

Ninth Report of The Liquidator of

**LEADENHALL BANK & TRUST COMPANY
LIMITED**
(In Liquidation)

For the period from December 1, 2008 to May 31, 2010

Leadenhall Bank and Trust Company Limited

(In Liquidation)

Ninth Report of the Liquidator (From December 1, 2008 to May 31, 2010)

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INTRODUCTION

The Ninth Report of the Liquidator of Leadenhall Bank & Trust Company Limited ("the Bank") is intended for use by the Supreme Court of the Commonwealth of The Bahamas. This report sets out the steps taken by the Official Liquidator during the period from December 1, 2008 to May 31, 2010.

The Liquidator had previously acted as the Receiver of the Bank for the period from July 18, 2005 to October 3, 2005. On October 3, 2005 the Bank was placed into voluntary liquidation.

BACKGROUND AND BASIS OF APPOINTMENT

Leadenhall Bank & Trust Company Limited is a Bahamian incorporated Company that was licensed under the provisions of the Banks and Trust Companies Regulation Act, 1965, as amended.

In 2000 Leadenhall was granted a license to provide services in Bahamian dollars. This license gave the Bank the authority to service the domestic market. However, that service never materialized.

The Bank's revenue was generated primarily from the following:

- Trust services
- Managed companies (e.g. IBC, property management, etc.)
- Banking and investment services

Until July 29, 2003, the Bank also generated revenue from its MasterCard (credit card) franchise, which was operated by Axxess International Bahamas Limited. MasterCard suspended the license issued to the Bank and was claiming a termination fee of \$1.7 million.

The Bank in recent years experienced recurring losses from its operations as a result of the loss of its credit card business and the ongoing litigation with respect to the same, along with litigation involving the Cash 4 Titles class action suit and shareholder fallout.

I was appointed Receiver of the Bank with effect from July 18, 2005. The Bank's licence was suspended for the period from July 18, 2005 to October 3, 2005. My appointment was made pursuant to Section 18 (1) (f) of the Banks and Trust Companies Regulation Act 2000.

On October 3, 2005, by a resolution of the shareholders, the Bank was placed into voluntary liquidation and I was appointed the Liquidator.

Further, it was ordered that the Liquidator be assisted by Callenders & Co. as General Counsel.

A Notice of said Resolution was subsequently published in the Nassau Guardian on October 12, 2005.

Simultaneously, with the members' resolution to voluntarily wind up the Bank, The Central Bank of The Bahamas revoked the Bank's licence on October 12, 2005.

BACKGROUND AND BASIS OF APPOINTMENT (continued)

On November 11, 2005 an Order was granted by the Supreme Court granting leave for a further application to be made for an Order that the liquidation be Court supervised.

The Supreme Court on November 25, 2005, granted an Order for the liquidation to be Court supervised.

Evans & Co. was appointed as General Counsel to the Liquidator in place of Callenders & Co. on February 19, 2010.

DEFINITIONS

In this report, the words and expressions hereunder shall mean, as follows:

"The Liquidator" means Craig A. (Tony) Gomez or any member of his team.

"I" means Craig A. (Tony) Gomez or any member of his (the Liquidator's) team.

"The Bank" means Leadenhall Bank & Trust Company Limited.

"General Counsel" means Callenders & Co., the Liquidator's General Counsel up to February 18, 2010 and Evans & Co. from February 19, 2010.

"Court" means the Supreme Court of the Commonwealth of The Bahamas.

"Receiver" means Craig A. (Tony) Gomez acting as Receiver of the Bank during the period July 18, 2005 to October 3, 2005.

"MBH" means McKinney Bancroft & Hughes, the Liquidator's Counsel in the Axxess International litigation with First Financial Caribbean Trust Company.

STEPS TAKEN BY THE LIQUIDATOR (for the period from December 1, 2008 to May 31, 2010)

1. Attended court with General Counsel for the granting of the Order to approve the Eight Report of the Liquidator.
2. Placed the Eight Report of the Liquidator on the Bank's website.
3. Continued to receive various communications from clients requesting updates on the status of the distribution of the credit card trust assets.
4. Met with several clients of the Bank and provided updates on the liquidation.
5. Attended Court on the Cash 4 Titles ("C4T") matter.
6. Attended the Court of Appeal on the C4T claim rejection matter.
7. Attended Court with the proposed General Counsel for the granting of an Order to change the General Counsel from Callenders & Co. to Evans & Co.
8. Addressed request for information received from the Attorney General's office.
9. Completed the Ninth Report of the Liquidator.

STEPS TAKEN BY THE LIQUIDATOR (for the period from December 1, 2008 to May 31, 2010)
(continued)

10. Met with General Counsel on the C4T matter.
11. Attended Court with General Counsel on the OS International / Vanguard assignment matter.
12. Attended Court with General Counsel on the loan interest dispute regarding the loan extended to Nuvo.
13. Continued to receive various communications from the bank's clients requesting updates on the status of the distribution of the bank's assets.
14. Continued to address the concerns of the cardholders of Axxess International Limited whose accounts were transferred to First Financial Caribbean Trust Company. These cardholders continue to call the Liquidator for payment of their accounts.

CONCERNS

- **Cash 4 Titles**

The U.S. District Court Judge, Adalberto Jordan issued an Order on September 7, 2007 allowing the victims in the Cash 4 Titles ("C4T") matter to be certified as a Class.

On September 10, 2007, Judge Jordan, handed down his final ruling in favor of the Plaintiffs in the C4T litigation in the amount of \$110,076,111.46, which under the RICO (Racketeer Influenced and Corrupt Organizations) statute, resulted in treble damages in the amount of \$330,228,331.07 against Axxess and the Bank.

The Plaintiffs are alleging "that the Defendants were part of a common scheme of fraudulent conduct, specifically a scheme to misappropriate the funds invested by the Class members in the C4T enterprises".

In June 2008, I received a bundle of documents from Peter Maynard & Co. ("Maynard & Co.") containing the written submissions of the C4T Class in support of their proof of debt from the Bank. The documents further presented information as to the reason why the Judgment by the Florida Court should be accepted in The Bahamas.

On October 2, 2008, I sent Maynard & Co. a letter rejecting all claims received from the C4T Class.

On October 29, 2008, Maynard & Co. filed a summons to appeal my rejection of the C4T Class claim.

On November 4, 2008, I was served with another bundle of documents from Maynard & Co. in the C4T matter.

I, attended Court on December 12, 2008 with General Counsel (Callenders & Co.) to obtain a hearing date for the appeal of the rejection of the C4T claim. The hearing date was set for February 6, 2009.

I, along with General Counsel (Callenders & Co.), met with Julian Malins, QC, to obtain a briefing on the hearing set for February 6, 2009 and discussed matters in the liquidation that could be affected by the rejection of the C4T claim.

I attended Court with General Counsel (Callenders & Co.) on February 6, 2009, for the substantive hearing on the C4T rejection matter.

I attended Court with General Counsel (Callenders & Co.) on February 19, 2009, for the ruling on the appeal hearing. A further submission was requested by the Judge from General Counsel and C4T attorneys.

CONCERNS

- **Cash 4 Titles** (continued)

On April 30, 2009 Justice Lyons handed down a Judgment against Leadenhall to admit the claim from the C4T Judgment by the USA Court.

On May 5, 2009 General Counsel filed a Notice of Appeal of the decision of Justice Lyons dated April 30, 2009 against the rejection of proof by the Liquidator in respect of the C4T Class Judgment in the amount of \$313,648,601.22, awarded in the Florida, USA Court.

I attended the Court of Appeal with General Counsel and Mr. Julian Malins, QC on December 15, 2009, on the appeal hearing on the judgment handed down by Justice Lyons against Leadenhall on February 19, 2009 in the C4T rejection matter. The Court of Appeal dismissed the Appeal.

At the time the Appeal before The Bahamas Court of Appeal was dismissed, Mr. Julian Malins QC (who was instructed by Callenders & Co.) appeared on behalf of Leadenhall and me, in my capacity as Liquidator in the appeal, made an oral application for leave to appeal to the Privy Council. Leave was granted and Mr. Malins undertook to file the necessary documents.

Subsequent to Mr. Malins' oral application to the Court of Appeal for leave to appeal to the Privy Council, Callenders & Co. further without leave of the Supreme Court (who has supervision of this liquidation) or instructions from me, the Liquidator, made a formal application to the Court of Appeal via Summons for leave to appeal to the Privy Council. I met with the proposed new General Counsel on December 17, 2009 to give them a briefing on the C4T matter and to discuss the various views as to how I should proceed in this matter.

Based on the restructuring of my legal team at Callenders & Co., I decided to utilize the services of Evans & Co. Further, Evans & Co. was considered to be less costly to the liquidation. I attended Court on February 15, 2010 to obtain an order to change my General Counsel. The Order was granted that the law firm of Evans & Co. was appointed as the Liquidator's new General Counsel. As a result of these factors, and since this matter was approved by the Court, I instructed Callenders & Co. to forward all documents for Leadenhall to Evans & Co.

I attended Court with General Counsel on May 14, 2010, as a result of a summons served on General Counsel on September 8, 2009, by Maynard & Co. on behalf of C4T. The matter was adjourned to June 11, 2010.

Presently the Liquidator is seeking to obtain directions of the Court with respect to the viability of a further appeal to the Privy Council against the Judgment of Mr. Justice Lyons.

CONCERNS

- **OS International / Vanguard Assignment**

As at the date of this report I am still considering my options, as laid out to me by General Counsel (Evans & Co.) and the Court on whether to seek further appeal in this matter.

OS International was one of the Bank's managed companies. Leadenhall acted as Registered Agent and Office for OS international. At the time of the liquidation, OS International had entered into an agreement with Vanguard Car Rental USA Inc. ("Vanguard") in the amount of US\$600K.

Subsequent to the agreement, OS International made an assignment to Vanguard for a portion of their funds held with Leadenhall for the agreement amount. OS International subsequently cancelled the agreement and Vanguard pursued legal action against Leadenhall to have their name entered into the liquidation in place of OS International.

The Order was granted on December 18, 2008 by Justice John Lyons to have Vanguard's name entered into the list of Creditors in place of OS International.

I have since complied with the Court's Order and have entered Vanguard's name on Leadenhall's list of Creditors in place of OS International.

- **Doma Company Limited**

I attended Court with General Counsel on May 14, 2010 to hear the complaint of the beneficial owner of Doma Company Limited, claiming misappropriation of his funds by Leadenhall. The matters placed before the Court was prior to the date that Leadenhall was placed into receivership and subsequently liquidation.

The Court was minded to dismiss Doma's Summons with the caveat that the beneficial owner of Doma can requisition an investigation as to funds held in the hands of the Bank on behalf of Doma, provided Doma undertakes to pay for the said investigation. The Court further indicated that it would render a short ruling on the Summons. Counsel for Doma was to take instructions from her client as to its willingness to pay for the said investigation and communicate that position to the Liquidator and the Court.

As at the date of this report, Doma's attorney had not indicated whether her client was prepared to pay the costs of the inquiry nor has the Court rendered its formal ruling on the Doma Summons.

CONCERNS

- **Whale Cay**

The Whale Cay Group of investors (“the investors”) entered into a contract to purchase land on Whale Cay, Berry Islands, The Bahamas. However, the investors applied for but did not get the approval for a foreign person to own land in The Bahamas at the time of the contract. Leadenhall was approached and provided a declaration of trust, dated August 2, 2000, and June 13, 2002 to hold the mortgage for the land on behalf of the investors. Leadenhall received a one time payment of \$15,000.00 for their services. The permit for a foreign person to own land in The Bahamas was obtained by the investors from The Bahamas Investment Authority Board on March 29, 2010.

Several requests were made of the Liquidator by Higgs & Johnson to transfer assets held under trusts, namely mortgages held on behalf of American Investment Properties Inc. and Peter Casoria, Jr., as security for sums loaned to Whale Cay Group Limited, to a new trustee.

Application for directions was made to the Court on March 31, 2010 and came on for hearing on June 11, 2010. The Honorable Justice Bernard Turner made no pronouncement as to the validity of the trusts but found that the assets requested to be transferred do not form part of the estate of the Bank and ordered the transfer of the assets to The Private Trust Corporation Limited.

General Counsel was instructed to take this matter to the Court for directions as to how the Liquidator should proceed with this request. The hearing for this matter is set for June 11, 2010.

- **Generali International – Policy no. PF32322**

The portfolio totaled \$15,357,619 as at May 17, 2010. The investment is comprised of the following:

	May 17, 2010 Market Value
Cash	\$15,354,587
Structured Asset Investment Loan T-Bill	3,032
Total	\$15,357,619

Below is the fee charged by Generali for the period December 1, 2008 to May 17, 2010.

	Amount
December 1, 2008 to April 30, 2010	\$2,295

CONCERNS

- **Generali International – Policy no. PF32322 (continued)**

Below is an analysis of the interest earned by the Bank versus the charges incurred on the Bank's portfolio held at Generali for the period from December 1, 2008 to May 17, 2010.

	May 17, 2010
Interest earned on investment	\$88,347
Fees paid to Generali (as per above)	(2,295)
Direct net gain for period	\$86,052

- **Unsecured Credit Cards**

The accounts receivable in the amount of \$1.3M, owed by the former unsecured credit card holders was ordered by Justice Mohammed on August 25, 2008 to be transferred to First Financial Trust Company Limited, Turks & Caicos Islands. This amount represents a part of the credit card trust assets.

- **Loan receivables**

The Bank's loan receivables, inclusive of principal and interest, are represented by seven debtors, with outstanding balances totaling \$3,458,486.

The principal activities during the reporting period are as follows:

- a) **Nuvo (formerly Dimethaid Research Inc.)**

Subject to Court approval, I agreed for Nuvo, formerly known as Dimethaid, to pay the proceeds from the sale of their property located at 1405 Denison Street, Markham, Ontario, against their outstanding loan balance.

Even after the application of this payment there will be a shortfall which the Bank may be compelled to write-off.

Nuvo alleges that the interest calculation on the loan violated the Canadian Interest Act and consequently, the loan should attract a 5% default interest rate. At all material times the Bank accounted for the loan at the loan specified rate of 2% per month.

CONCERNS

a) Nuvo (formerly Dimethaid Research Inc.) (continued)

Shortly after the First Report of the Liquidator, former officers of the Bank queried the accounting for the interest under the proposed settlement. Subsequently, Counsel sought the advice of Canadian attorneys regarding the application of the Canadian Interest Act.

Canadian Counsel opined that the loan was fully enforceable at the expressed rate of 2% per month. Based upon the Canadian attorney's opinion, I instructed Counsel to apply to the Court for release of these funds to the general asset pool. Nuvo has instructed local counsel to challenge this position.

A summons from Nuvo's Counsel, Lennox Paton, was served on General Counsel on June 20, 2007, seeking the return of the funds held by me in escrow pending Court approval. I am still waiting to hear from Nuvo's Counsel and to determine a Court date to hear and conclude this matter.

As at the date of this report an offer has been made by Nuvo in an effort to negotiate a settlement of the matter. The offer is currently being reviewed by me and I will seek directions from the Court in respect of the offer.

b) Other loans

As it will be necessary for me to retain Counsel in a foreign jurisdiction to recover the remaining balance of the outstanding loans, which will be costly to the liquidation, I estimate that approximately 50% of the entire outstanding loan balance could possibly be written-off. This matter is being reviewed by me and General Counsel.

- **Forged Check**

This matter is being pursued; however, I am also considering whether it is feasible to further deplete the assets of the Bank to recover the forged check in the amount of CAD\$125,937.00, which in my estimation is a difficult process.

The matter was investigated by The Bahamas Central Detective Unit ("CDU"). No criminal charges were brought against the individual and it has been difficult to contact him as he no longer resides in The Bahamas.

CONCERNS

- **Forged Check (continued)**

Apparently, a check in the amount of CAD\$125,937.06, payable to a Mr. Daniel Rosenthal and endorsed by Mr. Timothy Lightfoot, the beneficial owner of BAVT Corporation Ltd. ("BAVT"), an account which was held by the Bank at the time, was received in January 2005. The check was deposited to a Leadenhall account at First Caribbean International Bank (Bahamas) Limited on February 1, 2005. The funds were for further credit to BAVT Corporation. The BAVT account portfolio was subsequently transferred to Sentinel Bank & Trust in March 2005. Mr. Lightfoot, who apparently endorsed the check, holds a 50% interest in BAVT Corporation Ltd. The aforementioned check cleared and the funds were transferred to Sentinel Bank & Trust in March 2005 for credit to BAVT's account.

Mr. Lightfoot claimed in an email June 8, 2005 that the check was sent to him from a contact in Montreal, Quebec, Mr. Robert Tremblay, who assured him that the check was valid.

Apparently, Mr. Daniel Rosenthal signed a declaration of forgery in May 2005, stating that he did not authorize anyone to endorse the check in question, on his behalf.

The Bank then filed a suspicious transaction report against BAVT and its beneficial owners, Mr. Timothy Lightfoot and Ms. Brigitte Lightfoot who met with the Financial Intelligence Unit on June 15, 2005 to address the matter.

Mr. William Jennings, the Bank's then managing director, wrote to Sentinel on June 15, 2005, requesting that they return the funds but they (Sentinel) advised the Bank by letter on June 16, 2005 that the authorize signers of the account must give such instructions.

Further, the files stated that Sgt. Young visited the Bank on June 27, 2005 to investigate the forged check matter and took statements from Stephanie Rahming, Monique Bonamy and Anthony Johnson, all former employees of the Bank.

The Bank subsequently sent an authorization letter to Steve Bonamy at First Caribbean Bank on June 29, 2005 requesting that he assist Sgt. Young with the information needed to aid in the investigation. Mr. Bonamy has provided this information to Sgt. Young, who was investigating the matter at that time.

CONCERNS

- **Transfer of accounts**

During the period I received four (4) requests to transfer trust accounts to new trustees. I am having the transfer deeds prepared to facilitate these transfers.

Based on the time lapsed, it is my view that the remaining former clients of the Bank have little or no interest in having their companies and trust transferred to other service providers or trustees.

- **Off Balance Sheet Assets held in the name of the Bank**

I received one (1) request to transfer client's off-balance sheet assets to a new service provider.

I am still in discussion with the remaining clients regarding the transfer of their "off-balance sheet" assets to other service providers.

The off-balance sheet assets that are being held by Caledonia Corporate Management Limited, an entity which went into liquidation on February 20, 2008, and any request to transfer these assets is now delayed until such time when the Liquidator of Caledonia can release them.

- **Statement of affairs**

See Appendix 1 for the unaudited statement showing assets at estimated realizable values and liabilities as they are expected to rank, as at May 31, 2010.

- **Receipts and disbursements**

Receipts and disbursements made during the period from December 1, 2008 to May 31, 2010 are shown at Appendix 2.

- **Reproduction of Information Request**

During the period I received a request from the Secretary of Revenue at the Ministry of Finance Office, requesting the reproduction of Axxess International Limited credit cardholder information. Previously, request received from the Attorney General's Office, the Financial Intelligence Unit and from Axxess credit card holders, are for the following:

- Credit card statements
- Security deposits source of funds
- Details of payments in excess of current charges
- Details of refunded security deposits
- Details of clients identity
- Details of related account

CONCERNS

- **Reproduction of Information Request (continued)**

Once received all requests are acted upon as soon as possible.

As at the date of this report I had transferred all of the credit card records belonging to Axxess to FFCTC and have directed all inquiries to them.

All requests for cardholder's information have been forwarded to FFCTC effective August 25, 2008, as the Bank is no longer the Trustee of the cardholders' account. FFCTC is the successor trustee.

- **Customer Communications**

I continue to receive emails, telephone calls and correspondence from Axxess cardholders wanting to know the status of their accounts. We have advised them that the Bank is no longer the Trustee and that FFCTC is the Successor Trustee. Their main concern appears to be the response to the Court Order issued by His Lordship the Honourable Mr. Justice Faisool Mohammed on August 25, 2008.

We have placed on the Bank's website, the contact information for First Financial Caribbean Trust Company Limited.

In accordance with the Court Order dated August 25, 2008 the Bank was now been discharged from all matters in reference to the credit card assets of Axxess International Limited, as FFCTC is now the successor trustee.

I also continue to receive email, telephone calls and visits from clients of the Bank wanting to know the status of their accounts and when the Liquidator is likely to commence distribution of the Bank's assets.

- **Records storage**

All Bank records, other than the credit card records have now been permanently stored by me in a smaller and more appropriate space as the major space is no longer needed after the transfer of the credit card files to FFCTC.

CONCLUSION

I will continue to take customers' calls and move the liquidation forward. The primary challenges facing the liquidation are:

- Concluding the C4T matter.
- Resolution of the Nuvo/formerly Dimethaid loan matter;
- Determining whether of not to proceed with the collection efforts of the remaining outstanding loans;
- Determining whether of not to proceed with the collection efforts of the forged check matter.

I will continue to have all outstanding matters resolved and bring the liquidation to a conclusion in the quickest possible time.

Very truly yours

Craig A. (Tony) Gomez
Liquidator
Leadenhall Bank & Trust Company Limited
(In Liquidation)
Nassau, Bahamas
May 31, 2010

LEADENHALL BANK & TRUST COMPANY LIMITED
(In Liquidation)

Statement of Assets at Estimated Realizable Values
And Liabilities As Expected to Rank

As at May 31, 2010
(Expressed in Bahamian dollars)

ASSETS

Cash due from Banks	\$ 19,617,943
Loans receivable, net	3,458,486
Investment in securities	425,963
Accounts receivable	336,148
Fixed assets, net	10,670
Deposit - utilities	9,556
	<hr/>
	\$ 23,858,766

LIABILITIES

Amount due to Creditors	356,999,814
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ESTIMATED LOSS AS REGARDS MEMBERS **(\$ 333,141,048)**

Note:

Included in the Amount due to Creditors is a liability to Creditors of \$330,225,331.47, which has been included pursuant to the Order of the Hon. Mr. Justice John Lyons dated April 30, 2009 in relation to the C4T Class. The Liquidator will be seeking the directions of the Court with respect to leave to appeal to the Privy Council.

**Leadenhall Bank & Trust Company Limited
(In Liquidation)**

Cash and Due from Banks

As of May 31, 2010

(Expressed in Bahamian dollars)

Cash and due from Banks (BSD)	A/C Type	Fcy Amount	X-Rate	BSD Eqv.
Cash on hand				
Royal Bank of Canada	C/A	37,326	1.0000	\$ 37,326
First Caribbean International	C/A	383	1.0000	383
Total BSD Cash		37,709		37,709
Cash and due from Banks (CAD)				
Generali International	Call	1,425,876	.9545	1,360,998
First Caribbean International	F/D	822,278	.9545	784,864
First Caribbean International	F/D	21,548	.9545	20,568
Total CAD Cash		2,269,702		2,166,430
Cash and due from Banks (GBP)				
Generali International	C/A	1,702,686	1.4502	2,469,235
HSBC Bank	F/D	746,594	1.4502	1,082,711
First Caribbean International	F/D	465,843	1.4502	675,566
HSBC Bank	C/A	115,146	1.4502	166,985
First Caribbean	F/D	79,397	1.4502	115,144
Total GBP Cash		3,109,666		4,509,641
Cash and due from Banks (USD)				
Generali International	Call	11,524,355	1.0000	11,524,354
Royal Bank of Canada	C/A	1,379,868	1.0000	1,379,838
Canaccord Capital Corp	C/A	(29)	1.0000	(29)
Total USD Cash		12,904,194		12,904,163
CLOSING CASH POSITION				\$19,617,943

Leadenhall Bank & Trust Company Limited
(In Liquidation)

Statement of Receipts & Disbursements

For the period from December 1, 2008 to May 31, 2010
 (Expressed in Bahamian dollars)

OPENING CASH POSITION	\$20,062,654
Receipts	
Interest earned on Generali deposits	88,347
Interest earned on First Caribbean deposits	5,765
Transfer of account	1,500
	95,612
Disbursements	
Legal fees	323,629
Liquidator's remuneration	220,162
Rent	35,500
Salaries	19,096
Bank charges	3,849
Fees paid to Generali International	2,295
Maintenance	1,735
Office supplies	1,322
Telephone	659
Internet	645
Courier	66
Miscellaneous	30
	608,988
Add mark to market unrealized forex difference on CAD\$ and GBP *	68,565
CLOSING CASH POSITION	\$19,617,843

* Foreign currency gain due to the positive volatility in the foreign currency market.