

COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Commercial Division



2006/COM/bnk/00015

IN THE MATTER OF MOSAIC COMPOSITE LIMITED (U.S.), INC.
(IN LIQUIDATION)

AND

IN THE MATTER OF THE INTERNATIONAL BUSINESS COMPANIES ACT
Chapter 309
Statute Laws of the Bahamas, 2000 Edition

AFFIDAVIT

We, GEORGE CLIFFORD CULMER, of the Eastern District of the Island of New Providence, and RAYMOND MASSI, of the City of Montreal, Province of Quebec, Canada, make Oath and say as follows: -

1. We were appointed Joint Liquidators of the above-named Mosaic Composite Limited (U.S.), Inc. (In Liquidation) ("Mosaic") by this Honorable Court on the 23rd day of January, 2007.
2. By an Order of this Honourable Court made on the 23rd day of January, 2007, the Joint Liquidators were required to file with the court a report in writing as to the position of and the progress made in the winding-up of Mosaic at intervals of three months. On the 29th day of July, 2014, the Court made a subsequent Order requiring the Joint Liquidators to file with the court a report in writing as to the position of and the progress made in the winding-up of Mosaic at intervals of six months.
3. Pursuant to the said Order dated 29th July, 2014, this Report has been prepared by the Official Liquidators as of the 31st day of December, 2015 and is exhibited hereto. We verily believe the contents of this Thirtieth Report to be true.
4. The said Report summarizes the progress made since the date of our last report on the 30th of June, 2015.

MOSAIC COMPOSITE LIMITED (U.S.), INC. (IN LIQUIDATION)

THIRTIETH REPORT OF THE JOINT OFFICIAL LIQUIDATORS

TO THE COURT

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(In Liquidation)

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BY HAND

Supreme Court of The Commonwealth of the Bahamas

Mosaic Composite Limited (U.S.) Inc. (In Liquidation)
Thirtieth Report of the Joint Official Liquidators to the Court

1. INTRODUCTION AND BACKGROUND

- 1.1. This report constitutes the Thirtieth Report to the Supreme Court of the Commonwealth of The Bahamas (the "Bahamian Court") of G. Clifford Culmer ("Culmer") of BDO Chartered Accountants and Advisors, Nassau, The Bahamas, and Raymond Massi ("Massi") of RSM Richter Inc. (now known as Richter Advisory Group Inc.) ("Richter"), Montreal, Canada, in their capacity as the Joint Official Liquidators ("Mosaic JOLs") in the liquidation of Mosaic Composite Limited (U.S.), Inc. ("Mosaic").
- 1.2. Mosaic was originally incorporated under the name of Norshield Emerging Markets Limited as an International Business Company under the Laws of the Commonwealth of The Bahamas on 27 January 1997. On 16 June 1999, the company changed its name to Norshield Composite Limited. It changed its name again on 9 May 2001 to Composite Limited, and again on 23 May 2003 to Mosaic Composite Limited. On 4 March 2005, Mosaic migrated to Anguilla and continued there as an Anguillan IBC. On 3 June 2005, Mosaic Composite merged with Mosaic Composite Limited (U.S.) Inc., a Minnesota company to be the current Mosaic entity.
- 1.3. Culmer and Massi were appointed Joint Receivers of Mosaic by order of the Bahamian Court dated 20 January 2006.
- 1.4. Culmer and Massi were appointed Joint Provisional Liquidators of Mosaic by order of the Bahamian Court, dated 22 March 2006. On 23 January 2007, the Bahamian issued another placing Mosaic under Court supervised liquidation and Culmer and Massi were appointed Mosaic JOLs.
- 1.5. On 29 July 2014, the Court made a subsequent order requiring the Mosaic JOLs to file a report to the court in writing as to the position of and the progress made in the winding-up of Mosaic at intervals of six months.

(collectively all the orders rendered in this matter will hereinafter be referred to the "Bahamian Orders")

- 1.6. The Mosaic JOLs present herewith their Thirtieth Report in accordance with the Bahamian Orders.
- 1.7. Reference is made to previous reports of the Mosaic JOLs.

2. THE NORSHIELD INVESTMENT STRUCTURE

- 2.1. Mosaic was part of an intricate and complex corporate and investment structure involving multiple jurisdictions and corporations which included entities in Canada, in Barbados, in The Bahamas, and other jurisdictions. This structure is referred to as the "Norshield Investment Structure".
- 2.2. Richter was appointed receiver, pursuant to orders of the Ontario Superior Court of Justice (Commercial List) in Canada dated 29 June, 14 July, 9 September and 14 October 2005, of the following entities:
 - 2.2.1. Norshield Asset Management (Canada) Ltd.;
 - 2.2.2. Norshield Investment Partners Holdings Ltd.;
 - 2.2.3. Olympus United Funds Corporation;
 - 2.2.4. Olympus United Funds Holding Corporation;
 - 2.2.5. Olympus United Bank and Trust SCC;
 - 2.2.6. Olympus United Group Inc.;
 - 2.2.7. Honeybee Software Technologies Inc. (formerly Norshield Investment Corporation);
 - 2.2.8. Norshield Capital Management Corporation.
- 2.3. Richter and Brian F. Griffith & Company, a Barbados accounting firm, were appointed Joint Custodians of Olympus United Bank and Trust SCC by order of the Barbados High Court of Justice dated 22 September 2005.
- 2.4. Culmer was appointed Liquidator of Olympus Uninvest Ltd. ("OUL") by resolution of its common shareholder, Bice International Inc. on 19 May 2005. Massi was appointed Provisional Liquidator of OUL on 3 October 2005 pursuant to the order of the Honourable Madam Justice Jeanne Thompson of the Bahamian Court. Culmer and Massi were appointed Joint Official Liquidators of OUL ("OUL JOLs") on 6 February 2006 by order of the Honourable Madam Justice Jeanne Thompson of the Bahamian Court.

- 2.5. The flow of funds through the Norshield Investment Structure was as follows:



- 2.6. Olympus United Funds Corporation was a mutual fund investment vehicle. Each class of shares had a specific investment strategy. Investments in Olympus United Funds Corporation flowed into its wholly-owned subsidiary, Olympus United Bank and Trust SCC in Barbados.
- 2.7. Olympus United Bank and Trust SCC then invested its funds into OUL in The Bahamas, and the latter co-mingled these funds with investments received from pension funds and financial institutions, mostly from Canada, as well as other persons whose investments were made either in cash or by way of “in kind” contributions.
- 2.8. OUL then invested, either directly or through other funds, in Mosaic. Mosaic, in turn, held investments in both hedged and non-hedged assets.
- 2.9. Mosaic’s hedged assets consisted of call options on a basket of hedge funds managed by the Royal Bank of Canada (the “RBC SOHO Option”). The RBC SOHO Option was a highly leveraged product that was being carried on Mosaic’s books at a gross value (before inherent debt) of approximately six times the actual equity value of Mosaic’s interest in this investment.
- 2.10. Mosaic’s non-hedged assets consisted mainly of investments in Channel Fixed Income Fund Ltd., which in turn held all the outstanding shares of Channel

F.S. Fund Ltd., Channel Technology Fund Ltd. and Channel Diversified Private Equity Fund Ltd. (collectively, the “Channel Funds”).

- 2.11. The Mosaic JOLs discovered that the assets of Mosaic were grossly overvalued, highly illiquid and/or significantly hypothecated, such that their real value was severely impaired.
- 2.12. John Xanthoudakis was an integral part of the Norshield Investment Structure. He determined investment strategies and had de facto control over the investment decision-making of the entities within the Norshield Investment Structure, including those entities located in The Bahamas as well as other foreign jurisdictions. Dale Smith was also a principal of the Norshield Investment Structure as he was an officer and/or director of various entities therein.

3. **SANCTIONS IMPOSED BY THE ONTARIO SECURITIES COMMISSION AGAINST JOHN XANTHOUDAKIS AND OTHERS**

- 3.1. On 11 October 2006, the Ontario Securities Commission (the “Commission”) issue a statement of allegations alleging that Norshield Asset Management (Canada) Ltd., Olympus United Group Inc., Xanthoudakis, Smith and Peter Kefalas (collectively, the “Respondents”) breached Ontario securities laws and acted contrary to the public interest.
- 3.2. Hearings on the merits were held in 2008 and 2009. The Commission came to the conclusion that the Respondents:
 - 3.2.1. Failed to deal fairly, honestly and in good faith with investors;
 - 3.2.2. Failed to keep and maintain proper books and records in relation to the Norshield Investment Structure;
 - 3.2.3. Authorized, permitted and acquiesced in breaches of Ontario security laws;
 - 3.2.4. Knowingly made statements and provided evidence and information that was materially misleading in an effort to hide violations of Ontario securities laws;
 - 3.2.5. Engaged in a course of conduct that was abusive, compromised the integrity of Ontario’s capital markets, and was contrary to the public interest.
- 3.3. Because of these findings, numerous sanctions were imposed against the Respondents severely restricting their ability to transact in and access the public markets. In addition, Xanthoudakis and Smith were each ordered to personally pay administrative penalties totaling \$2,125,000 as well as costs totaling \$295,000, on a joint and several basis.

- 3.4. Xanthoudakis and Smith both appealed the decisions made by the Commission, which appeal was ultimately rejected.

4. CREDITORS AND SHAREHOLDERS

- 4.1. The Mosaic JOLs commenced a preliminary claims process requesting that all creditors file proofs of debt in the Mosaic liquidation by 15 October 2008.
- 4.2. The Mosaic JOLs reviewed the proofs of debt filed and completed a formal admit/reject procedure for the liquidation of Mosaic. The JOLs did not receive any notices of objections.
- 4.3. On 6 August 2014, an order was rendered by the Bahamian Court confirming that the steps taken to date by the Mosaic JOLs to identify claimants and determine the claims in the Mosaic liquidation constituted the court-sanctioned claims process in this matter.
- 4.4. Please refer to BDO's website at the following address
<http://www.bdobahamas.com/publications> for further details relating to the Bahamian Court Order of 6 August 2014.

5. REALIZATIONS

- 5.1 Mosaic's gross asset realizations are as follows:

| Asset | Realized (US \$) |
|---|-------------------------|
| MS-II Class B Shares | 7,286,562 |
| Dividends received from Premier Commercial Real Estate | 1,990,990 |
| Interest Income | 444,154 |
| Proceeds from the liquidation of Globe-X International Limited (The Bahamas) | 673,631 |
| Proceeds from the liquidation of Globe-X Asset Appreciation Limited (The Bahamas) | 261,842 |
| Proceeds from the liquidation of Univest Fixed Return Fund Limited (The Bahamas) | 46,192 |
| | 10,703,371 |

- 5.2. Please refer to Richter's various Reports as receiver and monitor for the entities listed in paragraph 2.2 above for further details at the following address:
<http://www.richter.ca/en/insolvency-cases/n/norshield>.
- 5.3. The Mosaic JOLs have determined that Mosaic owns a 51% controlling interest in Premier Commercial Real Estate Investment Corporation ("Premier"), a publicly-traded Bahamian income trust which owns commercial real estate in The Bahamas. The JOLs are in regular communications with the board of directors and management of Premier to obtain reports on the ongoing activities of the fund.
- 5.4. The Mosaic JOLs are continuing their efforts to either monetize or enhance the value of Premier's various real estate properties, all in an attempt to realize upon same.

6. PENDING LITIGATION

- 6.1. Mosaic held substantial investments in the Channel Funds and relied upon the audited financial statements of the Channel Funds for the fiscal years ended September 30, 2002 and September 30, 2003 (the "CF Financial Statements") in making or maintaining investments therein.
- 6.2. Brooks, Di Santo, a firm of chartered accountants located in Montreal, Quebec, audited the CF Financial Statements and issued unqualified audit reports thereon.
- 6.3. The Mosaic JOLs' investigations, including a detailed review of the audit working papers prepared by Brooks, Di Santo led them to conclude that i) the carrying value of the assets appearing on the CF Financial Statements were significantly impaired, to the extent of more than \$300 million dollars, ii) they were not prepared in accordance with International Accounting Standards, and iii) they were materially misleading and did not present fairly the financial position of the Channel Funds.
- 6.4. Brooks, Di Santo did not appear to have obtained sufficient appropriate audit evidence to support the ownership and valuation of the investments of the Channel Funds.
- 6.5. On 10 February 2010, Richter, in its capacity as receiver of the Canadian Norshield entities, and the Mosaic JOLs jointly instituted legal proceedings against Brooks, Di Santo and its two principal partners, Peter Marini and Fred Ragonese (the "Defendants") in the Superior Court of Quebec.
- 6.6. Since February 2010, the litigation has been ongoing and the Defendants' insurers have now intervened in the proceedings.
- 6.7. During the course of the discovery period, settlement discussions were initiated which are ongoing and look promising.

- 6.8. Separate and distinct from the aforementioned litigation, Messrs. Marini and Ragonese were brought before the disciplinary committee of the Order of the Chartered Professional Accountants of Québec for nonconformity to international standards of accounting and auditing and eventually were each suspended from practicing for a period of six months.

7. CRIMINAL PROCEEDINGS AGAINST XANTHOUDAKIS AND OTHERS

- 7.1. In March 2011, criminal charges were filed in Canada against John Xanthoudakis relating to approximately \$120 million of funds that were invested by Cinar Corporation, a Canadian public company, in Globe X Management Limited and Globe X Canadiana Limited (“Globe X”), two Bahamian entities, between 1998 and 2000 allegedly controlled by Xanthoudakis, in concert with others.
- 7.2. The Crown prosecutors allege that Xanthoudakis, with the assistance of others, facilitated the movement and investment of these funds in The Bahamas and then orchestrated a plan to disguise their whereabouts. The indictment includes allegations of fraud, forgery and making or circulating a false prospectus.
- 7.3. The criminal trial against Xanthoudakis and the other defendants began in May 2014 and is ongoing.


8. RECEIPTS AND PAYMENTS

- 8.1. A Statement of Receipts and Payments for the period 01 July 2015 to 31 December 2015 is attached hereto as Exhibit 1.

9. CONCLUSION

- 9.1. The Mosaic JOLs are continuing in their efforts to either monetize or enhance the value of Premier’s various real estate properties, all in an attempt to realize upon same the controlling shares of Premier.
- 9.2. The Mosaic JOLs are actively suing the Channel Funds’ former auditors for damages in the amount of \$5.0 million due to their negligence in completing the audits of the CF Financial Statements for the fiscal years ended 30 September 2002 and 2003.
- 9.3. Once the aforementioned matters are resolved, the Mosaic JOLs will be in a position to make a distribution and finalize the liquidation of Mosaic. However, the timing relating to the resolution of these matters remains uncertain.

Respectfully submitted this 11 day of August 2016.


_____)
G. Clifford Culmer)

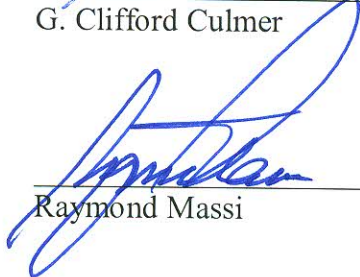
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Raymond Massi)

EXHIBIT 1**MOSAIC COMPOSITE LIMITED (U.S.), INC. (IN LIQUIDATION)****STATEMENT OF THE JOINT OFFICIAL LIQUIDATORS' RECEIPTS AND PAYMENTS****FOR THE PERIOD 01 JULY 2015 TO 31 DECEMBER 2015**

| RECEIPTS | Accounts in The Bahamas | | | Accounts in Canada | | Total |
|--|-------------------------|---------------|----------------|--------------------|------------------|------------------|
| | B\$ | CDN\$ | US\$ | CDN\$ | US\$ | |
| Interest Income | 58 | - | - | 1,344 | 277 | 1,679 |
| Transfer between accounts | - | - | 150,000 | - | - | 150,000 |
| TOTAL RECEIPTS | <u>58</u> | <u>-</u> | <u>150,000</u> | <u>1,344</u> | <u>277</u> | <u>151,679</u> |
| DISBURSEMENTS | | | | | | |
| Liquidator fees | 59,093 | - | 56,815 | 138,876 | - | 254,784 |
| Legal fees | 7,757 | | | 325 | - | 8,082 |
| Bank and miscellaneous charges | 25 | 498 | 436 | 3 | 42 | 1,004 |
| Transfer between accounts | - | - | - | - | 150,000 | 150,000 |
| TOTAL DISBURSEMENTS | <u>66,875</u> | <u>498</u> | <u>57,251</u> | <u>139,204</u> | <u>150,042</u> | <u>413,870</u> |
| (DECREASE) / INCREASE IN CASH | (66,817) | (498) | 92,749 | (137,860) | (149,765) | (262,191) |
| Total Cash as at 1 July 2015 | <u>79,593</u> | <u>11,755</u> | <u>9,623</u> | <u>2,721,520</u> | <u>602,036</u> | <u>3,424,527</u> |
| Total Cash as at 31 December 2015 | <u>12,776</u> | <u>11,257</u> | <u>102,372</u> | <u>2,583,660</u> | <u>452,271</u> | <u>3,162,336</u> |

SWORN to at the City of Nassau)

In the Island of New Providence)

This 19th day of AUGUST, 2016)


George Clifford Culmer

BEFORE ME,


NOTARY PUBLIC

SWORN to at the City of Montreal)

In the Province of Quebec)

This 11 day of August, 2016)


Raymond Massi

BEFORE ME,


NOTARY PUBLIC



COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Commercial Division

**IN THE MATTER OF MOSAIC COMPOSITE
LIMITED now MOSAIC COMPOSITE
LIMITED (U.S.), INC. (A Minnesota Corporation)
(In Liquidation) ("Mosaic")**

AND

**IN THE MATTER OF THE INTERNATIONAL
BUSINESS COMPANIES ACT , Chapter 309,**

**Statute Laws of the Bahamas, 2000 Edition ("the
Act")**

**AFFIDAVIT OF GEORGE CLIFFORD CULMER
AND RAYMOND MASSI**

(THIRTIETH REPORT OF THE LIQUIDATORS)

2006/COM/bnk/00015


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