

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**LIQUID CAPITAL EXCHANGE CORP.**

*Applicant*

-and-

**163556 ONTARIO INC. O/A VERSITEC MARINE & INDUSTRIAL,  
VERSITEC MARINE HOLDINGS INC., VERSITEC MARINE USA INC.,  
DAVID TAYLOR, REUBEN BYRD and DAVID CARPENTER**

*Respondents*

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY  
ACT, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE  
COURT OF JUSTICE ACT, R.S.O. 1990, C. C-43, AS AMENDED

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**SUPPLEMENT TO THE FIFTH REPORT OF THE RECEIVER**  
(Filed in connection with a motion returnable April 27, 2022)

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April 22, 2022

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*Lawyer for Reuben K. Byrd*

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*Original Court-Appointed Receiver of Versitec*

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**Danny Continelli**  
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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**LIQUID CAPITAL EXCHANGE CORP.**

*Applicant*

-and-

**163556 ONTARIO INC. O/A VERSITEC MARINE & INDUSTRIAL,  
VERSITEC MARINE HOLDINGS INC., VERSITEC MARINE USA INC.,  
DAVID TAYLOR, REUBEN BYRD and DAVID CARPENTER**

*Respondents*

APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY  
ACT, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101 OF THE  
COURT OF JUSTICE ACT, R.S.O. 1990, C. C-43, AS AMENDED

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# TAB 1

Court File No. CV-20-00637427-00CL

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
[COMMERCIAL LIST]

BETWEEN:

LIQUID CAPITAL EXCHANGE CORP.

Applicant

- and -

1635536 ONTARIO INC. O/A VERSITEC MARINE & INDUSTRIAL, VERSITEC MARINE HOLDINGS  
INC., VERSITEC MARINE USA INC., DAVID TAYLOR, REUBEN BYRD and DAVID CARPENTER

Respondents

IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTION 243(1) OF THE  
*BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985 c. B-3, AS AMENDED; AND  
SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43 AS AMENDED

SUPPLEMENT TO THE FIFTH REPORT  
SUBMITTED BY BDO CANADA LIMITED  
IN ITS CAPACITY AS RECEIVER OF  
518 KING STREET, PORT COLBORNE, ONTARIO

APRIL 22, 2022

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## 1.0 PURPOSE OF REPORT

### 1.1 Purpose of this Report

- 1.1.1 This report is the supplemental report (the "Supplemental Report") to the Receiver's fifth report to the Court dated April 18, 2022 (the "Fifth Report") and is filed to provide the Court with additional information in respect of the motion returnable on April 27, 2022.
- 1.1.2 This Supplemental Report has been prepared for the use of this Court in respect of the requested relief as detailed in the Fifth Report. This Supplemental Report should not be relied upon for any other purpose. The Receiver will not assume responsibility or liability for losses incurred as a result of the circulation, publication, reproduction or use of this Supplemental Report contrary to the provisions of this paragraph.
- 1.1.3 All references to capitalized terms not defined in this Supplemental Report are as defined in the Fifth Report.
- 1.1.4 All references to dollars are in Canadian currency unless otherwise noted.
- 1.1.5 In accordance with the Appointment Order, copies of unsealed materials and prescribed notices delivered and/or filed in the receivership proceedings are available on the Receiver's case website at [www.extranets.bdo.ca/versitecmarine](http://www.extranets.bdo.ca/versitecmarine).

## 2.0 RA-TECH CAD SERVICES INC.

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### 2.1 Introduction

- 2.1.1 As set out in the Fifth Report, Ra-Tech CAD Services Inc. (“Ra-Tech”) is the assignee of the first and second mortgages on 518 King Street, Port Colborne, Ontario (the “Taylor Property”); and, Mr. Andy Ferri (“Mr. Ferri”) is the principal of Ra-Tech.
- 2.1.2 Mr. Ferri attended on the initial receivership application for Ra-Tech and consented to the appointment of the Receiver, subject to a comeback hearing to address the priority of the Receiver’s Charge. Mr. Ferri took the position that the Receiver’s fees and disbursements should not “prime” the Ra-Tech mortgages.
- 2.1.3 On March 17, 2022, Mr. Ferri attended the comeback hearing. The parties had agreed that the Receiver’s Charge would rank subordinate to the Ra-Tech mortgage security. Counsel to the Receiver circulated a revised draft order the morning of the comeback hearing. Notwithstanding that the Receiver agreed to the subordination of the Receiver’s Charge, the Receiver sought to reaffirm that the stay of proceedings continued to apply to the Taylor Property. Mr. Ferri took issue with that inclusion in the proposed order and, accordingly, Receiver’s counsel advised the Court of the same and requested that the Court address this matter in the endorsement. Receiver’s counsel also provided an email response to Mr. Ferri’s concerns and urged him to retain counsel for Ra-Tech going forward. A copy of the amended and restated Receivership Order is attached to the Fifth Report. A copy Justice Cavanagh’s related Endorsement dated March 17, 2022 is attached hereto as Appendix “A”. A copy of the aforementioned email correspondence between Receiver’s Counsel and Mr. Ferri, of March 17, 2022, is attached hereto as Appendix “B”.
- 2.1.4 As detailed below, the Receiver has sought payout information for the Ra-tech mortgages from Mr. Ferri on a number of occasions. However, at the time of filing the Fifth Report, Ra-Tech had not provided the Receiver with payout statements, nor any other information in respect of the mortgage debt.
- 2.1.5 On April 19, 2022, subsequent to issuing the Fifth Report, rather than provide a payout statement, Mr. Ferri emailed the Receiver requesting a consent adjournment of the pending hearing. Receiver’s counsel responded by email that the Receiver would not consent to an adjournment as the proposed transaction is time sensitive and that it should not matter to Ra-Tech, who stands to be repaid in full. Counsel also questioned why Mr. Ferri had not retained counsel and encouraged him to do so should Ra-Tech wish to oppose the relief sought. A copy of such email correspondence dated April 19, 2022, is attached hereto as Appendix “C”.
- 2.1.6 On April 20, 2022, subsequent to the Fifth Report, Mr. Ferri provided the Receiver with a copy of Ra-Tech’s payout calculation dated February 15, 2022 (the “Ra-Tech Payout Statement”). A copy of the Ra-Tech Payout Statement is attached hereto as Appendix “D”.

## 2.2 The Ra-Tech Payout Statement

2.2.1 The Ra-Tech Payout Statement indicates that \$492,136.50 was owing as of February 15, 2022. Based on the calculations therein the balance owing on April 29, 2022, the anticipated closing date of the Transaction, would be in excess of \$501,000.

2.2.2 The Ra-Tech Payout Statement includes, among other things, the following:

- 12% interest on the entire outstanding loan amount;
- \$150 per day for occupancy costs (the "Occupancy Charge"); and
- miscellaneous, as yet unsupported charges of \$200 and \$1,695.

2.2.3 The Receiver notes the following:

- The Ra-Tech mortgage is a combination of two separate mortgages that were assigned to Ra-Tech and these mortgages had two different stated interest rates: 7.25% and 12%. The proper interest calculation should factor in these two rates in respect of the respective mortgage balances and not 12% on the combined total;
- Section 8 of the *Interest Act (Canada)* applies to prohibit the application of fines, penalties and rates of interest on mortgage security that has the effect of increasing the charge on arrears beyond the non-default rate. The Court of Appeal has held that this section applies to charges such as the Occupancy Charge unless satisfied by evidence that the charges in question reflect real costs legitimately incurred (see, *P.A.R.C.E.L. Inc. v. Acquaviva* (2015 ONCA 331)). Ra-Tech has not provided proof of incurring costs to preserve and protect the Taylor Property; and
- In addition, the owner of the property, David Taylor, appears to have been occupying the Taylor Property until the end of November, 2021, at which time Mr. James Smith became the occupant of the property. The Receiver does not believe that Ra-Tech took possession of the Taylor Property. Mr. Smith has further advised that he personally paid to have the locks changed when he took possession from Mr. Taylor.

2.2.4 Based on the foregoing, the Receiver cannot accept the payout statements tendered by Mr. Ferri as the indebtedness set out therein is not sustainable on the facts nor supportable in the face of the *Interest Act (Canada)*.

2.2.5 Accordingly, as stated in the Receiver's Fifth Report, it is the Receiver's position that the proper amount owing to Ra-Tech as of April 29, 2022 is \$432,714.14 (the "Ra-Tech Payout"). The Receiver now recommends that this Court authorize and direct the Receiver to distribute the Ra-Tech Payout to Ra-Tech rather than reserving funds as a holdback.

## 2.3 Communications with Ra-Tech re: Request for Payout Statements

- 2.3.1 Attached as Appendix "E" is a copy of the initial request for a payout statement sent by the Receiver to Mr. Ferri on March 16, 2022. The Receiver did not receive a reply to this email.
- 2.3.2 Attached as Appendix "F" is an email chain between the Receiver and Mr. Ferri wherein the Receiver again requested Ra-Tech's payout statement on April 7<sup>th</sup> and April 12<sup>th</sup>.
- 2.3.3 As reported in the Fifth Report, Mr. Ferri finally responded to the Receiver with an email on April 14<sup>th</sup>, appended to the Fifth Report, citing several reasons why the April 27<sup>th</sup> hearing should be adjourned to allow time for other ancillary proceedings to be adjudicated. The Receiver's response dated April 16<sup>th</sup> to Mr. Ferri's email of April 14<sup>th</sup> is also set out in Appendix "F".
- 2.3.4 In his response on April 19<sup>th</sup> Mr. Ferri, among other things, requested an adjournment of the April 27<sup>th</sup> hearing, citing a need to find replacement counsel as the basis for the request. Participants in these proceedings may recall that at the January 24, 2022 hearing to appoint the Receiver over the Taylor Property Mr. Ferri was in attendance and advised that his counsel, Mr. Paul Leon, who is also referred to in Mr. Ferri's April 14<sup>th</sup> email as not being well and unable to participate in the April 27<sup>th</sup> hearing, was not a litigator. At that time Mr. Ferri was encouraged by the Court to retain proper insolvency litigation counsel. This is referenced in the endorsement of the Honourable Madam Justice Dietrich dated January 24, 2022. Thus, the need to retain litigation counsel is not a new issue.
- 2.3.5 Moreover, as per above and set out in Appendices "B" and "F" hereto, Receiver's counsel has urged Mr. Ferri to retain counsel for Ra-Tech on more than one occasion.



### 3.0 LOCKVIEW VENTURES INC.

- 3.1.1 As reported in the Fifth Report, in the context of Ra-Tech's power of sale proceedings, Lockview Ventures Inc. ("Lockview") had made an offer to purchase the Taylor Property dated December 15, 2021 (the "Lockview Offer") which Ra-Tech had accepted. A copy of the Lockview Offer is attached to the Fifth Report as Confidential Appendix "2".
- 3.1.2 The Receiver wrote to the principal of Lockview, Mr. Danny Continelli, and his legal counsel, Mr. Luigi Delisio, on January 25, 2022 to request a copy of any and all documents and agreements that Lockview had entered into in respect of the Taylor Property. The Receiver also offered to discuss any issues that Lockview may have with the receivership proceedings. A copy of the January 25<sup>th</sup> letter to Lockview is attached hereto as Appendix "G".
- 3.1.3 Mr. Continelli did not respond to the January 25<sup>th</sup> letter. However, Mr. Delisio advised in an email that he did not have a final version of the Lockview Offer. Neither party advised the Receiver that they took issue with Ra-Tech's failure to close the transaction contemplated by the Lockview Offer.
- 3.1.4 The Receiver ultimately received a copy of the Lockview Offer on January 28, 2022, from Ra-Tech's counsel, Mr. Paul Leon.
- 3.1.5 The Lockview Offer contemplated a closing date of January 28, 2022. The sale did not close on that date. The Receiver is not aware of any amendments to the Lockview Offer and no party has contacted the Receiver to confirm that there is any such alternate closing date.
- 3.1.6 It appears that the Lockview Offer is null and void by its own terms.
- 3.1.7 Notwithstanding the foregoing, in February the Receiver learned by way of email from counsel to Ra-Tech (Paul Leon) that Mr. Ferri was pressuring him to "close the deal" with Lockview. As a result, on February 24, 2022, Receiver's counsel wrote to Mr. Leon to clearly express that the Taylor Property was subject to the stay in these proceedings, that Ra-Tech was not entitled to sell the property and that the Receiver was not bound by any agreement with Lockview. A copy of the Receiver counsel's letter, along with Mr. Leon's email response, is attached hereto as Appendix "H".
- 3.1.8 At the comeback hearing on March 17<sup>th</sup>, discussed in Section 2.1.3 above, the Lockview Offer was not discussed, and the only issue addressed was the priority of the Receiver's Charge.
- 3.1.9 Lockview's counsel has been served with a copy of the Receiver's motion record and will be served with a copy of this Supplemental Report.

## 4.0 CONCLUSION

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4.1.1 For the reasons set out above, the Receiver respectfully requests that the Court issue an order approving the distributions of funds to Ra-Tech (no longer subject to the provision of the Holdback), LCX and CRA, as described herein and in the Fifth Report, from proceeds of the Improved Smith Offer.

All of which is respectfully submitted this 22<sup>nd</sup> day of April 2022.

BDO CANADA LIMITED, solely in its capacity as Court-appointed Receiver of 518 King St., Port Colborne Ontario, and not in its corporate or personal capacity.



Per: \_\_\_\_\_  
Peter Crawley, MBA, CPA, CA, CIRP, LIT  
Vice President

**TAB A**

COUNSEL SLIP

COURT FILE

NO.: CV-20-00637427-00CLDATE: March 17, 2022NO. ON LIST 1TITLE OF  
PROCEEDING

LIQUID CAPITAL V 1635536 ONT

COUNSEL FOR: PLAINTIFF(S) APPLICANT(S) **THOM, Stewart** PETITIONER(S)

PHONE \_\_\_\_\_

FAX \_\_\_\_\_

EMAIL [sthom@torkinmanes.com](mailto:sthom@torkinmanes.com)COUNSEL FOR: MOVING PARTY **FERRI, Andrew (Self – Rep)**

PHONE \_\_\_\_\_

FAX \_\_\_\_\_

EMAIL [andyferri@outlook.com](mailto:andyferri@outlook.com)COUNSEL FOR: DEFENDANT(S) RESPONDENT(S) **STARNINO, Max**

PHONE \_\_\_\_\_

FAX \_\_\_\_\_

EMAIL [max.starnino@paliareroland.com](mailto:max.starnino@paliareroland.com)COUNSEL FOR: RECEIVER(S) **PHOENIX, Graham**

PHONE \_\_\_\_\_

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EMAIL [gphoenix@loonix.com](mailto:gphoenix@loonix.com)JUDICIAL NOTES:

The motion scheduled for March 21, 2022 will not proceed. The matter involved whether the first and second mortgages would have priority to the Receiver's Charge. This has been resolved. This motion date is vacated.

The requested form of Amended and Restated Order for the appointment of a receiver has been approved. Order to issue in form of Order signed by me.

For clarity, the Order is made without prejudice to the right of the Receiver (or of any subsequent encumbrancer) to challenge the validity or enforceability of, or quantum of any debt owing under or in respect of any charge on title to the Property (including but not limited to those afforded priority to the Receiver's Charge) and does not impact, impair or limit the stay of proceedings in respect of the Property.

**TAB B**

**From:** [Graham Phoenix](#)  
**To:** [Andy Ferri](#); [Stewart Thom](#)  
**Cc:** [Paul Leon](#); [Peter K. Crawley MBA, CPA, CA.CIRP, LIT \(pcrawley@bdo.ca\)](#)  
**Subject:** RE: Amended and Restated Order re Receiver (518 King).DOCX  
**Date:** Thursday, March 17, 2022 11:53:00 AM

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Mr. Ferri:

These matters are fluid. I suggest you retain counsel going forward.

As concerns the highlighted portion below, the stay of proceedings governs this property, period. No one can take any step with respect to the property except the Receiver, absent a court order. That is not contentious.

In any event, you will have seen my recent email to His Honour with the order “as agreed between you and Mr. Thom” and a request for an endorsement.

Regards,

**R. Graham Phoenix\***

Partner | Bankruptcy & Insolvency | Loopstra Nixon LLP

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135 Queens Plate Drive, Suite 600, Toronto, ON Canada M9W 6V7

\*Practising as RGP Professional Corporation

---

**From:** Andy Ferri <Andyferri@outlook.com>  
**Sent:** Thursday, March 17, 2022 11:37 AM  
**To:** Graham Phoenix <gphoenix@loonix.com>; Stewart Thom <sthom@torkinmanes.com>  
**Cc:** Paul Leon <pdleon@leonlaw.ca>; Peter K. Crawley MBA, CPA, CA.CIRP, LIT (pcrawley@bdo.ca) <pcrawley@bdo.ca>  
**Subject:** RE: Amended and Restated Order re Receiver (518 King).DOCX

Dear Sir:

I didn't retain Counsel because we all agreed to the draft order including you. .

You requested changes during the hearing which is not fair to me.

With all due respect, I did not hear these words in your address to the Court, “nor impact, impair or limit the stay of proceedings in respect of the Property.”

Regards,

Andrew Ferri

905 325 0663

-

---

**From:** Graham Phoenix <[gphoenix@loonix.com](mailto:gphoenix@loonix.com)>  
**Sent:** Thursday, March 17, 2022 11:25 AM  
**To:** Andy Ferri <[Andyferri@outlook.com](mailto:Andyferri@outlook.com)>; Stewart Thom <[sthom@torkinmanes.com](mailto:sthom@torkinmanes.com)>  
**Cc:** Paul Leon <[pdleon@leonlaw.ca](mailto:pdleon@leonlaw.ca)>; Peter K. Crawley MBA, CPA, CA.CIRP, LIT (<[pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)>  
<[pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)>  
**Subject:** RE: Amended and Restated Order re Receiver (518 King).DOCX

Mr. Ferri:

This proceeding is governed by the Bankruptcy & Insolvency Act. The Receiver's powers and duties arise under that act and per the terms of the order. The receiver is not a subsequent encumbrancer. The Mortgage Act does not apply to the circumstances we are addressing.

This amendment is intended address the priority issue of fees. That it is. The language clarifies that.

I will be writing to His Honour. I will copy you and advise that you have indicated that you do not believe an amended to the order is necessary. In such case, I will be requesting an endorsement form His Honour in line with our language.

Going forward, we urge you to retain counsel in respect of this matter.

Graham

**R. Graham Phoenix\***

Partner | Bankruptcy & Insolvency | Loopstra Nixon LLP

 416.748.4776 | C: 416.558.4492 | F: 416.746.8319

 [gphoenix@loonix.com](mailto:gphoenix@loonix.com) | [www.loopstranixon.com](http://www.loopstranixon.com)

135 Queens Plate Drive, Suite 600, Toronto, ON Canada M9W 6V7

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---

**From:** Andy Ferri <[Andyferri@outlook.com](mailto:Andyferri@outlook.com)>

**Sent:** Thursday, March 17, 2022 11:02 AM

**To:** Graham Phoenix <[gphoenix@loonix.com](mailto:gphoenix@loonix.com)>; Stewart Thom <[sthom@torkinmanes.com](mailto:sthom@torkinmanes.com)>

**Cc:** Paul Leon <[pdleon@leonlaw.ca](mailto:pdleon@leonlaw.ca)>; Peter K. Crawley MBA, CPA, CA.CIRP, LIT ([pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)) <[pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)>

**Subject:** RE: Amended and Restated Order re Receiver (518 King).DOCX

Dear Sir:

As per your email below you agreed to the above attached amended order.

I don't believe we need any further changes. You have all the rights pursuant to the Mortgage Act for a subsequent mortgage. I had consulted with our lawyer Paul Leon prior to the hearing and I did not have the benefit of consulting with him on any changes.

I trust you will find this in order.

Regards,

*Andrew Ferri*

905 325 0663

---

**From:** Graham Phoenix <[gphoenix@loonix.com](mailto:gphoenix@loonix.com)>

**Sent:** Wednesday, March 16, 2022 4:52 PM

**To:** Stewart Thom <[sthom@torkinmanes.com](mailto:sthom@torkinmanes.com)>; Andy Ferri ([andyferri@outlook.com](mailto:andyferri@outlook.com)) <[andyferri@outlook.com](mailto:andyferri@outlook.com)>

**Cc:** Paul Leon <[pdleon@leonlaw.ca](mailto:pdleon@leonlaw.ca)>; Peter K. Crawley MBA, CPA, CA.CIRP, LIT ([pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)) <[pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)>

**Subject:** RE: Amended and Restated Order re Receiver (518 King).DOCX

The receiver agrees with this approach.

**R. Graham Phoenix\***

Partner | Bankruptcy & Insolvency | Loopstra Nixon LLP

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135 Queens Plate Drive, Suite 600, Toronto, ON Canada M9W 6V7

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---

**From:** Stewart Thom <[sthom@torkinmanes.com](mailto:sthom@torkinmanes.com)>  
**Sent:** Wednesday, March 16, 2022 4:40 PM  
**To:** Andy Ferri ([andyferri@outlook.com](mailto:andyferri@outlook.com)) <[andyferri@outlook.com](mailto:andyferri@outlook.com)>  
**Cc:** Paul Leon <[pdleon@leonlaw.ca](mailto:pdleon@leonlaw.ca)>; Graham Phoenix <[gphoenix@loonix.com](mailto:gphoenix@loonix.com)>; Peter K. Crawley MBA, CPA, CA.CIRP, LIT ([pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)) <[pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)>  
**Subject:** Amended and Restated Order re Receiver (518 King).DOCX

Please see attached a revised form of order which I believe should resolve the priorities issue entirely. As previously mentioned, we are consenting to the priority issue only and this would be without prejudice to any other issues relating to the mortgage – i.e. enforceability or quantum of indebtedness.

---

**Stewart Thom**

Tel: [416-777-5197](tel:416-777-5197)  
Fax: [1-877-689-3872](tel:1-877-689-3872)  
[sthom@torkinmanes.com](mailto:sthom@torkinmanes.com)  
[VCard](#)

**Torkin Manes LLP**

Barristers & Solicitors

**Ranked the #1 Ontario Regional Law Firm by Canadian Lawyer**

151 Yonge Street, Suite 1500  
Toronto ON M5C 2W7  
[torkinmanes.com](http://torkinmanes.com)

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**TAB C**

**From:** [Graham Phoenix](#)  
**To:** [Andy Ferri](#); [Crawley, Peter](#)  
**Cc:** [Paul Leon](#)  
**Subject:** RE: [EXT] 518 King Street - Update & Court Date on April 27 at 12:00noon  
**Date:** Tuesday, April 19, 2022 11:37:00 AM  
**Attachments:** [image014.png](#)

---

Mr. Ferri:

We will not consent to an adjournment. This approval of the sale is timely matter, for the benefit of all creditors – including Ra-Tech. Moreover, we are unsure what your concerns are, as you only need to substantiate your debt in order to be paid in full, which payment would be made as quickly as possible after closing. Your position does not make sense to us.

We are sorry to hear about Mr. Leon. Our firm was not aware. However, he has stated since the outset he is not a litigator and we advised you at the last hearing to obtain counsel. We would have thought you would have done so by now.

Regardless, you have our motion materials and time to retain counsel. We urge you to do so as the Receiver will be proceeding with the motion at the appointed time.

Regards,

**R. Graham Phoenix\***

Partner | Bankruptcy & Insolvency | Loopstra Nixon LLP

 416.748.4776 | C: 416.558.4492 | F: 416.746.8319

 [gphoenix@loonix.com](mailto:gphoenix@loonix.com) | [www.loopstranixon.com](http://www.loopstranixon.com)

135 Queens Plate Drive, Suite 600, Toronto, ON Canada M9W 6V7

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---

**From:** Andy Ferri <Andyferri@outlook.com>  
**Sent:** Tuesday, April 19, 2022 10:28 AM  
**To:** Crawley, Peter <pcrawley@bdo.ca>; Graham Phoenix <gphoenix@loonix.com>  
**Cc:** Paul Leon <pdleon@leonlaw.ca>  
**Subject:** RE: [EXT] 518 King Street - Update & Court Date on April 27 at 12:00noon

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**TAB D**

**RA-TECH CAD SERVICES INC.  
MORTGAGE STATEMENT  
518 KING STREET -TAYLOR**

**Interest 1200.00%**

<b>DATE</b>	<b>DESCRIPTION</b>	<b>ADVANCE</b>	<b>INTEREST</b>	<b>PAYMENT</b>	<b>BALANCE</b>
30-Mar-21	Amount per notice of sale	401,827.99			401,827.99
30/Apr/21	Possession-13 days	1,950.00			403,777.99
30/Apr/21	Interest		4,037.78		407,815.77
30/May/21	Possession-30 days	4,500.00			412,315.77
30/May/21	Interest		4,123.16		416,438.93
30/Jun/21	Possession-31 days	4,650.00			421,088.93
30/Jun/21	Interest		4,210.89		425,299.82
30/Jul/21	Possession-30 days	4,500.00			429,799.82
30/Jul/21	Interest		4,298.00		434,097.82
30/Aug/21	Possession-31 days		4,650.00		438,747.82
30/Aug/21	Interest		4,387.48		443,135.29
30/Sep/21	Possession-31 days	4,650.00			447,785.29
30/Sep/21	Interest		4,477.85		452,263.15
30/Oct/21	Possession-30 days	4,500.00			456,763.15
30/Oct/21	Interest		4,567.63		461,330.78
30/Nov/21	Possession-31 days	4,650.00			465,980.78
30/Nov/21	Interest		4,659.81		470,640.59
30-Dec-21	Possession-30 days	4,500.00			475,140.59
30-Dec-21	Insurance	200			475,340.59
30-Dec-21	Interest		4,753.41		480,093.99
24-Jan-22	Possession-24 days	3,000.00			483,093.99
24-Jan-22	Interest 24 days		3,811.81		486,905.80

30-Jan-22	Interest 6 days		960.47	487,866.27
15-Feb-22	Sub Agreement	1,695.00		489,561.27
15-Feb-22	Interest 16 days		2,575.23	492,136.50

PER DIEM \$161.80

THIS STATEMENT IS GOOD FOR 30 DAYS

E&OE

**TAB E**

Crawley, Peter

---

From: Crawley, Peter  
Sent: March 16, 2022 10:14 AM  
To: Andy Ferri  
Cc: Phoenix, Graham  
Subject: 518 King Street

Mr. Ferri,  
May we please have your current payout figures for the 2 mortgages you hold on 518 King St., with per diems. Details of the amounts would be useful as well.  
Thank you

Peter Crawley, MBA, CA, CPA, CIRP, LIT  
*Vice President, Business Restructuring & Turnaround Services*  
Financial Advisory Services  
Direct: 289.678.0243  
[BDO Canada Limited](#)  
805-25 Main Street West  
Hamilton, ON L8P 1H1

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**TAB F**

Crawley, Peter

---

From: Andy Ferri <Andyferri@outlook.com>  
Sent: April 19, 2022 10:28 AM  
To: Crawley, Peter; Phoenix, Graham  
Cc: Paul Leon  
Subject: RE: [EXT] 518 King Street - Update & Court Date on April 27 at 12:00noon

Without Prejudice

Dear Sir:

I consented to the receivership on the basis that our mortgages took priority. Stewart Thom agreed that we had priority over the receiver.

As for the payout statement it was provided to Stewart Thom quite awhile ago.

In reference to Mr. Byrd I would contend that if establishes that no money is owing to LCX it would void their judgment against Taylor. I assume that the excess funds will go 100% to LCX.

As you aware Mr. Leon is in the hospital. We will have to find new counsel. I will require an adjournment of the upcoming hearing. Will you consent to an adjournment to enable us to find counsel? Kindly advise.

Regards,

**Andrew Ferri**

905 325 0663

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From: Crawley, Peter <pcrawley@bdo.ca>  
Sent: Saturday, April 16, 2022 12:19 PM  
To: Andy Ferri <Andyferri@outlook.com>; Phoenix, Graham <gphoenix@loonix.com>  
Cc: Paul Leon <pdleon@leonlaw.ca>  
Subject: RE: [EXT] 518 King Street - Update & Court Date on April 27 at 12:00noon

Mr. Ferri:

Recall that you consented to the receivership order which contained the power sell the property. No party has appealed that Order.

The Receiver is an officer of the court, and not the final adjudicator of any claims, liabilities, or relative priorities. The Receiver's role, at this juncture, is to collect documents and information from claimants which it will review and, based upon that review, make its recommendations to the court as to the appropriate distribution of available funds. It is the court, and not the Receiver, which will finally determine the entitlements of the interested parties. The Receiver's recommendations in this regard are not determinative of these issues.

There is a judgement against Mr. Taylor in favour of LCX that has not been appealed. Any challenge by Mr. Byrd relates to his liability to LCX, not Mr. Taylor's liability. Regardless, Mr. Byrd would presumably want the property sold and the proceeds applied to reduce the residual claim that LCX may advance against him. Also, Mr. Byrd has been served in these proceedings and will again be served the Receiver's motion record next week to which he may serve documents as he sees fit in response for the Court to consider.

All of that aside, we are simply asking Ra-Tech for a payout statement on the mortgages you hold, along with supporting documentation, so that we may review your calculations and obtain Court approval to pay the proven amount out of the proceeds of the proposed sale. You stand to be paid out in full. We have requested this information on multiple occasions and you have not provided it. As the Receiver's repeated requests for discharge calculations and supporting documents made of you/Ra-Tech have not been answered, the Receiver has, on the basis of the information available to it, made its own calculation of the appropriate amount to hold back from distribution to other creditors on account of the potential claims of Ra-Tech.

The Receiver is not interested in any issue you may have with LCX or the purchaser (Lockview/Mr. Continelli) under your aborted transaction, though presumably, and subject to you obtaining your own legal advice in that regard, the purchaser will not have a claim against you given the fact that a Court order was issued prior to the contemplated closing date of that sale .

If you do not provide the requested information, we will be forced to seek an order to distribute funds to Ra-Tech based on the Receiver's calculations and the law.

If you wish to file materials in this motion, we again urge your to retain counsel and do so.

The Receiver reserves the right to claim costs against any party that mounts an unfounded opposition to the Receiver's motion.

You will receive our materials early next week.

Peter Crawley, MBA, CA, CPA, CIRP, LIT  
*Vice President, Business Restructuring & Turnaround Services*  
Financial Advisory Services  
Direct: 289.678.0243

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---

From: Andy Ferri

Sent: April 14, 2022 3:52 PM

To: Crawley, Peter <[pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)>; Phoenix, Graham <[gphoenix@loonix.com](mailto:gphoenix@loonix.com)>

Cc: Paul Leon <[pdleon@leonlaw.ca](mailto:pdleon@leonlaw.ca)>

Subject: FW: [EXT] 518 King Street - Update & Court Date on April 27 at 12:00noon

WITHOUT PREJUDICE

Dear Sir:

I have reviewed your request with our lawyer.

Here are the concerns:

Rubin is bringing a motion to set aside the judgment based on the fact that there are no monies owing. I would think that before King Street is sold this issue should be resolved.

Will there will an issue with Marshaling vis a vis Rubin?

Ra-Tech will require an indemnification from Liquid Capital for the following reasons:

The receivership was wrapped up in November 2021 save and except the issue with Rubin.

Liquid Capital was served with a Notice of Sale for the King Street Property on January 7, 2021.

A statement of claim was served on March 1, 2021 and wasn't defended.

Liquid Capital is sophisticated and had ample time to deal with this the Notice of Sale.

Liquid Capital filed material with the Court and put a value of \$600,000 on the King Street property.

Ra-Tech sold the property originally \$600,000 but there were about \$50,000 in repairs and damages. As a result Ra-Tech netted the repairs against the sale price and accepted \$550,000 as is. James Smith indicated there was \$100,000 in repairs and damages. I have no way of knowing if this is true.

After Ra-Tech sold the property Liquid Capital brought a motion to put the King Street property in receivership in an attempt to void the sale by Ra-Tech. This is sharp practice and high handed..

The purchaser has incurred legal fees, loan fees and has insured the property. He intends to file a claim against Ra-Tech if his purchase doesn't go through. Revel Reality also intends to

bring a claim for their commission. Therefore Ra-Tech needs an indemnification agreement as they do not think Liquid Capital conducted this matter in good faith and they do not want to get caught in the middle of this.

I welcome your comments.

**Andrew Ferri**

905 325 0663

---

From: Crawley, Peter <[pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)>  
Sent: Tuesday, April 12, 2022 10:43 AM  
To: Andy Ferri <[Andyferri@outlook.com](mailto:Andyferri@outlook.com)>  
Cc: Phoenix, Graham <[gphoenix@loonix.com](mailto:gphoenix@loonix.com)>  
Subject: RE: [EXT] 518 King Street - Update & Court Date on April 27 at 12:00noon

Good morning Mr. Ferri,

I'm following up on my request below - do you have payout statements that you can send me for the two mortgages on 518 King that your company acquired?  
We are applying to Court for approval of a sale and will also be seeking approval for the distribution of funds at closing, including payout of your mortgages (in full).

I have piecemeal information from prior motion records that speak to the terms of the two mortgages, and thus I can probably come up with a reasonable calculation, but it would be more appropriate (and customary) if you were to provide us with your calculations and per diem.  
The approval hearing is scheduled for April 27<sup>th</sup> and we expect to close very quickly upon approval.

Thank you

Peter Crawley, MBA, CA, CPA, CIRP, LIT  
*Vice President, Business Restructuring & Turnaround Services*  
Financial Advisory Services  
Direct: 289.678.0243

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---

From: Crawley, Peter  
Sent: April 7, 2022 10:12 AM  
To: Andy Ferri <[Andyferri@outlook.com](mailto:Andyferri@outlook.com)>  
Cc: Phoenix, Graham <[gphoenix@loonix.com](mailto:gphoenix@loonix.com)>  
Subject: FW: [EXT] 518 King Street - Update & Court Date on April 27 at 12:00noon

Good morning Mr Ferri,

Further to my counsel's advice below, I'm again writing to request the current payout statements, with per diem, for the two mortgages that Ra-Tech CAD Services Inc. holds on the subject property. Concurrent with seeking approval to sell 518 King pursuant to an accepted offer we have, we will also be seeking Court approval to distribute funds to payout the balances owing on the mortgages at closing.

Thank you

Peter Crawley, MBA, CA, CPA, CIRP, LIT  
*Vice President, Business Restructuring & Turnaround Services*  
 Financial Advisory Services  
 Direct: 289.678.0243

---

From: Graham Phoenix  
 Sent: April 6, 2022 1:36 PM  
 To: 'Stewart Thom' <[sthom@torkinmanes.com](mailto:sthom@torkinmanes.com)>; Gus Camelino <[gcamelino@mcleankerr.com](mailto:gcamelino@mcleankerr.com)>; Paul Leon <[pdleon@leonlaw.ca](mailto:pdleon@leonlaw.ca)>; Andy Ferri <[Andyferri@outlook.com](mailto:Andyferri@outlook.com)>  
 Cc: Crawley, Peter <[pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)>  
 Subject: [EXT] 518 King Street - Update & Court Date on April 27 at 12:00noon

All:

By way of update, the Receiver has received and accepted an offer on the 518 King Street property and will seek Court approval of the same on April 27<sup>th</sup> at 12:00noon. The purchase price and the Receiver's information concerning valuation will remain sealed pending closing; however, the transaction will result in sufficient proceeds to payout proven amounts under the 1<sup>st</sup> and 2<sup>nd</sup> mortgage held by Mr. Ferri and a portion of proven amounts under the 3<sup>rd</sup> mortgage held by Liquid Capital.

At the same hearing, the Receiver anticipates seeking an order to distribute funds per legal priorities and authorizing its discharge.

You will get an invite to the court hearing shortly.

As well, the Receiver will be in touch with the mortgagees shortly to request updated payout statements. We ask that they be returned promptly.

You will receive motion materials in due course

Best regards,

 R. Graham Phoenix\*  
 Partner | Bankruptcy & Insolvency | Loopstra Nixon LLP  
 ☎ 416.748.4776 | C: 416.558.4492 | F: 416.746.8319  
 ✉ [gphoenix@loonix.com](mailto:gphoenix@loonix.com) | [www.loopstranixon.com](http://www.loopstranixon.com)  
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**TAB G**





**BDO Canada Limited**  
Licensed Insolvency Trustee

25 Main Street 41  
Suite 805  
Hamilton, Ontario  
L8P 1H1  
Telephone: (905) 524-1008  
Telefax: (905) 570-0249

January 25, 2022

Via email: [modernstucco1@gmail.com](mailto:modernstucco1@gmail.com) / [delisio@bellnet.ca](mailto:delisio@bellnet.ca)

Mr. Danny Continelli  
Lockview Ventures Inc.  
1 Treehaven Road  
St. Catharines, Ontario L2T 1V2

And

c/o Mr. Luigi Delisio, legal counsel  
261 Martindale Road, Ste 16  
St. Catharines, Ontario L2W 1A2

Dear Sirs:

Re: 518 King Street, Port Colborne, Ontario (the “**Real Property**”)

---

Please be advised that by Order of the Honourable Madam Justice Dietrich of the Ontario Superior Court of Justice (Commercial List) BDO Canada Limited was appointed receiver (in that capacity the “**Receiver**”) over the Real Property on January 24, 2022 (the “**Appointment Order**”). A copy of the Appointment Order and endorsement is attached hereto for your reference.

We have been advised that you may be a party to an agreement to purchase the Real Property. In accordance with paragraph 5 of the Appointment Order, we are writing to request that you provide the Receiver with copies of any and all documents, correspondence and agreements that you may be a party to in respect of the Real Property including, but not limited to, offers to purchase, agreement(s) of purchase and sale, as well as any documents, correspondence or agreements in respect of the development, severance, zoning or other attributes of the Real Property.

Please provide the requested information to the undersigned at [pcrawley@bdo.ca](mailto:pcrawley@bdo.ca) at your earliest convenience. You may contact the undersigned at (289) 678-0243 should you wish to discuss the foregoing.

Yours truly,

**BDO Canada Limited, in its capacity as court appointed  
Receiver of 518 King Street, Port Colborne, Ontario**

**Per: Peter Crawley, MBA, CPA, CA, CIRP, LIT**

Encl.

Cc: Graham Phoenix, Loopstra Nixon LLP, counsel to the Receiver ([gphoenix@loonix.com](mailto:gphoenix@loonix.com))

**TAB H**

R. Graham Phoenix\*  
Tel: 416.748.4776  
Email: [gphoenix@loonix.com](mailto:gphoenix@loonix.com)

**DELIVERED VIA EMAIL** ([pdleon@leonlaw.ca](mailto:pdleon@leonlaw.ca))

File Code: 06325-0009

February 24, 2022

**BLACKADDER LEON MARION & FAZARI LLP**

**Barristers and solicitors**

149 West Main St.

P.O. Box 366,

Welland, Ontario, L3B 5P7

Attention: Paul D. Leon

Dear Mr. Leon,

**RE:** Receivership of David Taylor's property located at 518 King Street in Port Colborne (the "Property").

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As you may recall, we are the lawyers for the Court-appointed receiver of the Property.

We write in respect of a recent email from you to Mr. Thom of Torkin Manes LLP, counsel to the applicant in the Receivership proceedings. Mr. Thom forwarded the same to us out of concern that you and/or Mr. Ferri are contemplating attempting to close a possible sale of the Property under a previously issued power of sale. In such email you advised Mr. Thom that his client could not stop the sale and you are under great pressure to complete the same.

Leaving aside any dispute or other issues between Mr. Ferri and Mr. Thom's client, whether or not Mr. Thom's client could stop the sale is irrelevant.

The Court has done so.

Pursuant to the Receivership Order, all dealings with the Property are stayed pending further order of the Court. A copy of the Receivership Order was previously provided to you and has been registered on title to the Property. Any actions resulting in the disposition of the Property will not only be illegal but will obligate the Receiver, as officer of the Court, to pursue relief and costs against those responsible, including possible contempt orders.

Sufficed to say, Mr. Ferri is not able to sell the Property, nor are you able to facilitate the same. Doing so would be a blatant violation of the Receivership Order.

Moreover, regarding the power of sale transaction referenced above, which is now past the stated closing date, the Receiver has requested from Mr. Ferri and the proposed purchaser details of their negotiation of the agreement of purchase and sale (the "APS"). The same has not been provided, which it itself a violation of the Receivership Order. The Receiver is not bound by any

agreement of sale executed by Mr. Ferri. Instead, the Receiver is bound to market the Property for sale and obtain the best price for the creditors. For this reason, the Receiver has requested details of the power of sale, the APS and the negotiation thereof as well as copies of the assignment documentation relating to the mortgages and copies of any and all notices of the assignment which may have been delivered to the interested parties (all collectively, the "POS Documents").

We understand you are discussing issues around the mechanics and funding of the Receiver with Mr. Thom, which is subject to a return date before the Court in March. However, nothing in respect of the same will alter or impair the overarching mandate of the Receiver to realize the best value of the creditors, through a sale of the Property.

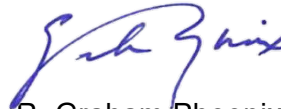
In furtherance of this mandate we reiterate the Receiver's request of the POS Documents and emphasize that neither Mr. Ferri, nor any person, is permitted to sell, transfer, encumber or otherwise dispose of or deal with the Property, or take proceedings in respect of the Property – any of which would be in violation of the Receivership Order.

Please direct any correspondence to the Receiver to Peter Crawley ([pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)) copied to the undersigned.

Yours truly,

**LOOPSTRA NIXON LLP**

Per:



R. Graham Phoenix  
Partner

\*Practicing as RGP Professional Corporation

RGP/aa

**From:** [Paul Leon](#)  
**To:** [pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)  
**Cc:** [Phoenix, Graham](#)  
**Subject:** RE: Receivership of David Taylor's property located at 518 King Street in Port Colborne (the "Property")  
**Date:** Thursday, February 24, 2022 12:21:03 PM  
**Attachments:** [image005.png](#)

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Dear Mr. Phoenix,  
Your letter, while you might have thought it unnecessary, it was needed.  
I sincerely thank you for it.  
Regards,  
Paul  
Ps. I have forwarded your letter to my client.

Paul D. Leon  
Blackadder Leon Marion & Fazari LLP  
Barristers and Solicitors  
149 West Main St.,  
P.O. Box 366,  
Welland, Ontario L3B 5P7  
Tel: 905 735-2921  
Fax: 905 735-4519  
Email: [pdleon@leonlaw.ca](mailto:pdleon@leonlaw.ca)

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**From:** Adamo, Amanda <[aadamo@loonix.com](mailto:aadamo@loonix.com)>  
**Sent:** February 24, 2022 11:53 AM  
**To:** Paul Leon <[PDLeon@leonlaw.ca](mailto:PDLeon@leonlaw.ca)>  
**Cc:** Phoenix, Graham <[gphoenix@loonix.com](mailto:gphoenix@loonix.com)>; Crawley, Peter <[pcrawley@bdo.ca](mailto:pcrawley@bdo.ca)>  
**Subject:** Receivership of David Taylor's property located at 518 King Street in Port Colborne (the "Property")

Dear Mr. Leon,

Attached please find correspondence of today's date from Mr. Graham Phoenix in regard to the above noted matter.

As mentioned in the attached, please direct any correspondence to the Receiver to Peter Crawley () copied to Graham Phoenix ().

Regards,  
Amanda

**Amanda Adamo**

Legal Assistant | Bankruptcy, Insolvency & Restructuring | Loopstra Nixon LLP

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APPLICATION UNDER SECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED AND SECTION 101  
OF THE COURT OF JUSTICE ACT, R.S.O. 1990, C. C-43, AS AMENDED

Court File No. CV-20-00637427-00CL

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

Proceeding commenced at **TORONTO**

**SUPPLEMENT TO THE FIFTH REPORT OF THE  
RECEIVER**

*(filed in connection with a motion returnable April 27,  
2022)*

**LOOPSRA NIXON LLP**

135 Queen's Plate Drive – Suite 600  
Toronto, ON M9W 6V7

**R. Graham Phoenix** (LSO No.: 52650N)

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