

THE TURKS AND CAICOS ISLANDS

2012

IN THE SUPREME COURT

CAP 122

IN THE MATTER of  
**TCI BANK LIMITED**  
(In Liquidation by Order of the Supreme Court of the Turks & Caicos Islands)

AND

IN THE MATTER of  
THE COMPANIES ORDINANCE (CAP 122)

FIFTH REPORT OF THE OFFICIAL LIQUIDATOR  
TO  
THE SUPREME COURT OF THE TURKS & CAICOS ISLANDS

**December 31, 2012**

Respectfully Submitted by  
Mr. Anthony S. Kikivarakis Sr.  
As Official Liquidator for  
TCI Bank Limited

## Table of Contents

1	INTRODUCTION.....	1
1.1	Background .....	1
1.2	Sources of Information.....	1
1.3	Limitation .....	2
1.4	Currency .....	2
1.5	Further Steps to be Taken as Stated in the Fourth Report.....	2
2	OBJECTIVE OF THIS REPORT.....	3
2.1	Collections on Outstanding Loans .....	3
2.2	NIB's Claim Against the Company .....	4
2.3	Proof of Debt and Payment of first dividend .....	5
2.4	Investments.....	5
2.5	Cash balances .....	6
2.6	Other matters .....	6
3	OTHER STEPS TO BE TAKEN BY THE OFFICIAL LIQUIDATOR .....	7
4	CONCLUSION .....	7
	Appendix I.....	9
	Appendix II.....	10

**TCI BANK LIMITED**  
**(In Liquidation under the supervision of The Supreme Court)**

**FIFTH REPORT OF THE OFFICIAL LIQUIDATOR**

**1 INTRODUCTION**

**1.1 Background**

I, Anthony S. Kikivarakis Sr., Chartered Accountant and Chairman of Kikivarakis & Co., am the Official Liquidator for TCI Bank Limited (hereinafter referred to as “the Company”). I first took office as one of the Provisional Liquidators for the Company on 9 April 2010, by order of the Honourable Justice Richard Williams of the Supreme Court of the Turks and Caicos Islands (the “Court”). On 29 October, 2010, I was appointed as one of the Joint Official Liquidators of the Company by the Supreme Court. This Joint Official Liquidator position remained in place until October 23, 2012 when Mr. Mark E. Munnings was removed by the Court as one of the Joint Official Liquidators leaving me as the sole Official Liquidator.

My powers, as Official Liquidator, are set out in section 107 of the Companies Ordinance (CAP 122), which is exercisable without the sanction or intervention of the Court, pursuant to the Order of Mr. Justice Richard Williams dated October 29, 2010.

In my said position and as an officer of the Supreme Court, I hereby submit to the Supreme Court, The Turks and Caicos Islands Financial Services Commission (the “FSC”), shareholders, and creditors the fifth report on the liquidation. This report covers the period July 1, 2012, to December 31, 2012.

**1.2 Sources of Information**

1.2.1 Specific details of the sources of information used and relied upon are given where referred to in this report.

### **1.3 Limitation**

1.3.1 During the reporting period we have relied on the integrity of the information and documents contained in the Company's records, supplied by the Company's directors, former employees, and other interested parties. Although we have sought to cross check information from different sources, to confirm its accuracy, we have not independently verified all of the information and documentation upon which we have relied during the course of the reporting period; neither has the Company's financial records, as at December 31, 2012, been subject to an audit.

1.3.2 As the Company's Official Liquidator, my report is solely on factual matters. While I believe all of the information in this report to be true and accurate, I reserve the right to amend this report should additional information come to my attention.

### **1.4 Currency**

1.4.1 The Company's activities are conducted in United States Dollars (US\$) and therefore all references to currency are in US\$, unless otherwise stated.

### **1.5 Further Steps to be Taken as Stated in the Fourth Report**

1.5.1 In the Fourth Report we stated that, in addition to the normal daily liquidation activities, we intended to perform the following tasks:

- (a) Investigate other "secured creditors" and related party withdrawals from the Bank immediately before the commencement of the winding up, to determine whether these transactions were normal arms-length transactions – Section 3;
- (b) Start foreclosure procedures on properties where loan payments are significantly behind – Section 2 and Section 3;
- (c) Accept claims submitted by creditors for dividend entitlement and reject claims where necessary and inform the relevant claimants – Section 3 ;

## **2 OBJECTIVE OF THIS REPORT**

The objective of this report is to provide parties interested in the Company's liquidation with the steps that have been taken since our fourth report as at June 30, 2012, and the progress made since that date. Topics included in this report are dealt with in the following sections:

- (a) Collections on outstanding loans
- (b) NIB Investigation;
- (c) Proof of debt and dividend payments
- (d) Other Matters
- (e) Conclusion.

### **2.1 Collections on Outstanding Loans**

- 2.1.1. During the reporting period, July 1, 2012, to December 31, 2012, fifty (50) loan accounts were renegotiated and paid off. This along with regular loan payments resulted in a total collection of USD\$1, 734,566 from loan customers as noted in Appendix I.
- 2.1.2. In spite of our aggressive loan collection efforts, our loan receipts have decrease by fifty percent (50%) and a large number of clients remain delinquent. Consequently, we have begun the initial stage of the foreclosure process as many of the delinquent customers have been given sufficient time to pay off or regularize their outstanding balances.
- 2.1.3. As of the date of this report, the balance of the top twenty (20) significant overdue loans and overdrafts decreased by USD\$48,000 and stands at approximately USD\$22,932,000 as at December 31, 2012. A list of the top twenty (20) accounts is produced below.

Number of Loans	Description	Days Overdue	
		Pay-off Balances December 31,2012	As at December 31,2012
Loan #1	Special purpose building	\$ 3,890,000	1,005
Loan #2	Touristic Product	2,037,000	1,450
Loan #3	Land	1,619,000	803
Loan #4	Syndicated Loan	1,456,000	975
Loan #5	Commercial	1,371,000	974
Loan #6	Special purpose building	1,280,000	905
Loan #7	Touristic product-overdraft facility	1,197,000	overdraft facility
Loan #8	Commercial	921,000	365
Loan #9	Residential	916,000	1,478
Loan #10	Residential	898,000	1,130
Loan #11	Special purpose building	872,000	1,231
Loan #12	Apartments	784,000	672
Loan #13	Apartments	745,000	1,050
Loan #14	Special purpose building	737,000	644
Loan #15	Apartments	733,000	1,392
Loan #16	Commercial	730,000	1,040
Loan #17	Apartments	698,000	1,147
Loan #18	Touristic Product	698,000	1,188
Loan #19	Commercial	694,000	1,405
Loan #20	Commercial	656,000	1,283
<b>Total balance as at December 31, 2012</b>		<b>\$ 22,932,000</b>	

We have asked our attorneys to commence foreclosure proceedings against a number of the above and other borrowers. These proceedings, we have been informed, will result in public auctions before progressing to private treaty sales if the properties remain unsold at auction. We understand that the whole process could take up to seven months.

## 2.2 NIB's Claim Against the Company

2.2.1. The background into the investigation of NIB's claim against the Company and the work performed in that regard, have been dealt with in prior reports and therefore need not be repeated here.

2.2.2. Since the last report I have carried out the following steps with regard to the NIB matter:

1. Consulted with my attorneys (local and foreign) on the possible outcome of any litigation in the Company's favour resulting from my challenging the validity of the debenture;
2. Held discussions with my agents;

3. Reviewed the transcripts of interviews conducted by my agents and I;
4. Studied documents with regards to this matter; and
5. Considered a cost benefit analysis of carrying out any further investigations into this matter.

As a result of the above steps I have determined that it is in the best interest of the creditors, financially, not to pursue this matter any further and accordingly I have decided to close this chapter and negotiate the amount of interest payable and costs recoverable under the Debenture and negotiate a settlement with the NIB

### 2.3 Proof of Debt and Payment of first dividend

- 2.3.1. During the reporting period a total sum \$13,344,674 was paid to creditors by way of a first interim dividend distribution as noted in Appendix I. Unpaid dividends have been set aside for those creditors whose claims are still outstanding.

### 2.4 Investments

- 2.4.1. As at the date of this report, we have received total redemption payments of USD\$1,400,000 on the TCI Government 8% Fixed Rate Non-callable 2006-2021 Bonds and the TCI Government 7.5% Fixed Rate Non-callable 2006-2021 Bonds (“the Bonds”) and accrued interest of USD\$206,858. In light of this, the Company’s investments have been reduced by USD\$1,606,858, as shown below.

Investments	As at 9-Apr-10	Collected During the Liquidation	As at 31-Dec-12
Unquoted investment in ECIC Ltd.	\$ 631,990	\$ -	\$ 631,990
Antigua Government Bond 8.5%	1,499,998	-	1,499,998
TCI Government Bond 7.5%	3,833,333	(1,000,000)	2,833,333
TCI Government Bond 8%	2,000,000	(400,000)	1,600,000
Accrued Interest	206,858	(206,858)	-
<b>Total</b>	<b>\$ 8,172,179</b>	<b>\$ (1,606,858)</b>	<b>\$ 6,565,321</b>

During the period \$447,450 in principal repayment and interest was received and paid to the respective beneficiaries (see Appendix II).

## **2.5 Cash balances**

- 2.5.1. For the period the net cash increase (after deducting expenses) was USD\$1,449,992. As at the date of this report, December 31, 2012, the Company's cash balance is USD\$9,595,026. Despite the aggressive efforts of contacting loan customers, the cash inflow from the collection of loan payments have decreased by \$1,804,712 (June 2012-\$3,539,278; December 2012-\$1,734,566). We are now faced with the task of starting foreclosure proceedings against delinquent customers in an effort to accumulate funds to facilitate another dividend distribution for the unsecured creditors. A detailed analysis of cash inflows and outflows is contained in the Receipts and Disbursements Account analysis provided in Appendix I.

## **2.6 Other matters**

### **2.6.1. General**

During the period we continued to manage the liquidation process and our activities included, but were not limited to the following:

- (a) Instructing our agents, which included meeting with them, on tasks and procedures to be performed;
- (b) Meeting with and assisting customers in refinancing and restructuring their loan obligations and following up with banks on their behalf;
- (c) Instructing and receiving advice from our attorneys on legal matters arising;
- (d) Preparing and filing affidavits and reports with the Court and attending Court proceedings on various matters;
- (e) Performing daily operational tasks;
- (f) Reviewing and issuing letters and documents, in response to Production and Customer Information Orders, issued by the Special Investigations and Prosecutions Team ("SIPT").



### **3 OTHER STEPS TO BE TAKEN BY THE OFFICIAL LIQUIDATOR**

In Section 1.5 above, we listed further steps to be taken, as at June 30, 2012. Steps taken in this regard are listed in the appropriate sections beside the said tasks. Nevertheless, after analyzing the tasks to be performed and prioritizing the same, we were unable to conclude or complete the following steps:

- (a) Investigate other “secured creditors”, to determine whether these transactions were normal arms-length transactions;
- (b) Settlement of all claims submitted by creditors.

We will continue to advise the Court and interested parties of our progress in the Company’s winding up proceedings, which will include the items listed above, in subsequent reports.

### **4 CONCLUSION**

As the Company’s Official Liquidator, I will continue to exercise my duties as set out in the order of appointment. Tasks will be prioritized and performed in an orderly manner, after reviewing and analyzing the same. As the Company’s main asset continues to be a depressed loan portfolio, most of my efforts will be dedicated to the collection of and/or conversion of the assets in the portfolio to cash. This will not be without tremendous difficulties as many of the loan customers are themselves either experiencing difficulties in making timely payments on their outstanding loan balances, not able to refinance their loans, or simply refusing to pay their loan obligations. Nevertheless, we have made tremendous strides in the past two (2) years and have paid out some \$13,344,674 in dividends to creditors.

I have not prepared an estimate of the realizable value of the loan portfolio, which is primarily backed by property and real estate, because any estimate of recovery from the sale of properties would be speculative at this time, as I have not sold any properties by foreclosure proceedings. I intend to increase the number of foreclosure proceedings against other major non-performing loans.

This report covers the period July 1, 2012, to December 31, 2012, and will be followed by half yearly reports, as at June 30 and December 31.

Respectfully submitted as of the 27th day of March, 2013 this the fifth report.

A handwritten signature in cursive script, appearing to read "A. Kikivarakis Sr.", written over a horizontal line.

Anthony S. Kikivarakis Sr.

**TCI Bank Limited (In Liquidation)**  
**Receipts & Disbursements Account**  
**For the period July 1, 2012, to December 31, 2012**  
*(Unaudited)*  
*(Expressed in United States dollars)*

**OPENING CASH BALANCE** **\$ 21,489,708**

**RECEIPTS**

Loan Receipts - TCI Bank Customers	1,734,566	
Principal repayments and interest on TCIG Bonds	447,289	
Interest income - Interest bearing deposits	19,731	
Trustee and management fees for TCIG Bonds	10,000	
Proceeds from sale of assets	7,444	
<b>TOTAL RECEIPTS</b>		<b><u>2,219,030</u></b>

**DISBURSEMENTS**

Liquidators' fees and other costs	394,813	
Legal fees	229,022	
Salaries and related expenses - former employees	57,508	
Rent and utilities - office	35,439	
Rent and utilities - Liquidators and Agents	15,893	
Security	11,123	
Communication expenses	7,904	
Storage	5,280	
Relocation costs	3,705	
Vehicle costs	2,838	
Equipment rental, maintenance, and supplies	2,573	
Cleaning services	2,350	
Bank charges	589	
<b>TOTAL DISBURSEMENTS</b>		<b><u>(769,037)</u></b>

**NET RECEIPTS FOR THE PERIOD** **1,449,993**

**FIRST INTERIM DIVIDEND- PAYMENTS MADE** **(13,344,674)**

**ENDING CASH BALANCE** **\$ 9,595,027**

**Cash Consist of:**

Interest bearing deposits	\$ 7,141,931
Operating Account	1,163,943
General Account	1,288,875
Petty Cash	278
<b>TOTAL CASH HELD</b>	<b><u>\$ 9,595,027</u></b>

**Appendix II**

**TCI Bank Limited (In Liquidation)**  
**Receipts & Disbursements Account - Fiduciary Accounts**  
**For the period July 1, 2012, to December 31, 2012**  
*(Unaudited)*  
*(Expressed in United States dollars)*

<b>OPENING BALANCE</b>	\$ -
<b>RECEIPTS</b>	
Principal repayments and interest on TCIG Bonds (held in a fiduciary capacity)	<u>447,450</u>
<b>DISBURSEMENTS</b>	
Payment of principal and interest on fiduciary funds	<u>447,450</u>
<b>ENDING BALANCE</b>	<u>\$ -</u>