

THE TURKS AND CAICOS ISLANDS

2020

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)

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

**December 31, 2019**

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.....	1
1.4	Currency .....	2
2	OBJECTIVE OF THIS REPORT.....	2
2.1	Collections on Outstanding Loans .....	2
2.2	Proof of Debt and Payment of Dividends .....	3
2.3	Shareholder Banks Balances .....	3
2.4	Investments.....	4
2.5	Cash balances .....	4
2.6	Other Matters.....	4
3	OTHER STEPS TO BE TAKEN BY THE OFFICIAL LIQUIDATOR .....	5
4	DIVIDEND DISTRIBUTION.....	5
5	THE INTEGRITY COMMISSION.....	5
6	CONCLUSION .....	7
	Appendix I- Receipts and Disbursements Account.....	8
	Appendix II- Receipts and Disbursements Account-Fiduciary.....	9

# **1 INTRODUCTION**

## **1.1 Background**

I, Anthony S. Kikivarakis Sr., Chartered Accountant and Chairman and CEO 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 Court. This Joint Official Liquidator position remained in place until 23 October, 2012 when I became the sole Official Liquidator of the Company as appointed by the Court.

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 29 October, 2010.

In my said position and as an officer of the Supreme Court, I hereby submit to the Court, The Turks and Caicos Islands Financial Services Commission (the “FSC”), shareholders, and creditors of the Company the nineteenth report on the liquidation. This report covers the period July 1, 2019, to December 31, 2019.

## **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 I have relied on the integrity of the information and documents contained in the Company’s records, supplied by former employees and other interested parties. Although I have sought to cross check information from different sources, to confirm their accuracy, I have not independently verified all of the information

and documentation upon which I have relied during the course of the reporting period; neither has the Company's financial records, as at December 31, 2019, been subject to an audit.

1.3.2 As the Company's Official Liquidator, my report is solely based 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\$) therefore, unless otherwise stated, all references to currency are in US\$.

## **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 the eighteenth report as at June 30, 2019, 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) Proof of debt and dividend payments
- (c) Shareholder Banks Balances
- (d) Investments
- (e) Cash
- (f) Other Matters

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

2.1.1. During the reporting period, July 1, 2019, to December, 2019, twenty-three (23) loan account balances were either renegotiated or refinanced and final settlements made.

2.1.2. During this period, USD\$2,387,859 was collected from customers as noted in Appendix I. This amount was obtained from, sales of private treaty properties, proceeds from payouts and/or refinancing's of customers' loan balances.

2.1.3. As of the date of this report, there are loans and overdrafts that continue to be the subject of foreclosure proceedings arising from non-payment of outstanding amounts.

To date I have initiated foreclosure proceeding against properties of one hundred and twenty-two (122) borrowers with significant overdue loans and overdrafts. These proceedings will result in applications being made to the court to conduct private treaty sales. Most sales arise from private treaty court orders giving me the power to list the properties with real estate brokers.

Foreclosure proceedings and auctions as of the date of this report are as follows:

1. 119 section 64 notices served
2. 85 private treaty orders obtained
3. 15 properties have completed the 1<sup>st</sup> and 2<sup>nd</sup> auction processes
4. 4 auctions in total carried out to date
5. 2 properties sold to date by auction
6. 73 loans settled after foreclosure proceedings started

## **2.2 Proof of Debt and Payment of Dividends**

2.2.1. As noted in Appendix I, during the reporting period a total sum USD\$6,670,987 was paid to creditors arising primarily from the third interim dividend distribution declared.

## **2.3 Shareholder Banks Balances**

2.3.1. As stated in our previous report a small number of shareholder banks still have outstanding loan balances with the Company. Discussions are continuing with such banks to resolve these matters.

I am also in discussions with the Liquidator of Antigua Overseas Bank regarding a claim due to the Company.

## 2.4 Investments

2.4.1 As at the date of this report, I have received total principal redemption payments since the date of liquidation of USD\$5,133,333 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”). Details of the Company’s investment activities are shown below.

Investments	As at 9-Apr-10	Collected During the Liquidation	Written off During the Liquidation	As at 31-Dec-19
TCI Government Bond 7.5%	3,833,333	(3,333,333)	-	500,000
TCI Government Bond 8%	2,000,000	(1,800,000)	-	200,000
<b>Total</b>	<b>\$ 5,833,333</b>	<b>\$ (5,133,333)</b>	<b>\$ -</b>	<b>\$ 700,000</b>

During the period the Company received \$299,860 in principal and interest as agent and paid the same to the respective beneficiaries (see Appendix II).

## 2.5 Cash balances

For the period the net cash increase (after deducting expenses) was USD\$2,164,090. As at December 31, 2019, the Company’s cash balance is USD\$7,282,187. Most of the cash balances consist of interest bearing deposits. 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

During the period I continued to manage the liquidation process and my activities and those of my agents included, but were not limited to the following:

- (a) Instructing my 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 my attorneys on legal matters arising;
- (d) Preparing and filing affidavits and reports with the Court and attending Court proceedings in person or through my agent on taxation matters where necessary;
- (e) Meeting with real estate brokers and following up on sales of properties as allowed by the court through private treaty orders;
- (f) Making dividend distributions to clients where necessary;
- (g) Conducting regular 'status update' meetings via telephone, electronic messaging and in person with my agents, customers and shareholder representatives.

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

Steps to be taken by myself are listed in the appropriate sections beside the said tasks. Nevertheless, after analyzing the tasks to be performed and prioritizing the same, I still have a small number of distributions not yet paid as a result of persons not being located or the current beneficiaries not yet being determined.

I will continue to advise the Court and interested parties of our progress in the Company's winding up proceedings, in subsequent reports.

### **4 DIVIDEND DISTRIBUTION**

On March 28, 2019, Her Ladyship The Honourable Mrs. Chief Justice Margaret Ramay-Hale approved the third dividend distribution of United States fifteen cents (US\$0.15) on the dollar (\$1.00) to depositors and unsecured creditors whose claims were admitted in the winding up proceedings of TCI Bank Limited (In Liquidation).

As a result, three dividend distributions have been made to depositors and creditors in the amount of twenty cents in the dollar (0.20) for the first and second distributions and fifteen (0.15) for the third distribution resulting in an overall payment of fifty-five cents (0.55) to unsecured depositors and creditors since commencement of the liquidation.

## **5 THE INTEGRITY COMMISSION**

I am currently having to defend the Integrity Commission's appeal from a ruling of the Court of Appeal denying the Integrity Commission's appeal from a decision of the Supreme Court to the effect that the Integrity Commission acted ultra vires its powers when it purported to issue a summon directing the Official Liquidator to make available to the Commission details of accounts held at the TCI Bank in the name of certain past and present members of the House of Assembly. My advice was to the effect that the Integrity Commission Ordinance did not give blanket authority to the Commission to issue such a summons and that in the circumstances my divulging the requested information could constitute a breach by me of the Confidential Relationships Ordinance. On that advice I challenged the validity of the summons by way of an Application for Judicial Review. I was successful before the Supreme Court which ruled that in issuing the summons the Commission had acted ultra vires its powers. The Commission appealed to the Court of Appeal. The Court of Appeal upheld the decision of the learned Chief Justice Ramsay-Hale in the Supreme Court.

In a separate application the Court of Appeal granted conditional leave to the Commission to Appeal to Her Majesty's Privy Council. We had unsuccessfully resisted that application.

As a means of avoiding the costs of an appeal to the Privy Council, I had originally intended to seek the direction of the Court to approach the individuals whose account information the Commission is seeking with a view to obtaining their consent to supply the information to the Commission. I have not pursued the application for directions given an indication from the Commission that it was its intention to pursue the appeal to the Privy Council in any event.



I am in the process of engaging a Queens Counsel to lead my attorney Clayton Greene at the Privy Council in this matter.

## **6 CONCLUSION**

As noted in prior reports the Company's main asset continues to be outstanding loans and mortgage balances. It should be noted that secured depositors/creditors have been paid in full. As a result, most of my efforts will continue to be the collection and/or conversion of the assets in the portfolio to cash. This will involve continuing foreclosure proceedings and selling properties where refinancing by borrowers is not possible.

This report covers the period July 1, 2019, to December 31, 2019, and will be followed by half yearly reports, as at June 30 and December 31.

Respectfully submitted as of the 12th day of March, 2020 this the nineteenth report.

  
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Anthony S. Kikivarakis Sr.

Appendix I

**TCI Bank Limited (In Liquidation)**  
**Receipts & Disbursements Account**  
**For the period July 1, 2019, to December 31, 2019**  
*(Unaudited)*  
*(Expressed in United States dollars)*

<b>OPENING BALANCE</b>		<b>\$ 11,789,084</b>
<b>RECEIPTS</b>		
Loan Receipts - TCI Bank Customers	2,387,859	
Principal repayments and interest on TCIG Bonds	303,703	
Interest income - Interest bearing deposits	12,011	
Trustee and management fees on TCIG Bonds	10,000	
<b>TOTAL RECEIPTS</b>		<b><u>2,713,573</u></b>
<b>DISBURSEMENTS</b>		
Legal fees and commissions paid relating to foreclosure proceedings	218,095	
Liquidator and agents fees	210,908	
Salaries and related expenses - former employees	53,083	
Rent and utilities - office	33,596	
Rent and utilities - Liquidator and Agents	14,393	
Communication expenses	7,805	
Storage	6,720	
Bank charges	1,950	
Vehicle costs	1,615	
Cleaning services, equipment maintenance and supplies	1,318	
<b>TOTAL DISBURSEMENTS</b>		<b><u>(549,483)</u></b>
<b>NET RECEIPTS FOR THE PERIOD</b>		<b>2,164,090</b>
<b>DIVIDENDS</b>		<b>(6,670,987)</b>
<b>ENDING CASH BALANCE</b>		<b><u>\$ 7,282,187</u></b>
<b>Cash Consist of:</b>		
Interest bearing deposits		\$ 6,868,115
Operating Account		226,417
General Account		186,984
Petty cash		671
<b>TOTAL CASH HELD</b>		<b><u>\$ 7,282,187</u></b>

**Appendix II**

**TCI Bank Limited (In Liquidation)**  
**Receipts & Disbursements Account-Fiduciary Accounts**  
**For the period July 1, 2019, to December 31, 2019**  
*(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>299,860</u>
<b>DISBURSEMENTS</b>	
Payment of principal and interest on fiduciary funds	<u>(299,860)</u>
<b>ENDING CASH BALANCE</b>	<u>\$ -</u>