companies Creditors Arrangement Act* but in my view, the same considerations are applicable here. The factors are: is the sale transaction warranted at this time; will the sale benefit the "economic community"; do any of the creditors have a bona fide reason to object to the sale of the business; and is there a better viable alternative.

[15] The Receiver's Third Report makes it clear, in my view, that the sale is warranted at this time. I accept the Receiver's determination that the best realization of the assets will be achieved by the sale of the business as an operating marina. In order to accomplish that, the sale must take place as soon as possible to enable a purchaser to maintain the continuity of the business going forward into the 2015 boating season.

[16] Further, in my view, the proposed sale will benefit the "economic community". In addition to maximizing value, which is of benefit to all the creditors and stakeholders of the Companies, the continuation of the operation of the marina will also be of benefit to the greater Keswick community by way of preservation of jobs, contracts and business relationships.

[17] On the motion, the only creditors who objected to the Stalking Horse Offer were Cesaroni Management Limited ("Cesaroni"), Romith Investments Limited ("Romith") and Uplands Charitable Foundation ("Uplands") (collectively the "Objecting Creditors"). Cesaroni and Romith are mortgagees of 210 Wynthurst Ave. and Uplands is a mortgagee of 7 & 8 Mac Ave.

[18] The Objecting Creditors submit that the purchase price allocated in the Stalking Horse Offer for the Properties is not reflective of the fair market value for either of the Properties. Further, the allocated price will provide for less value than the respective charges registered against the Properties by the Objecting Creditors. In support of its position, Cesaroni has filed real estate appraisal indicating a value for 210 Wynthurst Ave. well in excess of the allocated purchase price. Uplands submits that it attempted to get an appraisal of 7&8 Mac Ave. but was unable to arrange it in the short notice given.

[19] The Objecting Creditors submit that 7&8 Mac Ave. and 210 Wynthurst Ave. should be removed from the Stalking Horse Offer and the proposed sales process. To support their position, they seek a brief adjournment in order to provide better evidence of value. In Cesaroni's case, it submits it will provide a bona fide offer for 210 Wynthurst Ave.

[20] The Objecting Creditors are not objecting to the sale of the business in general. They are objecting to the Properties that they have an interest in being included in the Stalking Horse Offer for the consideration proposed. But the Properties form part of or are adjacent to the properties that comprise the Companies marina operation in Keswick. For that reason, in my view, they should be included in the proposed sale and therefore remain part of the Stalking Horse Offer at this stage.

[21] In reaching its conclusion that the interests of the creditors and stakeholders of the Companies on the whole are best served by accepting the Stalking Horse Offer, the Receiver considered the fact that the allocated purchase price for the Properties would likely provide for less value than the charges registered against them by the Objecting Creditors. The Receiver also considered information from the Purchaser that its investigations indicated that the market value for the Properties is considerably less than the amounts owing under the charges held by the Objecting Creditors as well as its understanding that the amounts owing by the Companies to Cesaroni and Romith were secured against other lands held by a principal of the Companies.

[22] During the hearing, I was advised by counsel for the Receiver and the Purchaser that the Purchaser agreed that if its Stalking Horse Offer was the successful bid, it would still be bound by and complete the agreement of purchase and sale if one or either of the Properties were excluded from the sale subject to a price reduction based on the allocated amount.

[23] The real issue raised by the Objecting Creditors is the fairness to them of including the Properties in the Stalking Horse Offer for the consideration provided. In my view, that issue cannot and should not be decided in advance of approval of the relief sought by the Receiver on this motion. The interests of all of the creditors and stakeholders of the Companies in a sale of the business as an operating marina override the concerns of the Objecting Creditors at this stage.

[24] Accordingly, I am not prepared to adjourn the approval of the Stalking Horse Offer or the sale process at this stage or remove the Properties from the Stalking Horse Offer.

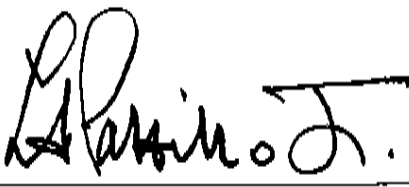
[25] In my view, the issue of whether the Properties should be included as part of the final sale or not should be determined at the time approval of a proposed sale is sought and having regard to the factors set out in *Royal Bank v. Soundair Corp.* (1991), 7 C.B.R. (3d) 1 (Ont. C.A.).

[26] Accordingly, for the above reasons, I approve the Stalking Horse Offer and authorize the Receiver to enter into the agreement of purchase and sale in that regard. I also approve the proposed sales process. In my view, the process is transparent and the proposed timeline is fair and reasonable given the circumstances.

[27] Confidential Appendices "A" and "B" contain appraisals obtained by the Companies prior to the litigation as well as the Receiver's analysis of the value of the assets being sold as compared to the purchase price under the Stalking Horse Offer and a detailed discussion of potential claims by the Companies. It is commercially sensitive information which would seriously interfere with the sales process, causing harm to the Companies and the stakeholders if made public. I conclude therefore that the test set out in *Sierra Club of Canada v. Canada (Minister of Finance)*, [2002] 2 S.C.R. 522 (S.C.C.) at para. 53 has been met. The Appendices will be sealed until final completion of the sales process or further order of the Court.

[28] Finally, I approve the First, Second and Third Reports of the Receiver and the activities as set out therein.

[29] To the extent that the time lines for the sales process as proposed by the Receiver at the hearing need to be altered given the delay in the release of these reasons, I may be spoken to.



L. A. Pattillo J.

T A B E

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

THE HONOURABLE
JUSTICE *Rattino*

) WEDNESDAY, THE 18TH
)
) 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**"), Cesaroni Management Limited, Romith Investments Inc. Uplands Charitable Foundation and 2124915 Ontario Inc., no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Brendan Bissell sworn February 9, 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 Receiver's First Report dated December 11, 2014, the Receiver's Second Report dated December 19, 2014 and the Third Report be and are 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 AND DECLARES** that the terms of this Order are without prejudice to the position of Marquis Yachts LLC and Northpoint Commercial Finance LLC (collectively "**Marquis**") as to the propriety of the conduct of the Receiver with respect to the Marquis Yacht as defined in the Reports.
5. **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.
6. **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).
7. **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.

8. **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.

9. **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;

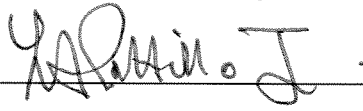
- (ii) the Receiver may establish such timelines and protocols for the Auction as it considers appropriate, in its discretion, which will not be inconsistent with the terms of this Order;
 - (iii) the “**Winning Bid**” shall be: (1) if there are no bids at the auction, the Person with the Lead Bid; or (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.

10. **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. The purchaser of any Purchased Assets shall be entitled to continue to use the personal information provided to it, and related to the Purchased Assets purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.


11. **THIS COURT ORDERS** that the Receiver and its counsel be and they hereby are authorized to serve or send, or cause to be served or sent, this Order (including any of the materials referred to in this Order and other materials relating to the Sales Process), any other materials and orders in these proceedings, and any notices or correspondence, by commercial electronic messages to electronic addresses, attaching true copies thereof, of the Debtors' creditors and other interested parties (including prospective purchasers or bidders to the extent necessary or desirable to provide information and material with respect to the Sales Process), and their advisors. For greater certainty, any such service or sending shall be deemed to be in satisfaction of a legal or judicial obligation, or the provision of notice of an existing or pending right, legal or juridical obligation or court order, within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DOS).

12. **THIS COURT ORDERS AND DECLARES** that nothing in this Order shall constitute approval of the purchase prices for the parcels of Lands set out in section 2.2(d) of the Stalking Horse Agreement of Purchase and Sale, and this Order is made without prejudice to the rights of Uplands Charitable Foundation, Cesaroni Management Limited and Romith Investments Limited

to object to such prices for the respective parcels on which they hold a charge or the inclusion of such parcels as part of the transaction to be approved in an Approval and Vesting Order.

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 MAR 17 2015

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;

<p>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.</p>	<p>Commercial List File No. 14-CV-10798- 00CL</p>
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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceedings commenced at
Toronto

ORDER
(Stalking Horse and Sales Process)

GOLDMAN SLOAN NASH & HABER LLP
480 University Avenue, Suite 1600
TORONTO, ON M5G 1V2
Fax: 416-597-3370

Michael B. Rotsztain (LSUC #: 17086M)
Tel: 416-597-7870
Email: rotsztain@gsnh.com

R. Brendan Bissell (LSUC #: 40354V)
Tel: 416-597-6489
Email: bissell@gsnh.com

Lawyers for A. Farber & Partners Inc. in its capacity as the
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.

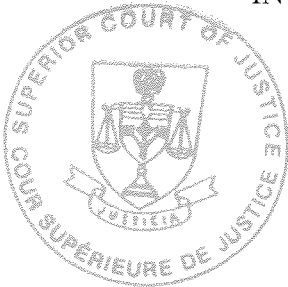
TAB F

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST- IN BANKRUPTCY)**

THE HONOURABLE MR.) WEDNESDAY, THE 18TH
JUSTICE PATILLO)
DAY OF FEBRUARY, 2015

Court File No. 31-1932502

IN THE MATTER OF THE BANKRUPTCY OF
CRATE MARINE SALES LIMITED



Court File No. 31-1932534
Court File No. 31-1932548
Court File No. 31-1932557
Court File No. 31-1932540
Court File No. 31-1932555
Court File No. 31-1932553

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

ORDER
(Advice and Directions - Stalking Horse Agreement)

THIS MOTION, made by A. Farber & Partners Inc. ("**Farber**"), in its capacity as the Trustee in bankruptcy (in such capacity, the "**Trustee**") of the estates 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**"), for an order substantially in the form included in the Trustee's Motion Record, amongst other things, providing this Honourable Court's advice and directions regarding the

Trustee's executing the agreement of purchase and sale dated February 8, 2015 entered into between A. Farber & Partners Inc., in its capacity as the Court-appointed Receiver of the Companies (the "**Receiver**") and 2450902 Ontario Limited (the "**Stalking Horse Offer**"), for the limited purpose of being bound by Sections 1.1(s) and 2.7 thereof, and sealing Confidential Appendix "A" to the Third Report of the Trustee dated February 12, 2015 (the "**Third Report**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Third Report and appendix thereto and the Third Report of A. Farber & Partners Inc. as Receiver (the "**Receiver**") and the appendices thereto, and on hearing the submissions of counsel for the Trustee, and 2450902 Ontario Limited (the "**Stalking Horse Bidder**"), and the other parties as indicated on the counsel slip, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of R. Brendan Bissell sworn February 12, 2015, filed.

1. **THIS COURT ORDERS** that the time for service and filing of the Trustee'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.

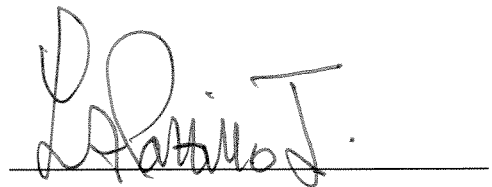
2. **THIS COURT ORDERS** that Confidential Appendix "A" to the Third Report be and is hereby sealed until further Order of this Court. *final completion of the sales process* SP.

3. **THIS COURT ORDERS** that the Trustee is hereby authorized and directed to enter into the Stalking Horse Offer, substantially in the form of the agreement attached as Appendix "Z" to the Third Report of the Receiver, for the limited purpose of being bound by Sections 1.1(s) and 2.7 thereof.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:



MAR 17 2015



<p>IN THE MATTER OF THE BANKRUPTCY OF CRATE MARINE SALES LIMITED</p>	<p>Court File No. 31-1932502</p>
<p>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.</p>	<p>Court File No.: 31-193502 Court File No.: 31-193534 Court File No.: 31-193548 Court File No.: 31-193557 Court File No.: 31-193540 Court File No.: 31-193555 Court File No.: 31-193553</p>

<p>ONTARIO</p> <p>SUPERIOR COURT OF JUSTICE</p> <p>(COMMERCIAL LIST – IN BANKRUPTCY)</p> <p>Proceedings commenced at Toronto</p>	<p>ORDER</p> <p>(Advice and Directions - Stalking Horse Agreement)</p> <p>GOLDMAN SLOAN NASH & HABER LLP 480 University Avenue, Suite 1600 TORONTO, ON M5G 1V2 Fax: 416-597-3370</p> <p>Michael B. Rotsztain (LSUC #: 17086M) Tel: 416-597-7870 Email: rotsztain@gsnh.com</p> <p>R. Brendan Bissell (LSUC #: 40354V) Tel: 416-597-6489 Email: bissell@gsnh.com</p> <p>Lawyers for A. Farber & Partners Inc. in its capacity as the trustee in bankruptcy of the estates 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.</p>
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TAB G

March 25, 2015

DELIVERED BY EMAIL & FACSIMILE

Emilio Bisceglia
Bisceglia & Associates
7941 Jane Street
Suite 200
Concord ON L4K 4L6

Dear Mr. Bisceglia:

**RE: Receivership of Crate Marine Sales Ltd. et al
Commercial List File No.: CV-14-10798-00CL
Mortgages by Cesaroni Management Limited ("Cesaroni") to 1328559 Ontario Limited
and Lynn Joanne Marko**

I am writing further to the several discussions between you and I and the several e-mails between our offices respecting the security held by, and the indebtedness owing to, Cesaroni in respect of charges registered by Cesaroni against premises currently owned by Lynn Marko bearing PIN No's: 04375-1969, 03475-1908, 03475-1907, and 03475-0155 (collectively, the "**Marko Mortgages**") and against premises owned by 1328559 Ontario Limited bearing PIN No's.: 03475-1972 and 03475-1967 (the "**8559 Mortgage**").

In our earlier discussions, we considered whether the Marko Mortgage and the 8559 Mortgage were in any way cross-collateralized. It is now quite clear that they are; both by their terms and also by virtue of the Notice of Sale under charge and other documents delivered under cover of your letter of February 18, 2015 with respect to the Marko Mortgage.

The request by our client, the Receiver, for all certain information and documentation relating to both the Marko Mortgage and the 8559 Mortgage remains outstanding. Please accordingly forthwith provide the following:

1. A listing of any other security, collateral, or covenants in respect of the 8559 Mortgage and the Marko Mortgage beyond the covenants and collateral granted on the face of those instruments; and
2. A complete statement of all amounts asserted to be owing under both the 8559 Mortgage and the Marko Mortgage as well as the total quantum of all amounts owing to Cesaroni under the cross-collateralized facilities in question (I note that the two mortgages by their terms appear to be limited to a principal balance of \$1,000,000 in each case; the total amount payable to Cesaroni under both cross-collateralized

mortgages, whether or not above one million dollars registered amount, should accordingly be indicated; and

Given the length of time for which this request has been outstanding, if the information and documentation sought is not provided forthwith then the Receiver will be obliged to seek an order from the Court to compel it.

Yours truly,

GOLDMAN SLOAN NASH & HABER LLP

Per:

A handwritten signature in dark ink, appearing to read "R. B. Bissell", with a stylized flourish at the end.

R. Brendan Bissell

Assistant: Annessa Cenerini

416-597-9922 ext. 126, cenerini@gsnh.com

RBB:ac

C.c.: S. Mitchell – A Farber & Partners Inc.
M. Rotsztain

TAB H

TENDERS

Farber
FINANCIAL GROUP



INVITATION FOR OFFERS

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 "Crate Marine")

A. Farber & Partners Inc., in its capacity as Court-appointed Receiver (the "Receiver") of Crate Marine, is offering for sale the right, title and interest of Crate Marine in its assets, undertakings and property (the "Assets") under a Sales Process approved by Order of the Ontario Superior Court of Justice. The purpose of this invitation for offers is to obtain offers that are superior to a baseline or "stalking horse" offer submitted to the Receiver for substantially all the Assets.

Crate Marine operated marinas on Lake Simcoe in Keswick, Willow Beach and Lagoon City, Ontario. Crate Marine was also a new and used boat dealer, with sales offices in Keswick, Port Credit and St. Paul-Ile-Aux-Noix (Quebec). The Assets being offered for sale include:

- Land and buildings
- Equipment, docks, vehicles and trailers
- Accounts receivable, boats and parts inventory
- Intellectual properties

The deadline for submission of offers is 5:00 p.m. (Toronto time) on Wednesday, March 18, 2015.

If you have an interest in this opportunity, please review the Crate Marine documents found in the Insolvency Engagements section of www.farberfinancial.com.

For additional information, please contact Peter Crawley at (416) 496-3507 or by email at pcrawley@farberfinancial.com

BUSINESS TO BUSINESS

AIRCRAFT

1990 Challenger 601 3AER Eng on JSSI,
7,500 AFTT, Cdn, 10 pax \$2.4M USD.
J. Spears 416-203-0600, jaspears.com.

CESSNA CARAVAN AMPHIBIAN
For sale. Only 175 hours TT. Immed.
avail. Ken Wilson 647-227-6996; email:
ken@wilsonaircraft.com

Cessna Citation Ultras, ideal
combination of Speed, Range, Load &
Short Field Capabilities. Contact John
Hopkinson & Associates @ 403-291-9027.

BUSINESS OPPORTUNITIES

FEATURE FILMS - Guaranteed Returns.
Opportunities from \$50k-\$250k.
416-504-3456 or films@emmeron.ca

BUSINESS OPPORTUNITIES

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Waterloo/ EastSideM- Barrie- Cobourg
London- Oakville/ Stinsons- Burlington/
YOLO- Markham/416-432-0260

CAPITAL WANTED/AVAILABLE

PRIVATE LENDER for construction,
development, refinance, acquisition.
Range \$2M - \$50M. Fast decisions.
204-334-0409 or wwwcapital@shaw.ca

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GTA LAW FIRM has mortgage
investments avail. Yield from 7.0% -15%
paid monthly. 905-568-3810 Ext. 203.

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Patented Forensics Personal DNA
Solutions seeking Equity/Partner. Min.
\$250K, HO TO, ready to launch. Lrg mkt.
www.identadna.com; 866-282-9560.

Weekly Appointments

The following appointments have been announced by companies and

All Globe and Mail appointment notices are archived at
www.globeandmail.com/appointments



Jim Bertram
to Executive Chair
Keyera Corp.



Douglas Haughey
to Independent
Lead Director
Keyera Corp.



Antoine Chagnon
to President
and CEO
Lallemand Inc.



William (Bill)
Nankervis
to Executive VP
and COO
Lallemand Inc.

THE GLOBE AND MAIL

To make arrangements for a Report on
recruitment@globeandmail.com

Report on Bu

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TAB I



INVITATION
FOR OFFERS



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 "Crate Marine")

A. Farber & Partners Inc., in its capacity as Court-appointed Receiver (the "Receiver") of Crate Marine, is offering for sale the right, title and interest of Crate Marine in its assets, undertakings and property (the "Assets") under a Sales Process approved by Order of the Ontario Superior Court of Justice. The purpose of this invitation for offers is to obtain offers that are superior to a baseline or "stalking horse" offer submitted to the Receiver for substantially all the Assets.

Crate Marine operated marinas on Lake Simcoe in Keswick, Willow Beach and Lagoon City, Ontario. Crate Marine was also a new and used boat dealer, with sales offices in Keswick, Port Credit and St.Paul-Ile-Aux-Noix (Quebec). The Assets being offered for sale include:

- Land and buildings
- Equipment, docks, vehicles and trailers
- Accounts receivable, boats and parts inventory
- Intellectual properties

The deadline for submission of offers is 5:00 p.m. (Toronto time) on Wednesday, March 18, 2015.

If you have an interest in this opportunity, please review the Crate Marine documents found in the Insolvency Engagements section of www.farberfinancial.com.

For additional information, please contact Peter Crawley at (416) 496-3507 or by email at pcrawley@farberfinancial.com

TAB J

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CRATE MARINES SALES DEADLINE FOR OFFERS IS MARCH 18

CRATE MARINES SALES DEADLINE FOR OFFERS IS MARCH 18



An advertisement by A. Farber & Partners Inc., in the February 26 edition of the Georgina Advocate newspaper lists an invitation for offers on Crate Marines Sales Ltd.

Established in the early 1930s, Crate Marines Sales Limited is certainly one of Canada's largest marina operations. The notice in the newspaper states, "A. Farber & Partners Inc., in its capacity as court-appointed receiver of Crate Marine is offering for sale the right, title and

interest of Crate Marine in its assets, undertakings and property under a sales process approved by order of the Ontario Superior Court of Justice. The purpose of this invitation for officers is to obtain offers that are superior to a baseline or "stalking horse" offer submitted to the receiver for substantially all the assets.

Crate Marine operated marinas on Lake Simcoe in Keswick, Willow Beach and Lagoon City, Ontario. Crate Marine was also a new and used boat dealer with sales offices in Keswick, Port credit and St.Paul-lie-Aux-Noix, Quebec.

The deadline for submission of offers is 5 PM Toronto time on Wednesday, March 18, 2015.

Information is available in the Insolvency Engagement section of www.farberfinancial.com. For additional information, please contact Peter Crawley at 416-496-3507 or by email at pcrawley@farberfinancial.com



WE KNOW STERN DRIVES!
705.326.7898
www.bridgeportmarina.ca

SIGN UP FOR OUR NEWSLETTER



2015
Port Credit BOAT SHOW
CREDIT VILLAGE MARINA
MAY 29TH - 31ST, 2015
PORTCREDITSPRINGBOATSHOW.COM
PRODUCED BY **SANADIAN**



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Experienced Keel
Repair Service

Keel Repair
Keel Bolt Replacement
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2015 Inspired Boating Calendar



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The world's first permanently sealed waterproof camera, the SeaLife Micro HD, is ready for ...

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As Boating BC continues to grow and expand their reach to the boating public through social media, ...

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NEW TECHNOLOGY MAKES STABILIZATION A REALITY FOR ...

Until now, owners of 30'-50' boats put up with a rolling vessel in rough weather, or simply stayed ...

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TAB K


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Classified Ads

Classified Positions Available

Office Assistant

Isleton, CA

Willow Berm Marina, located on the "Delta Loop," has an immediate position opening for an Office Assistant.

Responsibilities include, but are not limited to, the following:

- Answer phone, distribute messages.
- Answer fuel dock phone, radio for fuel or pump-out.
- Answer questions about berths, berth availability and surrounding area.
- Assist with guest dock reservations.
- Assist with store sales.
- Keep marina forms and spreadsheets up to date and stocked.
- Update tenant and vendor insurance and records.
- Data entry in Marina Program.
- Update and maintain social media and website.

Skills/Qualifications:

- Outstanding customer service skills.
- Basic office skills – telephone, computer, verbal and written communication.
- Dependable, punctual, and ability to perform at a professional level.
- Available to work weekends.

Desirable Qualifications:

- Knowledge of boating and the Delta.
- Knowledge of Quick books.

32 to 40 hrs. per week, starts at \$11.00 per hr.

Compensation package includes full medical, vacation, paid holidays and bonus.

Send resume to: willowberm@hotmail.com

Posted 10/16/14

Real Estate

Waterfront Condo Site for Sale

LAUGHLIN BAY MARINA / 487 UNITS

DELUXE WATER FRONT CONDO SITE

3 parcels located in Clark County - Nevada

- 264-33-101-003 commercial building on 2.04 acres
- 264-28-402-005 Dock on 6.73 acres
- 264-28-402-004 20.81 acres 19.50 entitled for 487 condo MARINA :
- Three-Lane Launch Ramps, 110 Boat Slips and 48 Jet Ski Slips
- A Five-Story 20,133 Square feet Climate-Controlled Boat Storage Facility
- 2 Story Marina Building (H1 Zoning) 7,280 Square foot Lagoon Views, Retail Shop, Café, Full Service Restaurant, Cocktail Bar, Gaming, Admin Offices, Two-Bedroom / Two-Bath Apartment Potentials
- 5,409 Square Feet Clubhouse with Fitness Center, Pool, & Spa (Not currently active)
- Lit Board Walk Area With Gazebos, Sandy Beaches & Recreational Areas

Contact info:

Marie Panes

Enterprise One Inc.

5560 S. Fort Apache Rd. Suite 100
 Las Vegas, NV 89148
 702-202-1600
 marie@enterpriseoneinc.com
 Posted 2/25/15

Marinas for Sale

**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.,
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- Land and buildings
- Equipment, docks, vehicles and trailers
- Accounts receivable , boats and parts inventory
- Intellectual properties

A. Farber & Partners Inc., in its capacity as Court-appointed Receiver (the "**Receiver**") of Crate Marine, is offering for sale the right, title and interest of Crate Marine in its assets, undertakings and property (the "Assets") under a Sales Process approved by Order of the Ontario Superior Court of Justice. The purpose of this invitation for offers is to obtain offers that are superior to a baseline or "stalking horse" offer submitted to the Receiver for substantially all the Assets.

The deadline for submission of offers is 5:00 p.m. (Toronto time) on Wednesday, March 18, 2015.

If you have an interest in this opportunity, please review the Crate Marine documents found in the Insolvency Engagements section of www.farberfinancial.com. For additional information, please contact Peter Crawley at (416) 496-3507 or by email at pcrawley@farberfinancial.com.
 Posted 2/23/15

Marina and Resort for Sale

Coolin, ID

Blue Diamond Marina and Resort – located in Priest Lake, Idaho.

958 Blue Diamond Road

P.O. Box 190

Coolin, ID 83821

- Turn-key business with loyal customer base.
- Consistent revenue growth for 20 years.
- Opportunity for future expansion.
- Beautifully maintained assets.

Included in Offering:

- 60 boat moorage slips.
- Boat storage and workshop.
- Fleet of quality rental boats.
- Marina store and rental office.
- Boater showers and restroom.
- Restaurant with recent kitchen upgrades.
- 40 Open Slips.
- 4-bedroom/3-bath home used as residence and guest lodging.
- Exquisite landscaping.

For more information, please visit: <http://www.waterfrontbusinessforsale.blogspot.com>

Or contact: Carolyn Deshler, Owner
 Blue Diamond Marina and Resort
 Phone: 208.443.2240
 Email: info@bluediamondmarina.com
 Updated 11/13/13

Marina for Sale

Lake Shasta, CA

Your opportunity to own a Marina Resort on beautiful Shasta Lake. **Sugarloaf Resort** is now being offered for sale at \$995,000.

Included in Offering:

- 40 Open Slips.
- 21 Houseboat Rental Permits.
- Over 3 acres of Waterfront Property with Septic & Leach Field.
- Access Docks, Ramps, & Restrooms.
- Floating Marina Store & Marine Fuel Facility.

For more information, please contact:
 Dave Smith
 340 S. Fairmont Ave.
 Lodi, CA 95240

Ph: 209-333-8500
Fax: 209-333-1753
Email: dave@houseboats.com
Updated 6/7/13

Marina for Sale

Big Fork, MT

For Sale: Bayside Park and Marine Center: Montana marina with development and expansion potential for 100+ slips with 515+ feet of protected waterfront on Big Fork Bay at the mouth of the Swan River entering Flathead Lake. The largest natural fresh water lake west of the Mississippi River. Near Glacier National Park and over a dozen golf courses. More information is available at <http://deanandleininger.com/bayside/>.

Posted 2/26/13

Here are some suggestions for your classified ad ...

Sample Help Wanted This is a help wanted position, so include name of position, brief requirements, contact's name and address, email address, and phone number.

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Sample Equipment for Sale This is a piece of equipment for sale, so include a description, price, seller's name and address, email address, and phone number.

Come back here often to check for marina opportunities and equipment! Members post ads for free. To post an opening or announcement, please send e-mail to Mariann Timms at mra@marina.org.

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TAB L

150 York Street
Suite 1600
Toronto, ON M5H 3S5
Canada

Office 416.497.0150
Fax 416.496.3839

www.farberfinancial.com

TIME SENSITIVE OPPORTUNITY

INVITATION FOR OFFERS TO PURCHASE THE ASSETS 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 "**Crates**")

OPPORTUNITY OVERVIEW

Crates' main operation is as a marina operator from owned lands in Keswick, Ontario. Crate also has other marina and related facilities that operate from leased premises in Ontario and Quebec.

On December 8, 2014, A. Farber & Partners Inc. was appointed Receiver (the "**Receiver**") of Crates by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). The Receiver's mandate includes selling the business and assets (the "**Property**") of Crates.

The Receiver has received a stalking horse offer (the "**Stalking Horse Offer**") for estimated total consideration of \$25,951,784 for Crates' right, title and interest in substantially all of the Property. The Stalking Horse Offer has been approved by Order of the Court (the "**Sales Process Order**") to serve as the baseline bid and, if it receives final approval from the Court, is scheduled to close by March 31, 2015. As mandated by the Sales Process Order, the Receiver is conducting a Court-approved sales process (the "**Sales Process**") under sales terms (the "**Sales Process Terms**") to seek a Superior Bid by the offer deadline of 5 p.m. (Toronto time) on March 18, 2015. To qualify as a Superior Bid under the Sales Process Terms, a competing offer must, among other things, be an all cash offer for consideration at least \$500,000 higher than \$25,951,784; i.e., for cash consideration of at least \$26,451,784.

THE BUSINESS

Crate Marine operates marinas in:

- i) Keswick, Ontario
 - a. 500 slips
 - b. 30 acres of waterfront property on Lake Simcoe
- ii) Willow Beach, Ontario 130 slips from leased premises
- iii) Lagoon City (Breachin), Ontario 277 slips from leased premises where the lease expires April 30, 2015

Crate Marine also operated a boat sales and service centre in St. Paul-Ile-aux-Noix, Quebec, near Lake Champlain, and a sales office at the Port Credit Marina in Mississauga, Ontario.

For more information on Crates Marine please visit: www.crates.com (all information on this site was prepared and posted by Crates personnel prior to the Receiver's appointment).

SALES PROCESS

Crates' Property subject to the Sales Process includes, but is not limited to, its right, title and interest in the following:

- Accounts receivable
- Inventory of boats and parts
- Vehicles and trailers
- Intellectual property
- Claims and choses in action
- Land and buildings
- Docks
- Trademark & website
- Customer list

The Sales Process is intended to solicit Superior Bids to the Stalking Horse Offer. As noted above, a Superior Bid would have to be for cash consideration of at least \$26,451,784. In addition, a Superior Bid must satisfy other requirements, as set out in the Sales Process Terms, including that it be substantially in the form of the Stalking Horse Offer.

BID DEADLINE

Pursuant to the Sales Process Order and Sales Process Terms, all offers for the purchase of Crates' right, title and interest in the Property must be submitted to the Receiver by no later than **5:00 p.m. (Toronto time) on the 18th of March, 2015** (the "**Bid Deadline**") at the office of the Receiver.

The Sales Process Terms also require, among other things, that a deposit equal to at least 5% of the aggregate purchase price under the subject bid be paid to the Receiver in trust on or before the Bid Deadline by way of certified cheque, bank draft or wire transfer.

If one or more Superior Bids (as defined in the Sales Process Terms) are received by the Bid Deadline, an auction will be held at 10:00 AM (Toronto time) on March 23rd, 2015 at the offices of the Receiver. A Court hearing to seek approval of the winning bid agreement would then be sought by April 1st, 2015, with closing to follow by April 8th, 2015.

PURSUING THIS OPPORTUNITY

Parties interested in acquiring Crates' right, title and interest in the Property will be required to sign a confidentiality agreement prior to being granted access to the transaction data room. Enquiries for potential purchaser qualification and receipt of a confidentiality agreement should be made to the Receiver to the attention of:

Peter Crawley, MBA, CPA, CA, CIRP
Tel: 416-496-3507
Email: pcrawley@farberfinancial.com

Interested parties may also visit the Receiver's website at www.farberfinancial.com and click on the "Crate Marine Sales Limited et. al." link under "Insolvency Engagements" for information and documents regarding this opportunity, including the Sales Process Order, the Sales Process Terms and the Stalking Horse Offer. Interested parties should continue to liaise with the Receiver to ensure they are familiar with the Sales Process Terms.

This information sheet has been prepared for the convenience of Prospective Bidders, who are referred to the Sales Process Order and Sales Process Terms for the complete terms and conditions governing the Sales Process.

February 18, 2015

TAB M

**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.

FOURTH REPORT OF THE RECEIVER

MARCH 6, 2015

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LIST OF APPENDICES

- “A” Amended Order of Mr. Justice Newbould dated December 8, 2014
- “B” Second Report of the Receiver (without appendices)
- “C” Order of the Honourable Mr. Justice Penny dated December 23, 2014 approving increased borrowing
- “D” Third Report of the Receiver (without appendices)
- “E” Endorsement of the Honourable Mr. Justice Pattillo February 18, 2015
- “F” Receiver’s interim statement of receipts and disbursements as of February 18, 2015
- “G” Fee Affidavit of John Hendriks sworn March 6, 2015
- “H” Fee Affidavit of R. Brendan Bissell sworn March 6, 2015
- “I” Receiver’s cash flow projection from February 18 to March 31, 2015

**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.

FOURTH REPORT OF THE RECEIVER

March 6, 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:

PURPOSE OF THIS REPORT

1. This is the fourth report of the Receiver (the “**Fourth Report**”). Its purpose is to seek an order:
 - a) approving the fees and expenses of the Receiver and its counsel, Goldman Sloan Nash & Haber LLP (“**GSNH**”) since appointment on December 8, 2014 to February 8, 2015, which was the date of the Third Report; and
 - b) approving an increase in the authorized borrowing power of the Receiver from \$1,000,000 to \$2,000,000.

INTRODUCTION

2. 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**”).

3. 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 certain of the Companies and (iii) to substitute A. Farber & Partners Inc. as bankruptcy trustee of certain of the Companies. At the November 21, 2014 hearing, this motion was adjourned to December 1, 2014.

4. 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**”). The Order and accompanying endorsement have not been appended in the interests of economy.

5. 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. The Order granted was amended on December 12, 2014, when the Receiver and Trustee brought a motion to correct a typographical error. The Amended Order dated December 8, 2014 is attached as **Appendix “A”**.

6. The Receiver also brought a motion on December 12, 2014 for procedural consolidation of certain of the bankruptcy estates of the Companies and other administrative relief, which was also granted by the Honourable Justice Newbould. The First Report of the

Receiver and Trustee, as well as the resulting Order in that regard, have not been appended to this Report in the interests of economy.

7. On December 23, 2014, the Receiver and Trustee brought a motion to increase the borrowing power of the Receiver from \$500,000 to \$1,000,000. The Second Report of the Receiver and Trustee in that regard is attached (without appendices) as **Appendix “B”**. On December 23, 2014, the Honourable Justice Penny issued an Order granting that motion, a copy of which is attached as **Appendix “C”**.

8. The Receiver also brought a motion on December 23, 2014 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; and (iv) establish a property claims process pertaining to the proprietary and secured claims against tangible personal property of the Companies. The Honourable Justice Penny also issued Orders granting that relief, but which have not been appended to this Report in the interests of economy.

9. On February 13, 2015, the Receiver brought a motion (i) to approve a stalking horse offer to act as a baseline bid in a stalking horse sales process, and (ii) for approval of the First, Second and Third Reports of the Receiver. A copy of the Third Report of the Receiver is attached (without appendices) as **Appendix “D”**. A copy of the endorsement of Mr. Justice Pattillo dated February 18, 2015 granting the relief sought is attached as **Appendix “E”**. The formal Order has not yet been taken out due to a dispute regarding its terms with one of the parties appearing on that motion.

LIMITATION OF REVIEW

10. 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 Fourth 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 Fourth Report for the sole use of the Court and of the other stakeholders in these proceedings.

A) EXPENDITURE OF FUNDS TO DATE

11. The interim statement of receipts and disbursements of the Receiver as of February 18, 2015 is attached as **Appendix “F”**.

12. The Receiver has to date borrowed the authorized limit of \$1,000,000.00, which is shown in Appendix “F”. The funds have been advanced by Crawmet under two Receiver’s Borrowing Certificates bearing interest at 12% per annum.

13. Cash receipts have otherwise been minimal, owing to both the dormant state of operations at the marinas over the Winter months, and the uncertainty that may have been present in the minds of marina customers as to whether the marinas would be in operation for the 2015 boating season (such that payment of slip rental and other ongoing services would be appropriate).

B) APPROVAL OF FEES

14. Attached as **Appendix “G”** is an affidavit of the Receiver setting out its fees and disbursements from December 8, 2014 to February 8, 2015. The Receiver’s detailed statements of account for this period are attached as exhibits to that affidavit. The total quantum of the amounts incurred and for which approval is sought is \$591,470.45.

15. Attached as **Appendix “H”** is an affidavit of GSNH setting out its fees and disbursements from December 8, 2014 to February 8, 2015. GSNH’s detailed statements of account for this period are attached as exhibits to that affidavit. The total quantum of the amounts incurred and for which approval is sought is \$392,157.82.

C) INCREASED BORROWINGS CHARGE

16. The Receiver has prepared a cash flow projection for the period from February 18, 2015 to March 31, 2015, a copy of which is attached as **Appendix “T”**.

17. March 31 has been used as the end of the forecast period in Appendix “T” because that is the anticipated timing of the closing of a sale in the stalking horse bid process if the existing stalking horse offer is the winning bid, pursuant to the sales process described in the Third Report (Appendix “D”) and authorized by the February 18, 2015 endorsement of Justice Pattillo (Appendix “E”). If there is another winning bid, then the anticipated closing would be approximately April 8 under that sales process. The Receiver does not believe that there is any material difference between these two dates for funding purposes.

18. As shown in Appendix “T”, the funds on hand are insufficient to satisfy the ongoing costs of the Receivership to the time of the anticipated closing of a sale of assets, which will substantially reduce the ongoing costs of administration after that time.

19. As of the date of this Report, the Receiver does not have any funds on hand available to pay any expenses.

20. The cash flow projection in Appendix “T” includes provision for the payment of the unpaid amount of the fees of the Receiver and GSNH to February 8, 2015 (for which approval is sought on this motion), but does not include payment of fees for the period after February 8, 2015 to March 31, 2015.

21. It is unlikely that the increased borrowing power sought will be sufficient to pay professional fees from February 8 to March 31, 2015. The Receiver anticipates addressing payment of such fees as part of the closing of the sale to the successful bidder under the stalking horse sales process, because payment of those fees is, among other things, required as part of the purchase price as described in paragraph 74 of the Third Report (note that the projected fees as estimated in the chart in that paragraph are subject to revision, as the fees of the Receiver and GSNH have been and are expected to be higher than had been projected at

that time).

22. Ongoing expenses of the Receiver after closing of an asset sale to the successful bidder are the subject of a portion of the purchase price to be deposited as a form of trust funds with the Receiver for that purpose. Receiver's borrowings are therefore not contemplated to address post-closing professional fees and expenses of the Receiver and GSNH.

D) CONCLUSION

23. A. Farber & Partners Inc. in its capacities as Receiver accordingly seeks the Order attached as Schedule "A" to its Notice of Motion.

All of which is respectfully submitted this 6th day of March, 2015.

A. FARBER & PARTNERS INC.

IN ITS CAPACITY AS THE 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.

A handwritten signature in black ink, reading "Stuart Mitchell". The signature is written in a cursive, flowing style with a large initial 'S'.

Per: Stuart Mitchell
Senior Vice President

TAB N

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

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

**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.**

Court File No. 31-1932502

**IN THE MATTER OF THE BANKRUPTCY OF
CRATE MARINE SALES LIMITED**

Court File No. 31-1932534
Court File No. 31-1932548
Court File No. 31-1932557
Court File No. 31-1932540
Court File No. 31-1932555
Court File No. 31-1932553

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

**FIFTH REPORT OF THE RECEIVER
AND FOURTH REPORT OF THE TRUSTEE**

MARCH 9, 2015

A. Farber & Partners Inc., in its capacities as the Court appointed Receiver (the "Receiver") and as the trustee in bankruptcy (the "Trustee") of the estates 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:

PURPOSE OF THIS REPORT

1. This is the fifth report of the Receiver and fourth report of the Trustee (the "Report"). Its purpose is to report on information and documentation that the Receiver and Trustee has obtained that Steven Crate, Gregory Crate and Lynn Marko appear, based on the records and information available to the Receiver and Trustee, to have deliberately taken steps after the commencement by the Companies of proposal proceedings pursuant to the *Bankruptcy and Insolvency Act* (the "BIA"), to clandestinely convert the proceeds of withdrawals from the cash surrender value of insurance policies held in the names of 1382415 Ontario Ltd. ("415") and 1382416 Ontario Ltd. ("416") of \$354,647.02 for their own benefit and/or for the benefit of other Crate family members. At all material times, these individuals were the directors and officers of 415 and 416. This pattern of behaviour even continued after the date of the receivership and bankruptcy of the Companies

2. The Receiver and Trustee accordingly seeks orders:

- a) without notice that, pending further Order of this Court, Steven Crate, Gregory Crate, Lynn Marko, Jessica Leanne Crate and James Crate and Fahey Crate Professional Corporation, and any other person having knowledge of the Order, preserve, and not deal with in any manner without the express written consent of the Receiver and Trustee, any and all proceeds, including any property into which such proceeds may have been converted (collectively, the "Policies Proceeds"), of the life insurance policies issued by Transamerica Life Canada and held by 415 and 416 on the lives of Steven Crate, Gregory Crate and Lynn Marko (the "Policies") and, without limiting the generality of the foregoing:
 - i) the amount of \$160,000.00 transferred from the bank account of 415 on December 5, 2014 to the trust account of James R. Crate, a lawyer with Fahey Crate Law Professional Corporation; and
 - ii) the amount of \$184,247.02 transferred on December 11, 2014 from the bank accounts of 415 and 416 to the bank account of Jessica Leanne Crate.

b) with notice:

- i) Declaring that the Policies and the Policies Proceeds are Property of 415 and 416 within the meaning of the Order and Amended Order dated December 8, 2014 by which the Receiver and Trustee was appointed;
- ii) Directing any and all persons with knowledge of the Order to forthwith remit to the Receiver and Trustee any and all Policies Proceeds within their possession, power or control;
- iii) Without limiting the generality of paragraph 2(b)(ii), directing the remittance to the Receiver and Trustee of \$160,000.00 transferred from the bank account of 415 on December 5, 2014 to the trust account of James R. Crate, a lawyer with Fahey Crate Law Professional Corporation, and any Policies Proceeds thereof;
- iv) Without limiting the generality of paragraph 2(b)(ii), directing the remittance to the Receiver and Trustee of \$184,247.02 transferred on December 11, 2014 from the bank accounts of 415 and 416 to the bank account of Jessica Leanne Crate, and any Policies Proceeds thereof;
- v) Directing that James R. Crate, Jessica Leanne Crate, Steven Crate, Lynn Marko, Gregory Crate, and The Toronto Dominion Bank forthwith disclose to the Receiver and Trustee all records and documents within their knowledge, power, possession or control related to the Policies and/or the Policies Proceeds;
- vi) Declaring that all transactions in respect of the Policies Proceeds are void as against the Trustee pursuant to section 96 of the BIA;
- vii) Awarding damages against Jessica Leanne Crate, Steven Crate, Lynn Marko, and Gregory Crate on a joint and several basis pursuant to section 96 of the BIA and at common law for the Policies Proceeds or portions thereof not remitted to the Receiver and Trustee, on the basis that those individuals were parties or privy to the transfer of Policies Proceeds, which were transactions undertaken for no consideration to 415 and 416 and furthermore constituted appropriation of corporate assets;
- viii) Finding Steven Crate, Gregory Crate and Lynn Marko in contempt of the Order and Amended Order of the Honourable Mr. Justice Newbould dated December 8, 2014 which appointed the Receiver, in that, contrary to paragraphs 5 and 6 of those Orders:
 - A) they failed to notify the Receiver of the Policies and the Policies Proceeds,

- B) they failed to provide the Receiver with Records within the meaning of those Orders pertaining to the Policies and the Policies Proceeds, and
- C) they appropriated the Policies Proceeds for improper purposes; and
- ix) Authorizing the Trustee to initiate proceedings for the prosecution of offences as described in the Report.

3. The Trustee has not yet sought inspector approval for the motions referred to above, given the urgency in getting the relief set out in paragraph 2(a) and the without notice considerations in that regard, as discussed below. The Trustee will seek such approval following this Report, and if necessary will apply to the Court for approval.

INTRODUCTION TO THE PROCEEDINGS

4. On November 14, 2014, the Companies each filed a Notice of Intention to Make a Proposal (the “NOI’s”) pursuant to the BIA.

5. 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 of the Companies (other than 415 or 416) immediately terminated; (ii) appoint A. Farber & Partners Inc., as a receiver over the properties, assets and undertakings of the Companies (other than 415 or 416) and (iii) to substitute A. Farber & Partners Inc. as bankruptcy trustee of the Companies (other than 415 or 416) (the “Crawmet Motion”).

6. At the November 21, 2014 hearing, the Crawmet Motion was adjourned to December 1, 2014. Pending that hearing, A. Farber & Partners Inc. was appointed interim receiver (the “Interim Receiver”) of the Companies other than 415 and 416 (over which Crawmet did not have specific security) 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 that they carried on, including all proceeds thereof (the “Property”) pursuant to the November 21, 2014 Order of the Honourable Mr. Justice Penny (the “Interim Receiver Order”). A copy of the Interim Receiver Order is attached at **Appendix “A”**. A copy of the endorsement dated November 21, 2014 is attached at **Appendix “B”**.

7. In advance of the December 1, 2014 hearing, the Interim Receiver filed its First Report, a copy of which is attached without appendices as **Appendix "C"**.
8. The Crawmet Motion was argued further on December 1, 2014, at which time the Honourable Mr. Justice Penny further adjourned the motion to December 9, 2014. The endorsement of Mr. Justice Penny of that day is attached as **Appendix "D"**.
9. Following the December 1, 2014 hearing, the Interim Receiver discovered certain facts and matters, which the Interim Receiver believed were of an urgent and material nature such that they required immediate disclosure in advance of the scheduled hearing on December 9, 2014. The Interim Receiver therefore served and filed its Second Report, a copy of which is attached (without appendices) as **Appendix "E"**.
10. The Interim Receiver also filed a Supplementary Report to its Second Report, a copy of which is attached (without appendices) as **Appendix "F"**.
11. On December 4, 2014, the Honourable Mr. Justice Newbould heard a further motion by Crawmet to seek relief under the Crawmet Motion. The relief sought was further adjourned to December 8, 2014. A copy of the endorsement of the Honourable Mr. Justice Newbould dated December 4, 2014 is attached as **Appendix "G"**.
12. For the hearing on December 8, 2014, the Interim Receiver prepared and filed a Third Report, a copy of which is attached as **Appendix "H"**. At that hearing, the Honourable Mr. Justice Newbould terminated the NOI proceedings of the Companies and appointed A. Farber & Partners Inc. as Receiver and Trustee of all the Companies (including 415 and 416). A copy of the Order of that date is attached as **Appendix "I"**, and a copy of the handwritten Endorsement of that date along with an unofficial typed transcription is attached as **Appendix "J"**.
13. Since December 8, 2014, the Receiver and Trustee have taken the following steps and brought the following motions, all of which have been more fully set out in the First, Second and Third Reports of the Receiver and Trustee:

- a) On December 12, 2014, the Receiver and Trustee brought a motion to

correct a typographical error in the Order dated December 8, 2014 regarding a misdescription of 1282648 Ontario Limited, and for procedural consolidation of certain of the bankruptcy estates of the Companies and other administrative relief. The Honourable Justice Newbould issued an Amended Order dated December 8, 2014, a copy of which is attached as Appendix "K". Justice Newbould also issued an order dated December 12, 2014 in respect of the consolidation and administrative relief, which is not attached for purposes of economy;

- b) 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 Honourable Justice Penny issued Orders granting that relief, which are not attached in the interests of economy;
- c) On January 14, 2015, the Receiver and Trustee commenced an application against Steven Crate, Gregory Crate, Lynn Marko, Ryan Crate, and Robin Crate (a.k.a. Robin Price) and sought and obtained a certificate of pending litigation without notice regarding properties held in their name in the vicinity of the lands owned by the Companies in Keswick but for which the Companies appear to have provided all funds for the acquisition and maintenance of those properties;
- d) On January 30, 2015 the Receiver and Trustee commenced a further application against Ryan Crate and sought and obtained a certificate of pending litigation with notice regarding further a property held in his name at 14 Highland Ave. in Belleville, but for which the Companies appear to have provided all funds for the acquisition and maintenance of that property;
- e) On February 13, 2015, the Receiver and Trustee brought motions for approval of a stalking horse sales process. By endorsement released February 18, 2015, the Honourable Mr. Justice Pattillo granted the relief sought, which is not attached in the interests of economy; and
- f) On February 19, 2015 the Receiver commenced applications for bankruptcy orders against Steven Crate, Gregory Crate, Lynn Marko and the estate of Lloyd Crate in connection with amounts owing by them to the Companies. Notices of Dispute have been filed in connection with these applications.

LIMITATION OF REVIEW

14. A. Farber & Partners Inc. in its capacities as Receiver and Trustee 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 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 Report for the sole use of the Court and of the other stakeholders in these proceedings.

A) DEPLETION OF LIFE INSURANCE POLICIES HELD BY 415 AND 416

15. The Receiver and Trustee has recently learned that during the NOI period and after the receivership and bankruptcy of the Companies, the directors and officers of 415 and 416, who are Steven Crate, Gregory Crate and Lynn Marko, took steps to withdraw \$354,647.02 of Policies Proceeds and then distribute it beyond the control of those companies. Part of the funds were paid to James Crate, a lawyer at Fahey Crate Professional Corporation during the NOI proceedings, and part of the funds were paid to Jessica Leanne Crate, the daughter of Gregory Crate, after the appointment of the Receiver and Trustee on December 8, 2014.

The Policies

16. In 2001, 415 and 416 took out the Policies on the lives of Steven Crate, Lynn Marko (née Crate), and Gregory Crate, as set out below:

Issue Date	Policy Number	Policy Owner	Policy Beneficiary	Policy Subject
April 28, 2001	080203460	F.S. Holdco 1382415 Ontario Ltd.	F.S. Holdco 1382415 Ontario Ltd.	Steven Crate
April 28, 2001	080203461	Crate Holdings 1382416 Ontario Ltd.	Crate Holdings 1382416 Ontario Ltd.	Steven Crate

June 21, 2001	080203458	Crate Holdings 1382416 Ontario Ltd.	Crate Holdings 1382416 Ontario Ltd.	Lynn Crate
June 21, 2001	080203459	F.S. Holdco 1382415 Ontario Ltd.	F.S. Holdco 1382415 Ontario Ltd.	Lynn Crate
April 28, 2001	080203462	Crate Holdings 1382416 Ontario Ltd.	Crate Holdings 1382416 Ontario Ltd.	Gregory Crate
April 28, 2001	080203463	F.S. Holdco 1382415 Ontario Ltd.	F.S. Holdco 1382415 Ontario Ltd.	Gregory Crate

Collectively attached as **Appendix "L"** are copies of the quarterly statements dated January 29, 2015 for the above-noted life insurance policies issued by Transamerica Life Canada ("Transamerica").

17. Premiums on the Policies were paid by the Companies' operating company, Crate Marine Sales Limited ("CMS"), and recorded as expenses of CMS on its books and records.

Discovery of the withdrawn amounts

18. On January 29, 2015 Transamerica sent quarterly statements regarding the Policies to the Companies, which were collected by the Receiver and Trustee in early February. These statements reproduced all activity during the period from October 28, 2014 to January 27, 2015, and disclosed that the aggregate amount of \$354,647.02 had been withdrawn as follows:

Policy Number	Policy Owner	Policy Beneficiary	Policy Subject	Amounts Withdrawn
080203460	F.S. Holdco 1382415 Ontario Ltd.	F.S. Holdco 1382415 Ontario Ltd.	Steven Crate	\$37,557.39
080203461	Crate Holdings 1382416 Ontario Ltd.	Crate Holdings 1382416 Ontario Ltd.	Steven Crate	\$37,557.39
080203458	Crate Holdings 1382416 Ontario	Crate Holdings 1382416 Ontario	Lynn Crate	\$86,801.27

	Ltd.	Ltd.		
080203459	F.S. Holdco 1382415 Ontario Ltd.	F.S. Holdco 1382415 Ontario Ltd.	Lynn Crate	\$86,801.27
080203462	Crate Holdings 1382416 Ontario Ltd.	Crate Holdings 1382416 Ontario Ltd.	Gregory Crate	\$52,964.85
080203463	F.S. Holdco 1382415 Ontario Ltd.	F.S. Holdco 1382415 Ontario Ltd.	Gregory Crate	\$52,964.85
Total:				\$354,647.02

19. As the quarterly statements only disclose that \$354,647.02 was withdrawn during the period from October 28, 2014 to January 27, 2015, the Receiver and Trustee contacted Transamerica requesting particulars of when the monies were withdrawn and to whom they were paid. By way of a letter dated February 25, 2015, Transamerica responded that the funds were withdrawn effective November 28, 2014, and paid to "Crate Holdings 1382416 Ontario Ltd." and "F.S. Holdco 1382415 Ontario Ltd.". Attached as **Appendix "M"** is a copy of Transamerica's letter dated February 25, 2015.

20. On February 26, 2015, the Receiver and Trustee wrote further to Transamerica requesting copies of cancelled cheques evidencing the payments. Attached as **Appendix "N"** is a copy of the Receiver and Trustee's letter to Transamerica of that date.

21. On March 3, 2015, Transamerica wrote the Receiver and Trustee enclosing copies of the six cancelled cheques payable to "Crate Holdings 1382416 Ontario Ltd." and "F.S. Holdco 1382415 Ontario Ltd.". These cheques were dated December 1, 2014 and deposited on December 3, 2014 at the Toronto-Dominion Bank branch located at 23532 Woodbine Ave., Keswick, Ontario (the "**TD Bank**"). Attached as **Appendix "O"** is a copy of Transamerica's letter dated March 3, 2015 and enclosures. It should be noted that the Companies' main operating bank account was held at the Bank of Montreal and the

Companies also had accounts with CIBC and the Bank of Nova Scotia. The Receiver was not previously aware of the Companies having any accounts with TD Bank.

22. The Receiver and Trustee then asked Transamerica for the documentation submitted by 415 and 416 to make those payments. Transamerica responded by fax dated March 5, 2015, a copy of which is attached as **Appendix "P"**, to enclose the authorizations received. They were all signed by Steven Crate, Gregory Crate and Lynn Marko and all appear to have been sent on November 28, 2014. They also state that they confirm conversations of November 27, 2014 in which the request to withdraw funds had been made.

23. Since the names "F.S. Holdco 1382415 Ontario Ltd." and "Crate Holdings 1382416 Ontario Ltd." were new to the Receiver and Trustee, its counsel conducted corporate and business name searches for those names and found that no corporations existed under those names. However, the business names searches revealed that on December 3, 2014 – the day the cheques were cashed – the following business names were registered:

Business Name	Corporation Name
Crate Holdings	1382416 Ontario Ltd.
F.S. Holdco	1382415 Ontario Ltd.

Collectively attached as **Appendix "Q"** are copies of the Business Name Reports for Crate Holdings and F.S. Holdco.

24. On March 4, 2015, the Receiver and Trustee wrote to TD Bank to ask that the accounts in the names of 415 and 416 be frozen and to provide copies of all documentation regarding those accounts, a copy of which is attached as **Appendix "R"**.

25. On March 5, 2015, Peter Crawley, a Senior Manager with the Receiver and Trustee, attended at the Keswick Toronto-Dominion branch and spoke with the branch manager, Deb Irvine. Ms. Irvine explained to Mr. Crawley that Steven, Lynn, and Gregory attended at the branch on December 3, 2014 to open accounts and deposit the cheques totaling \$354,647.02. She further told Mr. Crawley that Steven, Lynn, and Gregory told her that the cheques had nothing to do with the insolvency proceedings regarding the Keswick marina.

26. Ms. Irvine then provided Mr. Crawley with account history printouts for these accounts which provide the following information:

- a) Account No.: 5009326 – 2240 – “F.S. Holdco”
 - i) the account was opened on December 3, 2014;
 - ii) there was a deposit of \$177,323.51 on December 3, 2014;
 - iii) there was a transfer of \$160,000.00 out of the account on December 5, 2014;
 - iv) two cheques in the amounts of \$5,000.00 and \$5,400.00, respectively, were drawn on the account; and
 - v) the account was closed on December 11, 2014 with a credit of 6,923.51.
- b) Account No.: 5009342 – 2240 – “Crate Holdings”
 - i) the account was opened on December 3, 2014;
 - ii) there was a deposit of \$177,323.51 on December 3, 2014;
 - iii) the account was closed on December 11, 2014 with a credit of \$177,323.51.

Collectively attached as **Appendix “S”** are the account history printouts.

27. Ms. Irvine then showed Mr. Crawley the signed account closing authorizations documents which show that on December 11, 2014, Steven Crate and Gregory Crate authorized the closing of both accounts and transferring the remaining funds in the aggregate amount of \$184,247.02 to another Toronto-Dominion bank account in the Keswick branch: account no. 6096110 – 2240. Collectively attached as **Appendix “T”** are pictures taken by Mr. Crawley of the account closing authorization forms dated December 11, 2014.

28. Of note is that these authorization documents list 415 and 416 as the account holders.

29. After Mr. Crawley’s further inquiries, Ms. Irvine advised that the transfer of \$160,000.00 on December 5, 2014 was delivered to the trust account of James R. Crate, a lawyer with Fahey Crate Law Professional Corporation. In addition, Ms. Irvine advised Mr. Crawley that the account holder of account no. 6096110 – 2240 is Jessica Leanne Crate, the

daughter of Gregory Crate. The Receiver and Trustee notes that the Statement of Affairs sworn by Stephen Crate show the only creditors of 415 and 416 were two notional \$1 entries for Hydro One and a total of \$2,2279,459 owing to one of the other Companies, F.S. Crate & Sons Limited. None of the recipients of the Policies Proceeds (Jessica Crate, James Crate and/or Fahey Crate Law Professional Corporation) are known by the Receiver and Trustee to be creditors of 415 or 416. Further, none of the recipients of the Policies Proceeds were recorded as creditors of any of the Companies on the listing of creditors owed over \$250 filed by the Companies and the Proposal Trustee with the initial NOI filing on November 14, 2014.

B) LACK OF DISCLOSURE OF THE LIFE INSURANCE POLICIES HELD BY 415 AND 416 AND THE TRANSACTIONS TO WITHDRAW FUNDS

30. Steven, Lynn, and Gregory Crate have never advised the Receiver and Trustee of the existence:

- a) of the life insurance policies held by 415 and 416;
- b) of these Toronto-Dominion bank accounts into which the \$354,647.02 was deposited; or
- c) of the withdrawal of \$354,647.02 from life insurance policies held by the Companies.

31. The records pertaining to the Policies, which were previously on the premises of CMS, do not appear to be there now.

32. Had the Receiver and Trustee not been sent the quarterly report from Transamerica, it would never have known about the Policies.

33. The Receiver and Trustee is greatly concerned that the Policies and the transactions related to the Policies Proceeds (being (i) the requests for withdrawal on November 27 and 28, (ii) the cheques dated December 1, (iii) the deposits dated December 3 into TD, (iv) the cheque dated December 5 to James Crate, and (vi) the transfer dated December 11, 2014 to Jessica Leanne Crate) were not disclosed at any time during the NOI proceedings prior to December 8, 2014 nor in the receivership and bankruptcy proceedings after that time. The following are the instances of non-disclosure by Steven Crate, Gregory Crate and Lynn Marko in that regard:

- a) in the NOI proceedings, the proposal trustee filed its first report on November 21, 2014, which stated at paragraph 6 that 415 and 416 (as well as the Companies other than CMS) were simply holding companies for other companies or land – without any mention of the Transamerica policies with considerable value. A copy of the proposal trustee’s first report is attached (without appendices) as **Appendix “U”**;
- b) Steven Crate swore an affidavit dated November 28, 2014 (the same date as the withdrawal authorizations of 415 and 416 to Transamerica attached as **Appendix “T”**, which he signed), a copy of which is attached (without exhibits) as **Appendix “V”**, in which:
 - i) he asserted at paragraphs 48 and 49 that the Companies were acting in good faith, and
 - ii) he referred in paragraph 56 to the cash flow statement for the Companies, attached as Exhibit “L” to his affidavit and as **Appendix “W”** to this Report, which do not refer to the life insurance policies or the transactions involving the \$354,647.02 that had been requested the day prior to the affidavit,
- c) Steven Crate swore a supplementary affidavit dated November 28, 2014, a copy of which is attached as **Appendix “X”**, in which:
 - i) he stated that the affidavit was in support of a request for interim funding in the amount of USD \$300,000 on the basis that an extended cash flow statement showed that “without additional financing, the Debtors will be unable to continue to fund their business operations as of the week ending December 5, 2014” (paragraph 3), and
 - ii) he attached as Exhibit “A” to that affidavit the extended cash flow statement, which did not refer to the transactions that had already been commenced regarding the \$354,647.02;
- d) Steven Crate swore a further affidavit dated December 5, 2014, a copy of which is attached as **Appendix “Y”**, in which:
 - i) he reiterated the request made on November 28, 2014 for interim funding on the basis that the proposal debtors “are currently without sufficient funding to carry on their business operations through the proposed extension period, and will require further funding in order to continue operations through to the period ending January 26, 2015” (paragraph 29),
 - ii) he stated that F.S. Holdco (defined as 415 in the affidavit) owns the shares of F.S. Crate & Sons Ltd., and Crate Holdco (defined as 416 in the affidavit) owns the shares of the other of the Companies

(paragraph 38), and

- iii) "Neither Crate Holdco nor F.S. Holdco have any other assets." (paragraph 39), without mentioning the life insurance policies or \$354,647.02 deposited at TD on December 3 (with a part paid by cheque to James Crate the same day as the affidavit); and
- e) Steven Crate swore the statements of affairs in bankruptcy for the Companies, including for 415 and 416 (copies attached as **Appendix "Z"**) without any mention of the insurance policies or the withdrawal of and transactions involving the \$354,647.02; and

C) THE \$354,647.02 IS PROPERTY OF 415 AND 416 AND SHOULD BE PRESERVED

34. The Policies were issued in the name of 415 and 416.

35. The books and records do not contain any entries that the Receiver and Trustee has been able to find in which the cost for the premiums was in any way allocated to Steven Crate, Gregory Crate and/or Lynn Marko, or that the value in the life insurance policies was recorded as belonging to any of them.

36. The books and records in fact contain entries to suggest the opposite - that the value of the Policies belonged to the Companies. The Receiver and Trustee has reviewed the books and records and has found that there was another withdrawal of cash surrender value amounts in 2009, which was at that time received by CMS and recorded as a dividend to CMS. A copy of the CMS records in that regard is attached as **Appendix "AA"**.

37. The Receiver and Trustee therefore recommends that orders be made to, among other things, compel the last known individuals with possession of the \$354,647.02, namely Jessica Leanne Crate and James Crate and Fahey Crate Professional Corporation, as well as Steven Crate, Gregory Crate and Lynn Marko, to preserve those funds or whatever portions of them are within their possession, power or control, pending further order of the Court.

38. The Receiver and Trustee intends to seek such an Order on a without notice basis. The reason for this request is that the lack of disclosure and clandestine transactions involving the \$354,647.02, as noted above, appear to demonstrate an intention to appropriate the Companies' assets and mislead the Receiver and Trustee, and evade proper obligations in connection with the Companies, the Policies and the Policies Proceeds. The Receiver and

Trustee accordingly is concerned that giving notice before an Order is made preventing (further) dissipation of the Policies Proceeds may allow or encourage those involved to take further such steps.

39. In the interests of full and frank disclosure, as required for a motion without notice, the Receiver and Trustee advises that it has no information that any of the Policies Proceeds are still within the possession of Jessica Leanne Crate and/or James Crate and Fahey Crate Professional Corporation.

40. Following the Receiver and Trustee's request for an Order preserving the \$354,647.02, it will bring a motion on notice for, among other things, disclosure of all records in the possession of anyone associated with the transactions involving the Policies Proceeds, and for the return of the Policies Proceeds from any and all persons who may have possession, power or control of those funds.

D) CONTEMPT OF COURT AND OFFENCES UNDER THE BIA

41. The Receiver and Trustee is of the view that the events as set out above constitute contempt of Court on the part of all of Steven Crate, Greg Crate and Lynn Marko contrary to this Court's order of December 8, 2014 appointing the Receiver and placing the Companies into bankruptcy (Appendix "I" and "J"). Paragraph 5 of that Order required them, as the current or former directors and officers of, among others, 415 and 416 to "forthwith advise the Receiver of the existence of any" property of those Companies, and to deliver all such property to the Receiver. None of that was done.

42. In addition, the transactions by Gregory Crate and Steven Crate on behalf of 415 and 416 on December 11, 2014 (Appendix "T"), which were after the date of that Order, constitute further contempt of Court.

43. Further, the Receiver and Trustee is of the view that the events as set out above provide grounds to believe that Steven Crate, Gregory Crate and Lynn Marko have caused 415 and 416 to make a fraudulent disposition of their property before and after the date of their bankruptcy, contrary to s. 198(1)(a) of the BIA, for which those individuals are liable pursuant to s. 204 of the BIA.

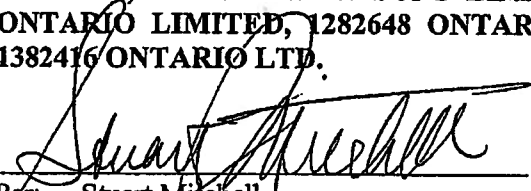
44. Lastly, the Receiver and Trustee is of the view that the events as set out above provide grounds to believe that Steven Crate has made a false entry or knowingly made a material omission in a statement or accounting in his affidavits, the cash flow statements, and the statements of affairs of 415 and 416 as noted above, contrary to s. 198(1)(c) of the BIA.

45. The Receiver and Trustee accordingly requests leave of the Court pursuant to s. 205(3) of the BIA to initiate proceedings for the prosecution of these offences.

All of which is respectfully submitted this 10th day of March, 2015.

A. FARBER & PARTNERS INC.

COURT-APPOINTED RECEIVER AND TRUSTEE 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

TAB O

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

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

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.

Court File No. 31-1932502

IN THE MATTER OF THE BANKRUPTCY OF
CRATE MARINE SALES LIMITED

Court File No. 31-1932534
Court File No. 31-1932548
Court File No. 31-1932557
Court File No. 31-1932540
Court File No. 31-1932555
Court File No. 31-1932553

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

**SUPPLEMENTARY REPORT TO THE FIFTH REPORT OF THE RECEIVER
AND FOURTH REPORT OF THE TRUSTEE**

MARCH 19, 2015

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LIST OF APPENDICES

- “A” Preservation Order and endorsement of Mr. Justice Newbould dated March 10, 2015
- “B” Affidavits of Service evidencing service of Preservation Order and motion materials
- “C” Transamerica cheque transmittal letters dated December 2, 2014
- “D” Business and Banking Services Agreement for 415
- “E” Resolution of the Directors for 415
- “F” Signature card dated December 3, 2014 for 415
- “G” Shareholder’s Resolution dated February 26, 2007 for 415
- “H” Articles of Incorporation effective November 1, 1999 for 415
- “I” Deposit slip dated December 3, 2014 for 415
- “J” Copy of cheque images for December 2014 cheques to Lesmill Consulting and Steven Crate
- “K” Business and Banking Services Agreement for 416
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- “M” Signature card dated December 3, 2014 for 416
- “N” Shareholder’s Resolution dated February 26, 2007 for 416
- “O” Articles of Incorporation effective November 1, 1999 for 416
- “P” Deposit slip dated December 3, 2014 for 416
- “Q” Jessica Crate Account History
- “R” TD Bank Detail Information for Drafts
- “S” Schedule summarizing transaction for Jessica Crate account to December 16, 2014
- “T” Documentation relating to Jessica Crate Account
- “U” GSNH letters to James Crate dated March 10, 2015
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- “W” Email chain between Robert Drake and James Crate
- “X” Automatic reply from James Crate
- “Y” David Sacks’ Page from Canada Business Directory
- “Z” David Sacks emails dated December 17, 2014
- “AA” Trust agreements dated July 15, 1995
- “BB” GSNH letter to Lesmill Consulting dated March 16, 2015
- “CC” GSNH letters dated January 22, 2015. February 2, 2015, February 15, 2015 and March 16, 2015
- “DD” Financial statements of CMS for the year ending October 31, 2013
- “EE” Financial statements of 415 for the year ending October 31, 2013
- “FF” Financial statements of 416 for the year ending October 31, 2013

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

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

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.

Court File No. 31-1932502

IN THE MATTER OF THE BANKRUPTCY OF
CRATE MARINE SALES LIMITED

Court File No. 31-1932534
Court File No. 31-1932548
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Court File No. 31-1932540
Court File No. 31-1932555
Court File No. 31-1932553

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

**SUPPLEMENTARY REPORT TO THE FIFTH REPORT OF THE RECEIVER
AND FOURTH REPORT OF THE TRUSTEE**

MARCH 19, 2015

1. A. Farber & Partners Inc., in its capacities as the Court appointed Receiver (the “**Receiver**”) and as the trustee in bankruptcy (the “**Trustee**”) of the estates 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:

PURPOSE OF THIS REPORT

2. All capitalized terms have the meaning given to them in the Fifth Report of the Receiver and Fourth Report of the Trustee dated March 10, 2015 (the “**Fifth Report**”).

3. This report (the “**Supplementary Report**”) is to supplement the Fifth Report and for the most part provides an update of certain facts that either occurred or came to the Receiver’s attention after the execution of the Fifth Report on March 10, 2015 and are relevant to the orders sought by the Receiver and Trustee in respect of the Policies and Policies Proceeds, which are summarized in paragraph 2 of the Fifth Report.

4. The additional facts now known by the Receiver and the Trustee, and related documentation obtained, provide further support for what the Receiver and Trustee reported in paragraph 1 of the Fifth Report; namely that Steven Crate, Gregory Crate and Lynn Marko appear, based on the records and information available to the Receiver and Trustee, to have deliberately taken steps after the commencement by the Companies of proposal proceedings pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”), to clandestinely convert the proceeds of withdrawals from the cash surrender value of insurance policies held in the names of 1382415 Ontario Ltd. (“**415**”) and 1382416 Ontario Ltd. (“**416**”) of \$354,647.02 for their own benefit and/or for the benefit of other Crate family members. At all material times, these individuals were the directors and officers of 415 and 416. This pattern of behaviour even continued after the date of the receivership and bankruptcy of the Companies.

5. As discussed in this Supplementary Report, the contents of the responding Record of Steven Crate, Gregory Crate and Lynn Marko, including the affidavit of Lynn Marko sworn March 17, 2015 (the “**Marko Affidavit**”), do not have any material impact on what the Receiver has reported in paragraph 1 of the Fifth Report and in paragraph 4 above.

LIMITATION OF REVIEW

6. A. Farber & Partners Inc. in its capacities as Receiver and Trustee 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 Supplementary 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 Supplementary Report for the sole use of the Court and of the other stakeholders in these proceedings.

A) PRESERVATION ORDER

7. The Receiver's notice of motion brought without notice for a preservation order in respect of the Policies and Policies Proceeds was heard by the Honourable Mr. Justice Newbould on the morning of March 10, 2015, at which time His Honour granted the preservation order sought (the "**Preservation Order**"); namely, that:

- (a) pending further Order of this Court, Steven Crate, Gregory Crate, Lynn Marko, Jessica Leanne Crate and James Crate and Fahey Crate Professional Corporation, and any other person having knowledge of the Order, preserve, and not deal with in any manner without the express written consent of the Receiver and Trustee, any and all proceeds, including any property into which such proceeds may have been converted (collectively, the "**Policies Proceeds**"), of the life insurance policies issued by Transamerica Life Canada and held by 415 and 416 on the lives of Steven Crate, Gregory Crate and Lynn Marko (the "**Policies**") and, without limiting the generality of the foregoing:
 - (i) the amount of \$160,000.00 transferred from the bank account of 415 on December 5, 2014 to the trust account of James R. Crate, a lawyer with Fahey Crate Law Professional Corporation; and
 - (ii) the amount of \$184,247.02 transferred on December 11, 2014 from the bank accounts of 415 and 416 to the bank account of Jessica Leanne Crate.

Copies of the Preservation Order of Mr. Justice Newbould and of his endorsement of March 10, 2015 are attached as **Appendix “A”**.

B) SERVICE OF PRESERVATION ORDER AND MOTION MATERIALS

8. Service of the Preservation Order and motion materials was effected as follows:

Name	Date	How Service was Effected:
Joseph Markin (usual counsel for Steven Crate, Gregory Crate, and Lynn Marko)	March 12, 2015	Personal Service (Hand Delivered)
Gregory J. Crate	March 11, 2015	Personal Service (Hand Delivered)
Jessica Crate	March 12, 2015	As Ms. Crate is a minor, service was effected by leaving a copy with Gregory J. Crate, her father.
Lynn J. Marko	March 11, 2015	Served by leaving a copy with Ms. Marko’s daughter, Stephanie Kellar
Steven Crate	March 13, 2015	Service by e-mail to Mr. Crate’s email account: steven.crate@outlook.com
Steven Crate	March 18, 2015	Personal Service
James Crate and Fahey Crate Law Professional Corporation	March 10, 2015	Personal Service
The TD Bank	March 10, 2015	Personal Service (Hand Delivered to Deb Irvine, Branch Manager)
The Service List	March 10, 2015	Email service of all materials.

Collectively attached as **Appendix “B”** are copies of the affidavits of service evidencing the service of the Preservation Order and motion materials.

C) INFORMATION COMING TO RECEIVER'S AND TRUSTEE'S ATTENTION SINCE FIFTH REPORT

9. As reported in the Fifth Report, the amounts withdrawn by 415 and 416 from the Policies were deposited by them on December 3, 2014 in new accounts opened by them at the TD Bank branch at 23532 Woodbine Avenue, Keswick, Ontario. These were Account No. 5009326-2240 for 415 (the "**415 TD Account**") and Account No. 5009342-2240 for 416 (the "**416 TD Account**"). In the following days, 415 and 416 withdrew all amounts deposited in these accounts, both of which were closed on December 11, 2014.

10. Six Transamerica cheque transmittal letters dated December 2, 2014, copies of which were provided to the Receiver and Trustee after the date of the Fifth Report, are further evidence of the withdrawals by 415 and 416 from the Policies in the aggregate amount of \$354,647.02 described in the Fifth Report, and in particular in paragraphs 18-22 thereof and the Appendices referred to therein. Attached as **Appendix "C"** are copies of such letters.

11. Since 415 and 416 used the TD Bank for deposits and withdrawals relating to the Policies Proceeds, after obtaining the Preservation Order, the Receiver and Trustee served the TD Bank with the Preservation Order and related motion material, and sought additional documentation and information relevant to the motion from the TD Bank. Except where otherwise provided in this section of this Supplementary Report, the documentation and information referred were provided to the Receiver and Trustee by the TD Bank, both by Deb Irvine, the Keswick Branch Manager, and by Michella Murzello, Bankruptcy Officer with Creekside Banking Services of TD Bank, after the date of the Fifth Report, March 10, 2015.

(a) Transactions Relating to the 415 TD Account

12. On December 3, 2014, under the signatures of Gregory Crate, Steven Crate and Lynn Marko, 415 executed a Business and Banking Services Agreement with TD Bank, supported by a Resolution of the Directors of the same date certified by these three individuals and, among other things, authorizing them to be the three signing officers of 415. Attached as **Appendix "D"** and **Appendix "E"** are copies of such Business and Banking Services Agreement and Resolution of the Directors, respectively. A TD Bank signature card dated December 3, 2014 confirms these three individuals to be the signing officers of 415 for the

415 TD Account. Attached as **Appendix “F”** is a copy of such signature card.

13. Also in the TD Bank’s files are copies of a Shareholder’s Resolution of 415 dated February 26, 2007 approving certain financial statements, appointing accountants and appointing Gregory Crate, Steven Crate and Lynn Marko as directors, executed by Gregory Crate, Steven Crate and Lynn Marko as shareholders, and of 415’s Articles of Incorporation, which were effective on November 1, 1999. Attached as **Appendix “G”** and **Appendix “H”** are copies of such Shareholder’s Resolution and Articles of Incorporation, respectively.

14. A TD Bank deposit slip dated December 3, 2014 at 4:18 p.m. bearing illegible signed initials confirms the deposit into the 415 TD Account at that time of three of the Transamerica cheques attached as Appendix O to the Fifth Report; namely cheques in the amounts of \$52,964.85, \$86,801.27 and \$37,557.39 totalling \$177,323.51. The deposit slip does not contain the complete account number, but a partially redacted number: “2240-50***26”, as well as 415’s registered business name, “F.S. Holdco”. Attached as **Appendix “I”** is a copy of the deposit slip dated December 3, 2014.

15. A TD Bank withdrawal slip dated December 5, 2014 at 4:07 p.m., which appears not to be signed or initialed, shows a withdrawal at that time from the 415 TD Account (the account number is partially redacted as number “2240-50***26” and contains 415’s registered business name, F.S. Holdco) of \$160,000.00 and the transfer of that amount to Account No. “2240-60***10” in the name of “J Crate”. The TD Bank has confirmed to the Receiver and the Trustee that the latter account is Account No. 2240-6096110 with the TD Bank in the name of Jessica Crate (the “**Jessica Crate Account**”), who as indicated in paragraph 29 of the Fifth Report is the daughter of Gregory Crate.

16. The Receiver and Trustee notes that the information regarding the transfer of funds into the Jessica Crate Account differs from the information previously provided by the TD Bank to the Receiver and reported in the Fifth Report; namely, that \$160,000.00 transfer was to James R. Crate, a lawyer with Fahey Crate Law Professional Corporation, as described in paragraph 29 of the Fifth Report. However, as discussed below, \$265,263 was later paid out of the Jessica Crate Account to Fahey Crate Law PC in trust at a time when all the monies credited to the Jessica Crate Account had been paid out of the 415 TD Account and the 416

TD Account. The substance of the Receiver and Trustee's earlier report about the movement of funds to Fahey Crate Professional Corporation therefore remains accurate, albeit underreported as to quantum given that the total of the funds that so moved was \$265,263 rather than \$160,000.

17. The TD Bank account transaction history for the Jessica Crate Account covering the period December 1, 2014 to March 13, 2015 (the "**JC Account History**"), provided to the Receiver by the TD Bank and discussed in more detail below, confirms that the \$160,000.00 transfer from the 415 TD Account was credited to the Jessica Crate Account on December 5, 2015.

18. With respect to the two cheques drawn on the 415 TD Account described in paragraph 26(a)(iv) of the Fifth Report, attached as **Appendix "J"** are copies of a cheque image in respect of a \$5,000.00 cheque dated December 3, 2014 in favour of Lesmill Consulting and a cheque image in respect of a \$5,400.00 cheque dated December 6, 2014 in favour of Steven Crate, both drawn on such account.

19. The \$6,923.51 debited against the 415 TD Account when it was closed on December 11, 2014, as described in paragraph 26(a)(v) of the Fifth Report, was credited on that day to the same Jessica Crate Account, as shown in a December 11, 2014 "credit memo" entry in the JC Account History, as well as in the account closing authorization form for the 415 TD Account attached as Appendix T to the Fifth Report.

(b) Transactions Relating to the 416 TD Account

20. On December 3, 2014, under the signatures of Gregory Crate, Steven Crate and Lynn Marko, 416 executed a Business and Banking Services Agreement with TD Bank, supported by a Resolution of the Directors of the same date certified by these three individuals and, among other things, authorizing them to be the three signing officers of 416. Attached as **Appendix "K"** and **Appendix "L"** are copies of such Business and Banking Services Agreement and Resolution of the Directors, respectively. A TD Bank signature card dated December 3, 2014 confirms these three individuals to be the signing officers of 416 for the 416 TD Account. Attached as **Appendix "M"** is a copy of such signature card.

21. Also in the TD Bank's files are copies of a Shareholder's Resolution of 416 dated February 26, 2007 approving certain financial statements, appointing accountants and appointing Gregory Crate, Steven Crate and Lynn Marko as directors, executed by Gregory Crate, Steven Crate and Lynn Marko as shareholders, and of 416's Articles of Incorporation, which were effective on November 1, 1999. Attached as **Appendix "N"** and **Appendix "O"** are copies of such Shareholder's Resolution and Articles of Incorporation, respectively.

22. A TD Bank deposit slip dated December 3, 2014 at 4:20 p.m. bearing illegible signed initials confirms the deposit into the 416 TD Account at that time of three of the Transamerica cheques attached as Appendix O to the Fifth Report; namely cheques in the amounts of \$86,801.27, \$37,557.39 and \$52,964.85 totalling \$177,323.51. The deposit slip does not contain the complete account number, but a partially redacted number: "2240-50***42", as well as 416's registered business name, truncated, "Crate Holdin". Attached as **Appendix "P"** is a copy of the deposit slip dated December 3, 2014.

23. As discussed in paragraph 27 of the Fifth Report and shown in the account closing authorization form for the 416 TD Account attached as Appendix T to the Fifth Report, such amount of \$177,323.51 was credited to the Jessica Crate Account on December 11, 2014. This credit is confirmed by a December 11, 2014 "credit memo" entry in the JC Account History.

(c) Information Relating to both the 415 TD Account and the 416 TD Account

24. The JC Account History was provided to the Receiver and the Trustee by the TD Bank on March 17, 2015. After receiving it, later that day the Receiver and the Trustee sent an email to the TD Bank requesting the support documents for all transactions going in and out of the Jessica Crate Account as shown on the JC Account History, including but not limited to (i) signed cash withdrawal requests for cash withdrawals, (ii) account number and name of account holder, if available, for all payments to credit card companies (Sears, MasterCard, RBC Visa and CIBC Visa), (iii) recipient of each email Interac transfer ("E TFR"), (iv) copies of each bank draft ("CAD DRAFT"), and (v) documents in support of "Georgina TX". The Receiver and the Trustee also asked the TD Bank whether it could advise if anyone attended with Jessica Crate at the TD Bank Branch to open the Jessica Crate Account. To the extent that the TD Bank has responded to these requests, the relevant information and documentation

are provided below. To the extent that the TD Bank has not responded, the Receiver and Trustee are following up with the TD Bank in an attempt to have all the requests satisfied. Attached as **Appendix “Q”** is a copy of the JC Account History.

25. The JC Account History indicates that the Jessica Crate Account was opened at the TD Bank on December 1, 2014 (when Jessica Crate attended at the TD Bank for that purpose, perhaps with, though the TD Bank is not certain, her mother Karen Crate, spouse of Gregory Crate) , the same day as 415 and 416 withdrew the total amount of \$354,647.02 from the Policies by way of six Transamerica cheques dated December 1, 2014, and shortly before 415 and 416 opened the 415 TD Account and the 416 TD Account, respectively, on December 3, 2014 and deposited such amount into such accounts. TD Bank advises that, Jessica Crate, who the Receiver and Trustee understand to be a minor, is the sole signing authority on the Jessica Crate Account, which appears to be a special purpose bank account opened by her to receive the withdrawals from the Policies, although the JC Account History shows that there were some credits to such account from other sources. It seems unusual to the Receiver and the Trustee that a minor would open such a bank account, have signing authority over an account containing funds in the magnitude of those in the Jessica Crate Account and authorize withdrawals of the type represented by the four significant Canadian drafts discussed below. As of March 13, 2015, the balance in the Jessica Crate Account was \$25.07.

26. In addition to showing the credits from the 415 TD Account and the 416 TD Account in the total amount of \$344,247.02, the JC Account History discloses a number of other credits and debits. The other credits are largely for modest amounts, except for a total of \$38,200 of credits described as “TFR-FR” (transfer from) “Chisholm E” during the period December 11, 2014 to March 12, 2015.

27. The debits to the Jessica Crate Account consist of a variety of items, including cash and ATM withdrawals, electronic transfers, credit card payments, payments to restaurants and retailers and Canadian drafts, all of which transactions occurred on or after December 8, 2014, the date on which the Receiver and Trustee were appointed.

28. There are four significant Canadian drafts (including the TD Bank service charges therefor) among the debits: \$95,507.50, which was payable to Fahey Crate Law PC in trust

(December 8, 2015); \$169,755.50, which was also payable to Fahey Crate Law PC in trust (December 11, 2015); \$8,007.50, which was payable to B. J. Whiting (whom the Receiver and Trustee understand is related to Steven Crate, Gregory Crate and Lynn Marko); and \$25,007.50, which was payable to Shanahan Ford (January 2, 2015). Attached as **Appendix “R”** are copies of the four TD Bank Detail Information for Drafts relating to these drafts, each of which is for the relevant amount before the service charge.

29. The Receiver and Trustee have prepared a schedule summarizing the transactions through the Jessica Crate Account to December 16, 2014. During this period, the \$344,247.02 referred to above from the 415 and 416 accounts was credited to such account and the disbursements summarized in such schedule (including the two drafts to Fahey Crate Law PC in trust described above) were debited from the account, leaving a balance of \$500.90 in the Jessica Crate Account on December 16, 2014. After that day, there were several miscellaneous debits, some of which appear to be for personal items, the debit for the \$25,007.50 draft payable to Shanahan Ford and a total of \$37,200 of credits described as “TFR-FR” (transfer from) “Chisholm E”. Attached as **Appendix “S”** is a copy of such schedule.

30. The Receiver and Trustee have also been provided with further information with support documentation from TD Bank regarding the details of certain of the cash withdrawals, bill payments and other debit transactions conducted on the Jessica Crate Account. Attached as **Appendix “T”** is a copy of such further documentation, consisting of a mark-up of the JC Account History, with relevant documents attached for the entries bearing numbers as well as the signing card for the Jessica Crate Account with what appears to be Jessica Crate’s signature on it.

(d) Contact with Fahey Crate Professional Corporation

31. Prior to the Receiver’s and the Trustee’s discovering on March 18, 2015 that two large drafts drawn on the Jessica Crate Account were payable to Fahey Crate Law PC in trust, Goldman Sloan Nash & Haber LLP (“**GSNH**”), counsel for the Receiver and the Trustee, had sent letters to James Crate and Fahey Crate Professional Corporation dated March 10 and March 16, 2015, respectively, advising of the Preservation Order and the obligations of

persons having knowledge of such Order, the Amended Receivership Order dated December 8, 2014, the receivership and bankruptcy proceedings and the proceedings in respect of the Policies and the Policies Proceeds, and providing copies of the Motion Record in respect of the latter. In such letters, GSNH have also, in part, requested that James Crate and Fahey Crate Professional Corporation provide any and all information regarding the three trusts, the Policies and the Policies Proceeds and return to the Receiver immediately all books, records and property of the Companies in their possession. . Attached as **Appendices “U”** and **“V”** are copies of the GSNH letters to James Crate and Fahey Crate Law Professional Corporation dated March 10 and March 16, 2015, respectively.

32. James Crate sent an email to Robert Drake of GSNH on March 18, 2015 at 9:03 a.m. confirming receipt of the two GSNH letters to him and advising that Fahey Crate Professional Law Corporation would comply with the Preservation Order. Mr. Drake replied to Mr. Crate the same day at 10:12 a.m. and, in part, asked Mr. Crate whether he or his firm hold any property (e.g. money) in trust, or otherwise to the credit of any of the Companies subject to the December 8, 2014 receivership order and, if so, suggested that they should make arrangements for their return. Mr. Drake went on to write that if Mr. Crate or his firm are not holding any property of those Companies (including, but not limited to, the Policies Proceeds), but are aware of the location of any property (e.g. money was transferred out of trust accounts), they should make arrangements to talk. At 10:59 a.m. that day, Mr. Crate sent an email to Mr. Drake asking that Mr. Drake advise him of the results of the Friday, March 20, 2015 motion, and indicating, in part, that he, Mr. Crate, had not been retained to respond to the motion.

33. After the Receiver and Trustee discovered that the two drafts were payable to Fahey Crate Law PC in trust, on March 18, 2015 at 11:23 a.m. Mr. Drake replied to Mr. Crate’s 10:59 a.m. email by, in part, noting that Mr. Crate had not answered the questions in Mr. Drake’s 10:12 a.m. email and indicating that GSNH’s latest understanding was that Mr. Crate or his firm received two bank drafts from the Jessica Crate Account (\$95,507.50 on December 8, 2014 and \$169,755.50 on December 11, 2014), monies that are the Policies Proceeds which were transferred from the bank accounts of the Companies under receivership to Jessica Crate, and then payable to Mr. Crate or his firm in trust and are the subject of the Preservation Order.

Mr. Drake went on to request that Mr. Crate confirm that (1) he or his firm have these funds in trust, or otherwise, and they will not be dealt with, (2) if he or his firm are not currently holding these funds, when and where they were transferred (with supporting records), and (3) whether Mr. Crate has any other property of the Companies (be it monies or documents), and if so that they will be returned immediately pursuant to the receivership order dated December 8, 2014 (attached to Mr. Drake's email).

34. The only reply that Mr. Drake has received to his March 18, 2015, 11:23 a.m. to Mr. Crate is an automatic reply at 11:28 a.m. advising that Mr. Crate will be out of the office until March 20, 2015, and will reply to any emails at that time, even though Mr. Crate had already sent two emails to Mr. Drake earlier that day and Mr. Drake did not receive such an automatic reply from Mr. Crate to his March 18, 2015, 10:12 a.m. email to Mr. Crate.

35. Attached as **Appendix "W"** is a copy of the email chain between Robert Drake and James Crate referred to in the preceding paragraphs. Attached as **Appendix "X"** is a copy of the automatic reply from Mr. Crate.

36. In view of James Crate's out of office email, and the lack of specific reply from him, on 7 p.m. on March 18, 2015, Mr. Drake sent an email to two other lawyers with Mr. Crate's firm, Carol Crate and Patrick Fahey, containing similar advice and making similar requests as in Mr. Drake's earlier email that day to James Crate. Mr. Drake has not received a response to this email.

(e) Contact with David Sacks

37. The TD Bank has provided the Receiver and Trustee with other material that may be relevant to the Policies and Policies Proceeds, as discussed in the following five paragraphs.

38. The TD Bank is in possession of two emails which appear to have been sent by David Sacks on the evening of December 17, 2014. An internet search conducted by the Receiver and Trustee indicates that a David Sacks who does business as a consultant has an office at 23 Lesmill Road, North York. For example, attached as **Appendix "Y"** is a copy of the page from Canada Business Directory at http://www.calooks.com/business/Sacks-David-Consultant_5hHX.html.

39. The first December 17, 2014 email is from David Sacks to Carol Crate and James Crate at “faheycratelaw.ca”. In part, this email encloses copies of three trust agreements and advises that (i) Steven is a trustee of all three trusts and therefore the addressees can take instructions from him, and (ii) Stephen will instruct the addressees as to the “check [sic.]” to be made to Mr. Sacks’ company, Lesmill Consulting. As indicated in paragraph 18 above, 415 wrote a \$5,000.00 cheque dated December 3, 2014 in favour of Lesmill Consulting drawn on the 415 TD Account.

40. The second December 17, 2014 email is from David Sacks to Lynn (Crate) Marko and Steven Crate. In part, this email asks the addressees to “...copy the Trusts to give to the bank so that they will open the Trust accounts...”, and advises that Mr. Sacks is billing the amount of \$16,385 (including HST), which, net of \$5,000 received, leaves a balance to be remitted of \$11,385. The Receiver and the Trustee assume that the \$5,000.00 received was paid to Lesmill Consulting by the \$5,000 cheque drawn on the 415 TD Account referred in the preceding paragraph. Attached as **Appendix “Z”** are copies of these two David Sacks emails dated December 17, 2014.

41. The TD Bank has also provided the Receiver and the Trustee with copies of three trust agreements, which the Receiver and the Trustee assume to be the trust agreements referred to in the two David Sacks emails. The three trust agreements provided by the TD Bank are in the same form. Each appears to be dated July 15, 1995 and the settlor under each is Lloyd Crate, the deceased father of Gregory Crate, Steven Crate and Lynn Marko. One trust agreement establishes the “Simcoe Trust”, with Steven Lloyd Crate and Gregory John Crate as the trustees, and Steven Lloyd Crate and his spouse, his children and any other issue and their spouses and his grandchildren as the beneficiaries; another trust agreement establishes the “Georgian Trust”, with Gregory John Crate and Steven Lloyd Crate as the trustees, and Gregory John Crate and his spouse, his children and any other issue and their spouses and his grandchildren as the beneficiaries; and the third trust agreement establishes the “Severn Trust”, with Lynn Joanne Crate and Steven John Crate as the trustees, and Lynn Joanne Crate and her spouse, her children and any other issue and their spouses and her grandchildren as the beneficiaries. Attached collectively as **Appendix “AA”** are copies of the three trust agreements dated July 15, 1995.

42. The TD Bank has advised the Receiver and Trustee that the Trusts have not opened accounts at its Keswick branch, where the other TD Bank accounts discussed in the Fifth Report and this Supplementary Report were opened. The Receiver and the Trustee are not aware of the reason why Steven Crate and Lynn Marko were apparently contemplating opening trust accounts for the three trusts described in the preceding paragraph over nineteen years after the trusts were established. In view of the date of David Sack's December 17, 2014 emails discussing the trust accounts and trust agreements being (i) less than one week after December 11, 2014, the day on which 415 and 416 closed TD Bank Account No. 5009326-2240 and Account No. 5009342-2240, respectively, and completed the withdrawal of all the funds therein, and (ii) being 9 days and 6 days, respectively, after the dates of the two large Canadian drafts payable to Fahey Crate Law PC, discussed above, the Receiver and the Trustee are concerned that the some or all of the funds paid to Fahey Crate Law PC may be transferred to a bank account or accounts opened by one or more of the three trusts at another TD Bank branch or at another financial institution. This is especially the case where Fahey Crate Law PC has not provided a response to Mr. Drake's email of March 18, 2015, 11:23 a.m.

43. Mr. Drake of GSNH sent a letter to Lesmill Consulting, to the attention of David Sacks, dated March 16, 2015 advising of the Preservation Order and the obligations of persons having knowledge of such Order, the Amended Receivership Order dated December 8, 2014, the receivership and bankruptcy proceedings and the proceedings in respect of the Policies and the Policies Proceeds, and providing copies of the Motion Record in respect of the latter. In such letter, GSNH have also, in part, requested that Lesmill Consulting provide any and all information regarding the three trusts, the Policies and the Policies Proceeds and return to the Receiver immediately all books, records and property of the Companies in their possession. GSNH has not received a reply to such letter. Attached as **Appendix "BB"** is a copy of the GSNH letter to Lesmill Consulting dated March 16, 2015.

44. Mr. Sacks left a voicemail message with Mr. Drake at 11:07 a.m. on March 18, 2015 asking Mr. Drake to call him back. Mr. Drake did so later that day and in their telephone conversation Mr. Sacks advised Mr. Drake, in part, that (i) his emails of December 17, 2014 were intended to secure payment of the balance of his fees from James Crate, who required

authorization of from the trustees under the trusts to pay those fees, (ii) he did get paid in full from James Crate's trust account, but could not recall whether he was paid directly by James Crate or by the Crates and Lynn Marko; (iii) he acted only for the Crates and Lynn Marko in their personal capacity, not for any of the Companies and that Lloyd Crate had been his client, he only worked for the three children after Lloyd died and he otherwise declined to provide any details on the basis that his work was for the Crates personally; (iv) he drafted the three trusts in 1995 on behalf of Lloyd and set up trusts to protect the three children; and (v) he is consulting on the receivership proceedings with Joseph Markin (who has filed the responding Motion Record to the Receiver's and the Trustee's motion) and the Crates and Lynn Marko.

D) RESPONSE TO THE AFFIDAVIT OF LYNN MARKO SWORN MARCH 17, 2015 AND THE MOTION OF STEVEN CRATE, GREGORY CRATE AND LYNN CRATE RETURNABLE MARCH 20, 2015

45. The Receiver and Trustee have received and reviewed the Marko Affidavit. As described at paragraph 5 above, the Marko Affidavit does not alter the view of the Receiver and Trustee. It does, however, contain evidence and information that is markedly different than, and in several instances at odds with, the information and documentation of which the Receiver and Trustee are aware as reported in the Fifth Report and this Supplementary Report. A summary of the key differences is set out below.

46. Insofar as the Marko Affidavit states that "[m]y brothers and I are not lawyers and have done the best we can in the circumstances presented to us to achieve the results we have intended", the Receiver and Trustee have unfortunately had a different experience in dealing with these individuals. Instead, the Receiver and Trustee have repeatedly observed conduct, and in particular from Steven Crate, which has contravened provisions of the BIA or Orders of the Court. In response, the Receiver and Trustee have been compelled to have GSNH on four occasions warn Steven Crate to refrain from certain unauthorized activities: (i) GSNH's letter of January 22, 2015; (ii) GSNH's letter of February 2, 2015 (addressed to Joseph Markin); (iii) GSNH's letter of February 25, 2015; and (iv) GSNH's letter of March 16, 2015. Attached as **Appendix "CC"** are copies of the four GSNH letters referred to in this paragraph.

47. In addition, the conduct of Steven Crate, Gregory Crate and Lynn Marko, both in their

own capacities and as the prior management of CMS, has given the Receiver and Trustee concern about their willingness to abide by business principles and Court Orders. Some of these concerns were identified in the reports filed in the Receiver and Trustee's prior capacity as the interim receiver of CMS, and some have arisen since our appointment as Receiver and Trustee, as follows:

- a) boats in the possession of CMS appear to have been sold without discharging loans against them owing by prior owners when sold to CMS, or by CMS (acting as broker or intermediary) to third parties (see paragraphs 42(a), (f) and (g) of the Interim Receiver's First Report, Appendix "C" to the Fifth Report);
- b) boats in the possession of CMS were apparently financed by third parties, or pledged as security for amounts owing by CMS to third parties, on the basis of the third parties holding title documentation to those boats, yet those boats appear to have been nonetheless further sold by CMS in several instances (see paragraphs 33-35 and 42(a) of the Interim Receiver's First Report and paragraph 26(a) of the Interim Receiver's Third Report, Appendix "H" to the Fifth Report);
- c) CMS sold at least one boat on behalf of a third party with \$145,000 in payments from the purchaser being directed \$103,000 to CMS and \$42,000 to "S. Crate" (see paragraph 26(b) of the Interim Receiver's Third Report, Appendix "H" to the Fifth Report);
- d) CMS disbursed funds without the interim receiver's approval in contravention of the interim receivership orders of this Court (see paragraphs 7-11 of the Interim Receiver's Second Report, Appendix "E" to the Fifth Report); and
- e) Greg Crate returned a vehicle owned by CMS when demanded to do so by the Receiver, but filled it with garbage.

48. Insofar as the Marko Affidavit attaches as Exhibit "A" a document purportedly dated

September 15, 2013 (by which Steven Crate, Lynn Marko and Gregory Crate instructed James Davis at the Executive Wealth Management Group to change the beneficiaries and “beneficial ownership” of the Policies), this document is not in the books and records of the Companies and the Receiver and Trustee have no information as to its authenticity or accuracy.

49. Based on the facts reported below, this document at best expresses the purported intention of the individual signatories that does not appear to have been implemented in any steps by James Davis or Transamerica (who has assured that it is unaware of the document) in respect of the Policies. Moreover, on its face, the document only shows intent on the part of Steven Crate, Gregory Crate and Lynn Marko in their personal capacities only, not on behalf of the rightful owners and beneficiaries of the Policies, 415 and 416. The document is accordingly incapable of providing the basis for the change purportedly sought.

50. The Receiver and Trustee are, however, aware that Transamerica’s files do not show any change in the beneficiary or owner (legal, beneficial or otherwise) of the Policies. As of the date of the NOI proceedings and the Appointment Order, the Policies remained in the names and in favour of 415 and 416 and recorded those companies as beneficiaries. Appendices “L” and “M” to the Fifth Report reflect that.

51. The records of Transamerica also therefore required that any payout of the Policies Proceeds, as directed by the Respondents to the Receiver and Trustee’s motion, be in the names of 415 and 416, which is what happened. Appendix “O” to the Fifth Report reflects that.

52. The TD Bank records of the handling of the Policies Proceeds similarly reflect that all transactions in the Policies Proceeds up to the transfers into the name of Jessica Crate were in the names of 415 and 416 as the owners of the funds in question, as described in paragraphs 12 to 23, above.

53. Accordingly despite this document relied upon by the Respondents to this motion, at all relevant times the withdrawals by them from the Policies and banking transactions with TD Bank were effected entirely on behalf of 415 and 416, and without the knowledge or consent of the Receiver and Trustee.

54. The Receiver and Trustee are unaware of any change in the accounting treatment on the books and records of the Companies to reflect the asserted intent of Appendix “A” to the Marko Affidavit, namely that the trusts for Steven Crate, Gregory Crate and Lynn Marko be the owners and beneficiaries of the Policies. In particular, CMS paid all premiums for the Policies, both before and after September 15, 2013, and no amounts so paid were at any time recorded as being for the benefit of Steven Crate, Gregory Crate and/or Lynn Marko, which had been done for different payments by CMS on their behalf that were recorded as loans to shareholders. All payments for premiums for the Policies appear to have been expensed by CMS against before-tax dollars.

55. Further, even if Exhibit “A” to the Marko Affidavit had been implemented at the time that it was purportedly dated, which does not appear to be the case, the Receiver and Trustee are unaware of any consideration given to 415, 416 or any others of the Companies for the asserted transfer of the beneficial ownership and beneficiary designations on the Policies. The face amount of the Policies (as indicated in Appendix “L” to the Fifth Report) is \$4,500,000, and the Policies also generated Policies Proceeds of \$354,647.02, which were withdrawn and dealt with by Steven Crate, Gregory Crate and Lynn Marko as described in the Fifth Report. A transaction of those amounts is materially significant in this matter given that the projected realizations from the sales process for all the assets of the Companies is not expected to exceed \$26,000,000 (as disclosed in paragraph 74 of the Third Report of the Receiver respecting the stalking horse sales process).

56. The Marko Affidavit does not disclose any consideration for the transaction contemplated in Exhibit “A” to that affidavit either.

57. In addition, the statement in the Marko Affidavit that “[t]hese changes took place well before any of the Corporations [sic] had any financial problems and there was no contemplation that these corporations would have financial problems” is at odds with the information available to the Receiver and Trustee. In that regard, the Receiver and Trustee report as follows:

- a) the November 28, 2014 affidavit of Steven Crate sworn in the NOI proceedings (attached as Appendix “V” to the Fifth Report) attested at paragraph 47 under the

heading “Financial Difficulties” that CMS had generated losses in the aggregate amount of approximately \$19.7 million in the fiscal years ending Oct. 31, 2011 to 2014, and lost a further \$4.4 million in the year ending Oct. 31, 2014; and

- b) the financial statements of CMS for the year ending Oct. 31, 2013 (which were part of Exhibit “K” to the Affidavit of Steven Crate sworn November 28, 2014, attached as Appendix “V” to the Fifth Report) show losses of \$6,121,541 and a corresponding increase of shareholder deficiency of \$22,626,176 as against \$16,553,635 in 2012, a copy of which is attached as **Appendix “DD”**; and
- c) the financial statements of 415 and 416 for the year ending Oct. 31, 2013 show minimal financial activity in those companies and also disclose as assets loans to shareholders that Steven Crate, Gregory Crate and Lynn Marko now dispute are owing due to events that took place before that time (which, if true, would therefore render those companies insolvent as well). Copies of the financial statements for 415 and 416 for the fiscal year ending Oct. 31, 2013 are respectively attached as **Appendices “EE” and “FF”**.

E) CONCLUSION

58. The Receiver and Trustee accordingly seeks an Order:

- a) granting the relief sought in its Notice of Motion (with notice) and described in paragraph 2(b) of the Fifth Report, with necessary changes to reflect the updated information regarding the flow of funds in respect of the Policies Proceeds as noted above;
- b) dismissing the motion returnable by Steven Crate, Gregory Crate and Lynn Crate on March 20, 2015; and
- c) awarding costs of this motion and the without notice motion against Steven Crate, Gregory Crate and Lynn Marko.

All of which is respectfully submitted this 19 day of March, 2015.

A. FARBER & PARTNERS INC.

COURT-APPOINTED RECEIVER AND TRUSTEE 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.

A handwritten signature in black ink, reading "Stuart Mitchell". The signature is written in a cursive, flowing style with a horizontal line underlining the name.

Per: Stuart Mitchell
Senior Vice President