

Ira Smith

TRUSTEE & RECEIVER INC.

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Estate No. 31-1197427

**IN THE MATTER OF THE BANKRUPTCY OF
CONQUEST VACATIONS INC.
A COMPANY INCORPORATED PURSUANT TO THE LAWS OF NOVA SCOTIA
AND CARRYING ON BUSINESS IN THE CITY OF TORONTO
IN THE PROVINCE OF ONTARIO**

**TRUSTEE'S REPORT TO THE CREDITORS
ON PRELIMINARY ADMINISTRATION**

I. BACKGROUND INFORMATION

On April 24, 2009, Conquest Vacations Inc. (the "Company" or "Conquest") made an assignment in bankruptcy naming Ira Smith Trustee & Receiver Inc. ("ISI") as trustee in bankruptcy (the "Trustee"). The Official Receiver appointed ISI as Trustee on April 27, 2009 (the "Date of Bankruptcy"). Our appointment as Trustee is subject to affirmation by the creditors at the First Meeting of Creditors. Mr. Ira Smith is the licensed Trustee responsible for the Estate.

The Company was incorporated under the laws of Nova Scotia on May 29, 1998 as Conquest Vacations Company and on December 12, 2006 changed its name to Conquest Vacations Inc. Conquest operated as a travel wholesaler. The Company's head office was located at 85 and 99 Brisbane Road, Toronto, ON, being two adjacent commercial buildings connected to each other. There was a sales office located at Unit 311-5400 Airport Road South, Richmond B.C. and a kiosk terminal at Toronto Pearson International Airport. On April 15, 2009, the Company ceased operations and surrendered the operating licence to the Registrar of the Travel Industry Council of Ontario ("TICO").

The Trustee is in possession of the corporate records. It is our understanding that Mr. Errol Francis and Mr. Simon Bala were the sole Directors of the Company as at the Date of Bankruptcy (the "Directors"). Mr. Bala is also the Designated Officer of the Company.

Due to the number of creditors involved and the cost of compliance with section 102 of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"), the Trustee sought relief from the Court, and was granted an Order on April 29, 2009, allowing for an alternative

method of distribution of the meeting materials with respect to the first meeting of creditors on May 14, 2009.

In accordance with that Order, on May 1, 2009, a cover letter, the Notice of First Meeting of Creditors and a Proof of Claim form, along with proxy, was mailed to all known creditors of the Company. All documentation including the Statement of Affairs, a Proof of Claim form and a proxy form were posted on the Trustee's website. The Notice of Bankruptcy and meeting of creditors was published in the May 7, 2009 edition of Report on Business in The Globe and Mail.

II. CAUSES OF FINANCIAL DIFFICULTY

The Trustee has been advised that the major causes of the Company's financial difficulties arose as a result of: (i) overcapacity and price wars among the major tour operators and scheduled airlines entering the leisure market and offering highly discounted air fares; (ii) continuing losses; (iii) the rising cost of processing travel related transactions; and (iv) the challenges associated with the flow of credit card payments.

III. ASSETS

According to the sworn Statement of Affairs, as at the Date of Bankruptcy, the assets of this Estate consist of:

	Estimated to Realize
	\$
Cash	1,591,438 ¹
Accounts Receivable	383,639
Furniture and Equipment	30,000
Investment in two subsidiary corporations	<u>2</u>
Total	<u>2,005,079</u>

Conquest had two subsidiaries both of which were retail travel agencies. The first one, Trips N Travel Inc. was an inactive retail agency and it surrendered its licence back to the Registrar of TICO on April 15, 2009. The second one, Click Holidays Inc. (d/b/a as Conquest Travel Services), was also a small retail agency operated out of the Conquest premises. This agency also surrendered its retail licence prior to the Date of Bankruptcy of its parent company.

The Trustee has not audited or otherwise verified any of the information contained within the Company's books and records. The estimated value is that of the Designated Officer in his sworn Statement of Affairs. Therefore, the Trustee makes no representations or warranties as to the accuracy or completeness of the financial information set out above.

¹ The sworn Statement of Affairs indicates that the amount of \$1,010,211 may be impressed with a trust on behalf of consumers. Also see Section VII of this Report – Conservatory and Protective Measures.

IV. SECURED CREDITORS/PROPERTY CLAIMS

A search of the Ontario Personal Property Security Registration System as at the Date of Bankruptcy indicates the following parties are claiming a security interest in the assets of the Company:

1. Nexcap Finance Corporation
2. Financialinx Corporation
3. Honda Canada Finance Inc.
4. CBCS Capital
5. Royal Bank of Canada
6. 2158608 Ontario Inc. (“2158608”)

While the Trustee is still in the process of independently verifying certain information in this section IV, the Trustee can report as follows at this time concerning those security registrations.

The Trustee has been advised that Honda Canada Finance Inc. had taken possession of vehicles covered under its security prior to the Date of Bankruptcy.

The leased vehicle covered by the Financialinx Corporation security, was delivered by the Director to the Trustee. Upon determining that there was no equity associated with the lease of the vehicle it was released to a representative of Financialinx.

Other assets subject to lease agreements have been returned to the appropriate parties.

Royal Bank of Canada (“RBC”) registered security in respect of a term deposit pledged by the Company to RBC in the amount of \$503,267. This pledge is to support outstanding letters of credit totalling \$321,000. It is anticipated that approximately \$285,000 will be drawn against the letters of credit and the balance of \$218,227 should thereafter become available to the Trustee. The Trustee put RBC on written notice, is in regular communication with both RBC and its solicitor and they are both aware of the Trustee’s interest in these funds.

We have been advised by Mr. Simon Bala, the beneficial owner of 2158608 that 2158608 is waiving any claim it may have as a secured creditor and is postponing its claim (estimated by 2158608 to be \$40,000) to the claims of the unsecured creditors.

A payroll audit was conducted by Canada Revenue Agency (“CRA”) immediately after the Date of Bankruptcy and prior to the Trustee removing the relevant books and records from Conquest’s premises. CRA has determined that \$29,639.61 is owed by Conquest. A portion of this amount, \$19,603.64, is a deemed trust claim on account of CPP/EI which should have been withheld from employees in their final payroll, which has priority over all secured and unsecured creditors. The Trustee is awaiting the relevant assessment notice from Canada Revenue Agency.

Under section 136(f) of the BIA, a landlord may have a preferred claim for up to three months rent. This preferred claim is limited to claims based on (i) unpaid rent with respect to the three months immediately preceding the Date of Bankruptcy and (ii) accelerated rent if entitled to accelerated rent under the lease and is limited to the net realizable value of the property located at the leased premises and any amounts paid by the Trustee on account of occupation rent. The Trustee is currently assessing whether the landlords have preferred claims.

Accordingly, it is the Trustee's current understanding that the claims which rank in priority to the claims of the ordinary unsecured creditors are:

1. the priority trust claim of the employees under the *Wage Earner Protection Program Act* (Canada) "WEPPA" (further described below);
2. the deemed trust portion of the claim of Canada Revenue Agency for unremitted source deductions (described above);
3. the secured claim of RBC (described above);
4. the fees and costs of the Trustee and the Estate Solicitor in accordance with section 136(1)(b) of the BIA;
5. any remaining preferred claim of any former employees of Conquest under section 136(1)(d) of the BIA, if any; and
6. the preferred claim of the landlords of the premises previously occupied by Conquest, pursuant to section 136(1) (f) of the BIA, if any.

V. LEASED PREMISES

As described previously (in section I) the Company had a head office as well as two sales/kiosk locations. The two sales/kiosk locations were closed prior to the Date of Bankruptcy. As stated above, the Company's head office was located in two buildings connected through an enclosed hallway linking the two properties. The two buildings are owned by separate landlords.

The Trustee has reached an agreement (subject to Inspector approval) with the landlords of the head office location to store the furniture and equipment assets of Conquest – at no cost to the Estate - pending the landlords seeking a new tenant. It is estimated that if those assets could be sold to a potential tenant they would yield a greater realization than in a distress liquidation sale. The Trustee will review this potential offer with your Inspector(s) for direction and approval.

VII. CONSERVATORY AND PROTECTIVE MEASURES

The furniture and equipment located at a Conquest's head office has been inventoried and a number of interested parties have inspected the assets. The offers received will be discussed in detail with the Inspectors. In the meantime, as discussed above, the assets are stored in the leased premises, subject to Inspector approval of the arrangement with the landlords.

In addition to the registered interests, we have been advised that there is approximately \$1,010,210.71 in bank accounts with RBC which TICO and Messrs. Bala and Francis have advised the Trustee are subject to trust arrangements between TICO and Conquest. We have advised RBC that these funds are to be frozen pending the determination of whether these funds are in fact subject to a valid trust or if the funds are subject to priority claims under the BIA or WEPPA. The Trustee will discuss this matter with the Inspectors to obtain further direction. To date, the Trustee has not obtained a legal opinion on this matter.

Conquest's books and records indicate that approximately \$7 million is due from the credit card processing company E-commerce Risk Management ("ECRM") with respect to Visa and MasterCard transactions and a smaller amount from American Express. We have advised ECRM of our appointment and have made demand on them for a full accounting of the amounts owing to Conquest and any claims for offsets.

To date we have not received a reply from ECRM. It has been widely reported in the media that TICO has advised consumers, and the Trustee has also advised consumers, that they may be able to obtain a refund from their credit card issuer for services paid for, but not rendered by Conquest. As a significant portion of the amounts due are for future travel and there will surely be charge backs for services not rendered fully or partially, it will be some time until the full amount of any valid set-off claims will be known, and this process can be expected to negatively affect the collectability of any amounts currently held by Conquest's credit card processor.

This matter will be discussed further with the Inspectors.

Prior to the Bankruptcy, on April 17, 2009, CanJet Airlines obtained a Mareva injunction in Nova Scotia, without notice to the Company, freezing the Company's Canadian assets. Upon appointment, the Trustee issued a Notice of Stay of Proceedings, and provided it to both the Nova Scotia Court and CanJet Airline's legal counsel. The Estate Solicitor is currently dealing with CanJet Airline's legal counsel to have this Order vacated and the injunction dissolved.

VIII. BOOKS AND RECORDS

The Trustee has taken possession of all current accounting records of the Company found on the premises formerly occupied by the Company.

The Trustee also took a backup of the information contained on the Company's computer server, and has taken custody of the server and other computers which contained corporate information. The Trustee also has the passwords to be able to access the information stored on the computers.

IX. REVIEWABLE TRANSACTIONS AND PREFERENCE PAYMENTS

The Trustee has commenced the statutory review of the books and records of the Company for settlements, reviewable transactions and fraudulent preferences within the 12 months preceding the bankruptcy. Due to the complexity of the Company's banking arrangements and the number of transactions, this review is expected to take some time to complete.

The Trustee will advise the Inspectors as to the findings of the statutory review upon its completion.

X. ESTATE SOLICITOR

The Trustee has retained Mr. Jeffrey Carhart of Miller Thomson LLP ("Miller") as the Estate Solicitor to provide legal advice to the Trustee in the administration of the Estate. The Trustee will recommend to the Inspectors that the appointment of Miller as Estate Solicitor be affirmed.

XI. CREDITORS' CLAIMS

The known creditor claims as at the Date of Bankruptcy, according to the sworn Statement of Affairs, compared to the Proofs of Claim received by the Trustee as at 5:00 p.m. on May 12, 2009, are summarized as follows:

	Creditor Claims Per Statement of Affairs	Creditor Claims Filed to Date
	\$	\$
Secured	445,005.00	127,427.27
Preferred	80,000.00	66,752.23
Ordinary unsecured	<u>20,653,405.41</u>	<u>3,264,540.51</u>
Total	<u>21,178,410.41</u>	<u>3,458,720.01</u>

XII. ANTICIPATED REALIZATION AND PROJECTED DISTRIBUTION

To date the Trustee has realized the amount of \$363,140.80, primarily on account of GST refunds from periods prior to the Date of Bankruptcy. The Trustee believes that there will be further recovery from at least the portion of the funds on hand at RBC which are not subject either to the secured claim of RBC described above or any trust claim.

The Trustee anticipates that there will be distributions in accordance with the anticipated priority claim in connection with WEPPA, the anticipated property claim of Canada Revenue Agency on account of its deemed trust claim and the anticipated preferred claim in connection with WEPPA.

Any distribution to ordinary unsecured creditors is dependent upon the quantum of the aforementioned claims and the quantum of any realization arising from: (i) the settlement of the funds held by the RBC pursuant to the TICO claims; and (ii) recovery from ECRM, if any.

Accordingly, it is premature at this time, and will no doubt take a considerable amount of time before the Trustee is in any position, to forecast what amount of dividend, if any, will be payable to the ordinary unsecured creditors from this bankruptcy administration.

XIII WEPPA

Subject to the matters noted above, the Trustee's review of the books and records of the Company indicates that employee wages and vacation pay were paid up to the Date of Bankruptcy and an amount equal to one month's wages were paid to each employee on account of severance and termination.

Accordingly, no amounts appear to be outstanding on account of wages and vacation pay; however each employee may be entitled by statute and/or common law to further amounts on account of severance and termination based on their length of employment with the Company. The Trustee registered with Service Canada in connection with WEPPA and the Trustee did provide notice to each former employee that they should contact Service Canada regarding their potential WEPPA claim.

XIV. OTHER MATTERS

ISI has not performed any work at any time for the Company prior to the Date of Bankruptcy, and accordingly, was satisfied that it did not have any conflict in acting as Trustee in bankruptcy.

The Trustee has been informed by Miller that:

1. Miller did some work for a former indirect shareholder of the Company several years ago;
2. in 2006, the former shareholder sold its shares in the Company.
3. the former shareholder or its affiliates have been a supplier of hotel rooms and web-based technology services to the Company.
4. with respect to administration of the Company's bankruptcy, Miller will have no involvement in any matters pertaining to the former shareholder or any claims that the former shareholder may have as a creditor of the estate.
(the "Disclosure").

The Trustee has reviewed this matter and is satisfied that there is no issue arising from the Disclosure, and, as set out above, the Trustee will recommend to the Inspectors that the appointment of Miller as Estate Solicitor be affirmed.

The Designated Officer has been extremely helpful and co-operative in complying with his duties imposed by the BIA.

XV. REMUNERATION OF THE TRUSTEE

2158608 provided a limited cash retainer and has provided a non-assignable guarantee to the Trustee for its fees and expenses with respect to the statutory administration of this bankruptcy Estate.

Dated at Concord, Ontario, this 12th day of May, 2009.

IRA SMITH TRUSTEE & RECEIVER INC.

The Trustee of the Estate of Conquest Vacations Inc., a bankrupt

A handwritten signature in black ink, appearing to read "I. Smith", written in a cursive style.

Per:

Ira Smith
President