

**COMMONWEALTH OF THE BAHAMAS**

**IN THE SUPREME COURT**

**Commercial Division**



**2019**

**COM/com/0008**

**IN THE MATTER OF THE COMPANIES ACT, Ch. 308**

**AND**

**IN THE MATTER OF TAYLOR INDUSTRIES LIMITED**

**(In Official Liquidation)**

**AND**

**IN THE MATTER OF THE COMPANIES (WINDING UP AMENDMENT) ACT, 2011**

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**EIGHTH AFFIDAVIT OF ANDREW DAVIES**

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I **ANDREW DAVIES**, FCA, MABRP, CFE of **Crowe Bahamas**, Harbour Bay Centre, Shirley Street, Suite 0587, PO Box AP-59223, Nassau, The Bahamas make OATH and SAY as follows:

1. That I am a Partner in the accounting firm of Crowe Bahamas, and the Official Liquidator ("Liquidator") of Taylor Industries Limited (In Official Liquidation) (the "Company") under the supervision of the Court whose registered office is situated at Alexiou, Knowles & Co., St. Andrew's Court, Frederick Street Steps, Nassau, The Bahamas. I am duly authorised to make this Affidavit in support of an application on behalf of the Company.

2. That I make this Affidavit from my own knowledge as Official Liquidator of the Company. Unless otherwise stated the facts and matters deposed hereto are within my knowledge and are true. Where the matters deposed hereto are not within my knowledge they are derived from the sources which I identify and are true to the best of my information and belief.
3. That this Affidavit is made in support of an application brought by the Official Liquidator by way of Summons filed herein on 14<sup>th</sup> April, 2021, pursuant to **Sections 205(3) and (5) and 237(1)(b) and (e) of the Companies (Winding Up Amendment) Act 2011**, and **Order 11 Rule 1 of the Companies Liquidation Rules, 2012** seeking approval for the allowance of certain preferential debt claims in the liquidation with respect to severance pay, payment in lieu of notice and earned vacation leave for certain employees of the Company.
4. The Company was placed into Official Liquidation under the Supervision of the Court by Her Ladyship The Honourable Madam Justice Diane Stewart pursuant to an Order of the Court filed herein on 17<sup>th</sup> April, 2019.
5. As Official Liquidator I now seek approval for severance pay, pay in lieu of notice and earned vacation leave of four (4) employees that in conjunction with my legal counsel we have identified as having entitlement to make such a claim in the liquidation of the Company, namely:
  - i. Prince Bastian
  - ii. Lawrence Moncur
  - iii. William Nottage

iv. Roberto Riley

6. Following termination of their employment on January 7, 2019 and prior to the commencement of the liquidation on January 8, 2019 no severance pay, pay in lieu of notice or earned vacation leave was paid to these employees. Further, there was no gratuity paid to any of these employees and any entitlement they had under the Company pension fund was made available to them.
7. When I took office as Liquidator I was advised that these employees were considered at the time to be of ongoing value to the Company and capable of continuing to work in the roles for which they were previously employed. Subsequently, upon attaining the age of retirement (65 years old) they were rehired by the Company strictly on a casual hourly basis. The terms of their new agreement excluded vacation pay, NIB or pension; they only received a straight hourly rate and were paid at the end of the week for the number of hours they worked.
8. I did not request, nor did I receive individual Proofs of Debt from each employee in this liquidation due to the time, cost and complexity of undertaking this exercise for each individual employee given the low value of assets in the liquidation estate.
9. On February 10, 2019, I accepted a combined Proof of Debt from Bryan Taylor, former Director and employee of the Company, on behalf of all employees. This combined Proof of Debt consisted of a copy of the employee termination entitlement calculation listing provided to me at the onset of the liquidation. I have reviewed and agreed the calculations with respect to the

details in this listing and cross checked and confirmed the salaries used as the basis for the claim against payroll records for overall accuracy. A copy of the combined Proof of Claim is now produced and shown to me marked "AD8.1".

### **Prince Bastian**

10. Mr. Bastian's official initial retirement date was 24<sup>th</sup> October, 2011. Subsequent to that he was rehired by the Company on an ongoing full-time basis. There is a letter on file signed by Mr. Bastian confirming that he was retiring for a second time from being a full-time employee and scheduled to commence part time employment effective 8th January, 2018.
11. Mr. Bastian's move to part time employment was exactly one (1) year prior to the Company going into liquidation in January 2019. I have been advised by my legal counsel, he is therefore entitled to make a claim in the liquidation for two (2) weeks' pay in lieu of notice, two (2) weeks' severance pay and earned vacation leave in the total amount of \$4,796.22

### **Lawrence Moncur**

12. Mr. Moncur's official retirement date was 12<sup>th</sup> December, 2017. He continued to work in the Company strictly on an hourly rate basis. His weekly rate was \$580.00.
13. Mr. Moncur had worked approximately thirteen (13) months before termination of his employment at the commencement of liquidation and is entitled to receive two (2) weeks' pay in lieu of notice and two (2) weeks' severance pay prorated for the thirteen (13) month period and earned vacation leave in the total amount of \$4,397.66.

## **William Nottage**

14. Mr. Nottage's official retirement date was 20<sup>th</sup> January, 2018. He continued to work for the Company until December 2018. However, according to the last payroll run dated 9<sup>th</sup> January, 2019, Mr. Nottage is noted as having worked a full week and seemingly continued to be employed with the Company for a period of 179 days from the date of retirement to that of the liquidation termination date.
15. There is no claim for severance pay or pay in lieu of notice on the Proof of Debt form received from Bryan Taylor for Mr. Nottage, only earned vacation leave in the amount of \$2,342.69.
16. I have been advised by legal counsel that employees who were employed for less than twelve (12) months but have been terminated are entitled to one (1) weeks' severance pay and 1 weeks' notice. Therefore, in addition to earned vacation leave, Mr. Nottage is entitled to one (1) weeks' notice and one (1) weeks' severance in the amount of \$3,814.69

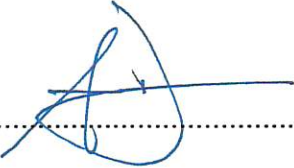
## **Roberto Riley**

17. Mr. Riley left the Company sometime in late 2017/ early 2018 without providing notice. He re-commenced employment with the Company as a part-time employee in mid-2018.
18. In the claim received from the Directors of the Company Mr. Riley is entitled to \$1,078.88 in earned vacation leave which accrued during his tenure as a full-time employee prior to his departure in 2017.
19. In the circumstances we hereby seek the approval of this Honourable Court to allow the preferential creditor claims in the liquidation for severance pay, pay

lieu of notice and earned vacation leave from Prince Bastian, Lawrence Moncur,  
William Nottage and Roberto Riley in the total amount of \$14,087.45

**20.** The contents of this Affidavit are true and correct to the best of my knowledge  
information and belief.

**SWORN TO** on this 16<sup>th</sup> day )  
of **April, 2021** at )  
Nassau, The Bahamas )



**Before me,**



**NOTARY PUBLIC**

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CERTIFICATE

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I hereby certify that the attached is a true copy of **Exhibit "AD8.1"** referred to in the Eighth Affidavit of **Andrew Davies** sworn before me on this **16<sup>th</sup>** day of **April**, A. D., **2021**.



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NOTARY PUBLIC

# **Exhibit “AD8.1”**





THE COMPANIES ACT, CH. 308

PROOF OF DEBT

Taylor Industries, Limited ("TIL") (In Liquidation)

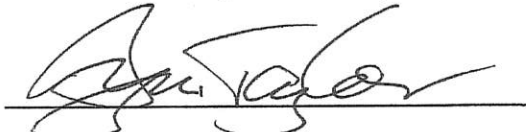
**Additional Information**

Before completing this form all unsecured trade creditors are advised to read the First Interim Report (the "Report") of the Voluntary Liquidator in order to gain an understanding of the current status of the liquidation. The Report can be found on the following website [www.taylor-industries.com](http://www.taylor-industries.com) . At this stage, the Liquidator does not anticipate there being sufficient realizable assets of the estate to pay unsecured trade creditors as highlighted in section 5 of the Report. As such, in submitting this form, the Liquidator recommends unsecured trade creditors **only** complete sections 1 to 4 below at this stage.

1.	Creditor's Name	Former employees of Taylor Industries Limited
2.	Creditor's address & contact information. Email etc	Bryan Taylor – former Director and Employee of the company
3.	Amount of claim :-  Principal  Interest (if any)  Total	\$682,096
4.	Summarise the basis on which the claim arises	Attached herewith are the termination of employment claims for all relevant employees of the company at the date the company was placed in liquidation

5.	List of supporting documentation (copies of which must be attached)	See attached spreadsheet
6.	Summarise basis for interest claim	Not applicable
7.	Interest calculation	Not applicable
8.	Particulars of any security held including a list of the relevant documentation	Not applicable
9.	Value of the security and date of the valuation	Not applicable

Dated this 10 day of February, 2019



(Signature of Creditor)

Print Name: Bryan Taylor

Title: Former Director and Former Employee

**Instructions for submitting Proof of Debt form**

In order of preference:

1. Scan and email to the Liquidator at [andrew.davies@crowe.bs](mailto:andrew.davies@crowe.bs)
2. Take photo with smartphone and email to [andrew.davies@crowe.bs](mailto:andrew.davies@crowe.bs)
3. Mail to the Liquidator at Suite # 0587 PO Box AP-59223

Taylor Industries, Limited (In Voluntary Liquidation)  
 Estimate of Termination debts for Staff  
 Preferential Creditors under s.237 of Companies (Winding up Amendment) Act, 2011

Staff Level

Name	Termination	Years Employed	Rate	Hours	Weekly Salary	Two Weeks Earned		Severance	Total Claim
	Date					Notice	Vacation		
Employee 1	7-Jan-19	10.68	\$12.00	40	\$480.00	\$960.00	\$76.32	\$10,252.27	\$11,288.59
Employee 2	7-Jan-19	13.13	\$8.00	40	\$320.00	\$640.00	\$67.60	\$7,680.00	\$8,387.60
Employee 3	7-Jan-19	1.82	\$9.75	40	\$390.00	\$780.00	\$92.92	\$1,421.10	\$2,294.02
Employee 4	31-Oct-18	Retired	Retired	40	\$0.00	\$0.00	\$2,716.22	\$0.00	\$2,716.22
Employee 5	7-Jan-19	15.34	\$9.50	40	\$380.00	\$760.00	\$658.16	\$9,120.00	\$10,538.16
Employee 6	7-Jan-19	10.60	\$14.50	40	\$580.00	\$1,160.00	\$62.21	\$12,292.82	\$13,515.03
Employee 7	7-Jan-19	1.85	\$7.25	40	\$290.00	\$580.00	\$413.32	\$1,072.60	\$2,065.92
Employee 8	7-Jan-19	19.48	\$8.00	40	\$320.00	\$640.00	\$691.22	\$7,680.00	\$9,011.22
Employee 9	7-Jan-19	14.56	\$11.00	40	\$440.00	\$880.00	\$1,365.32	\$10,560.00	\$12,805.32
Employee 10	7-Jan-19	23.36	\$12.60	40	\$504.00	\$1,008.00	\$540.29	\$12,096.00	\$13,644.29
Employee 11	7-Jan-19	14.58	\$9.50	40	\$380.00	\$760.00	\$121.03	\$9,120.00	\$10,001.03
Employee 12	7-Jan-19	1.85	\$8.50	40	\$340.00	\$680.00	\$218.88	\$1,257.53	\$2,156.41
Employee 13	7-Jan-19	6.59	\$8.50	40	\$340.00	\$680.00	\$75.99	\$4,480.55	\$5,236.54
Employee 14	7-Jan-19	29.32	\$12.00	40	\$480.00	\$960.00	\$734.04	\$11,520.00	\$13,214.04
Employee 15	7-Jan-19	1.20	\$8.50	40	\$340.00	\$680.00	\$75.57	\$817.86	\$1,573.43
Employee 16	7-Jan-19	39.58	Retired	40	\$0.00	\$0.00	\$1,980.99	\$0.00	\$1,980.99
Employee 17	7-Jan-19	3.59	\$7.40	40	\$296.00	\$592.00	\$353.57	\$2,127.96	\$3,073.53
Employee 18	7-Jan-19	7.63	\$9.00	40	\$360.00	\$720.00	\$38.34	\$5,495.67	\$6,254.01
Employee 19	7-Jan-19	5.32	\$16.50	40	\$660.00	\$1,320.00	\$713.79	\$7,026.74	\$9,060.53
Employee 20	7-Jan-19	5.28	\$10.00	40	\$400.00	\$800.00	\$138.30	\$4,227.95	\$5,166.25
Employee 21	7-Jan-19	43.59	\$17.00	40	\$680.00	\$1,360.00	\$134.81	\$16,320.00	\$17,814.81
Employee 22	Officially retired prior to liquidation. Working week to week. Severance and notice may not be owing					\$0.00	\$2,342.69	\$0.00	\$2,342.69
Employee 23	7-Jan-19	13.25	\$11.00	40	\$440.00	\$880.00	\$841.39	\$11,661.81	\$13,383.20
Employee 24	7-Jan-19	2.28	\$8.00	40	\$320.00	\$640.00	\$164.64	\$1,458.85	\$2,263.49

Employee 25	Taylor's was second job so he was part time. Severance and notice may not be owing				\$0.00	\$1,078.88	\$0.00	\$1,078.88	
Employee 26	7-Jan-19	43.88	\$12.75	40	\$510.00	\$1,020.00	\$1,192.00	\$12,240.00	\$14,452.00
Employee 27	7-Jan-19	14.47	\$8.25	40	\$330.00	\$660.00	\$677.57	\$7,920.00	\$9,257.57
Employee 28	7-Jan-19	1.85	\$9.50	40	\$380.00	\$760.00	\$381.33	\$1,405.48	\$2,546.81
Employee 29	7-Jan-19	23.86	\$12.90	35	\$451.50	\$903.00	\$675.44	\$10,836.00	\$12,414.44
Employee 30	7-Jan-19	5.13	\$9.75	40	\$390.00	\$780.00	\$67.28	\$4,004.71	\$4,851.99
Employee 31	7-Jan-19	5.06	\$12.50	40	\$500.00	\$1,000.00	\$257.63	\$5,057.53	\$6,315.16

Total for Staff Level employees \$230,704.18

**Management Level**

<i>Name</i>		<i>Rate</i>	<i>Hours</i>	<i>Weekly Salary</i>	<i>Four Weeks</i>	<i>Earned</i> <i>Vacation</i>	<i>Severance</i>	<i>Total Owed</i>	
Employee 32	7-Jan-19	23.4	\$33.75	40	\$1,350.00	\$5,400.00	\$1,371.26	\$64,800.00	\$71,571.26
Employee 33	7-Jan-19	38.3	\$14.00	40	\$560.00	\$2,240.00	\$557.90	\$26,880.00	\$29,677.90
Employee 34	7-Jan-19	1.4	\$18.50	40	\$740.00	\$2,960.00	\$530.77	\$4,233.21	\$7,723.98
Employee 35	7-Jan-19	32.5	\$32.50	40	\$1,300.00	\$5,200.00	\$1,217.78	\$62,400.00	\$68,817.78
Employee 36	7-Jan-19	10.4	\$19.30	40	\$772.00	\$3,088.00	\$349.33	\$32,089.82	\$35,527.15
Employee 37	7-Jan-19	22.3	\$19.90	40	\$796.00	\$3,184.00	\$1,993.18	\$38,208.00	\$43,385.18
Employee 38	7-Jan-19	25.5	\$33.00	40	\$1,320.00	\$5,280.00	\$2,569.38	\$63,360.00	\$71,209.38
Employee 39	7-Jan-19	27.9	\$32.50	40	\$1,300.00	\$5,200.00	\$963.63	\$62,400.00	\$68,563.63
Employee 40	7-Jan-19	13.1	\$12.00	40	\$480.00	\$1,920.00	\$659.40	\$23,040.00	\$25,619.40
Employee 41	7-Jan-19	4.2	\$27.50	40	\$1,100.00	\$4,400.00	\$649.55	\$18,540.27	\$23,589.82
Employee 42				Resigned prior to liquidation		\$0.00	\$800.89	\$0.00	\$800.89
Employee 43				Resigned prior to liquidation		\$4,905.81	\$0.00	\$4,905.81	

Total for Management Level employees \$451,392.18

Estimated total for Termination debts \$682,096.35

Source: As provided by Directors of TIL and cross referenced to payroll software for completeness and accuracy by Liquidator

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**AMENDMENT) ACT, 2011**

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**EIGHTH AFFIDAVIT OF ANDREW DAVIES**

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**2019**

**COM/com/0008**

  
**LENNOX PATON**

Attorneys-at-Law  
Chambers,  
3 Bayside Executive Park  
West Bay St. & Blake Rd.

*Attorneys for the Petitioner, Official Liquidator of Taylor  
Industries Limited (In Official Liquidation)*