

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY**

B E T W E E N:

IN THE MATTER OF GALTY B.V.
HAVING ITS HEAD OFFICE IN THE CITY OF AMSTERDAM
IN THE NETHERLANDS

**SUPPLEMENTARY RESPONDING MOTION RECORD OF
THE AVENUE ROAD TRUST**

Date: October 19, 2021

**WIFFEN LITIGATION
PROFESSIONAL CORPORATION**
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Lawyers for The Avenue Road Trust

TO:

SERVICE LIST

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TAB

- 1 Affidavit of Victor M. Seabrook sworn October 19, 2021
Exhibit "A" Newspaper Article re: Sale of InteleX

Tab 1

Estate File No.: 31-2484304

ONTARIO
SUPERIOR COURT OF ONTARIO
IN BANKRUPTCY

In the Matter of **GALTY B.V.**
HAVING ITS HEAD OFFICE IN THE CITY OF AMSTERDAM,
IN THE NETHERLANDS

AFFIDAVIT OF VICTOR M. SEABROOK
Sworn the 19th day of October, 2021

I, Victor M. Seabrook, of the City of Toronto, in the Province of Ontario

MAKE OATH AND SAY:

1. I am a trustee of The Avenue Road Trust [herein after referred to as "ART"] and as such have knowledge of the matters hereinafter deposed to.
2. I am the representative of ART who was involved in the loans made by ART to Galty B.V. [hereinafter referred to as "B.V."] As will be outlined subsequently, B.V. is indebt to ART in the amounts of £472,790, CDN \$750,000, CDN \$250,000 and CDN \$150,000.

3. B.V. is a corporation that was acquired from ABN – AMRO Trust Company (Netherlands) B.V. of Amsterdam, Netherlands in 1981.
4. Galty Investments N.V. [hereinafter referred to as "N.V."] was acquired in 1981 from Corporate Agents N.V. Curacao Netherlands Antilles and was the sole shareholder of B.V.
5. La Hougue Boete Societe Fiduciarie Avec Responsabilitie Limitee was the sole shareholder of N.V. and was the sole trustee of The Brazilian Trust. This company was replaced as trustee of The Brazilian Trust by La Hougue Financial Management Services Limited [hereinafter referred to as "La Hougue"]. La Hougue also was appointed Trustee of ART in 1992.
6. The original purpose of B.V. was to acquire property known as 88 Elm, Toronto. The operations of B.V. were conducted in St. Helier, Jersey by representatives of La Hougue.
7. The purchase price of 88 Elm was CDN \$750,000 with funds advanced by La Hougue through B.V., all done in Jersey based on La Hougue's oral report to myself as the managing director of B.V. in Toronto.

8. The CDN \$750,000 was advanced by a loan funded by monies of The Brazilian Trust to La Hougue.
9. The monies paid to La Hougue were then paid to N.V. and then to B.V. to fund the purchase of 88 Elm. B.V. as owner of 88 Elm subsequently provided mortgages in favour of La Hougue as trustee of ART to secure repayment of monies loaned by ART to B.V. commencing in 1993.
10. Monthly payments were made by La Hougue as trustee of ART on account of the mortgages interest to Isobel Seabrook, my former wife and beneficiary of ART, since 1993 up until 2014 when the payments ceased.
11. As a result of the cessation of payments, the proceedings entitled ART v. Galty B.V. were started.
12. I remained as managing Director of B.V. from 1981 to my retirement in 2003.
13. I was involved in the business of B.V. from time to time. From my position as Managing Director I was involved in keeping the 88 Elm property rented out from time to time and payment of any maintenance costs.

14. The only business of B.V. connected to N.V. during the time of my being the Managing Director of B.V. that I am aware of, in addition to the Elm loan, was a loan to B.V. from N.V. in the amount of US \$3,250,000 certain equity investments and loans to B.V. by ART.
15. That these ART loans are outstanding is confirmed by the Affidavit of Richard Wigley [hereinafter referred to as "the Wigley Affidavit"] sworn February 27, 2018 in proceeding in the Ontario Superior Court of Justice, Court File No. 15-CV-530070-0000.
16. The Galty Trustee says that he reviewed 2 years of financial records of N.V. to determine the validity of the N.V.'s claim as being a creditor in the Galty B.V. bankruptcy proceedings even though B.V. existed as of 1981.
17. I disagree with that being a suitable amount of effort on the part of the Trustee to come to that conclusion.
18. My concerns, amongst others, are as follows:
 - a. The amount of N.V.'s claim is in excess of \$23,000,000 – yet there are no assets in B.V. having been purchased or otherwise as a result of those loans other than 88 Elm. There must be documents available to the Galty Trustee showing the use of the \$23,000,000 which would

- assist in tracing assets that should be included in the B.V. bankruptcy.
- b. An asset of B.V. were shares in a company known as Intalex. What happened to those shares owned by or held for B.V.? This investment is referred to in draft financial statements of B.V. not in my possession and were held by La Hougue as Trustee of The Brazilian Trust.
- c. Intalex was sold in June 2019 to Industrial Scientific for the amount of more than \$570,000,000.00 – see the newspaper article confirming the sale of Intalex, attached herewith and marked as **Exhibit "A"** to this my Affidavit.
- d. 88 Elm was sold by B.V. for CDN \$6.1 million in April, 2015. What happened to those monies?
- e. The loan for US \$3,250,000 was made to W.C. Heinrichs. What happened to this loan and any interest charged by B.V. for such loan?

NO PREJUDICE

19. From as far as I am aware, there is no prejudice if this Honourable Court sees fit to adjourn the Trustee's motion now before the Court in order for a thorough review of the matters I have set out supra.


20. I would ask this Honourable Court for an Order that the Trustee proceed to examine a representative of B.V. and also N.V. to provide information dealing with the matters referred to supra.

21. Ronald G. Chapman was the ART representative as an inspector in the B.V. bankruptcy.

22. I confirm that he has resigned as inspector. I will provide the Court with the name of another person to stand as inspector.

SWORN before me at the City of)
Toronto, in the Province of)
Ontario, this 19th day of October,)
2021.)

V. M. Seabrook
Victor M. Seabrook



A Commissioner for the taking of Affidavits, etc.
RONALD G. CHAPMAN

To: Ron G. Chapman

From: v.m.s.

June 8/19

ART #1

This is Exhibit... referred to in the affidavit of... sworn before me, this... day of... 2021

A COMMISSIONER FOR TAKING AFFIDAVITS

RONALD G. CHAPMAN

FRIDAY, JUNE 7, 2019 | THE GLOBE AND MAIL G

Toronto's Intelix acquired by Pittsburgh company

SEAN SILCOFF
TECHNOLOGY REPORTER

For the second time in two weeks, a leading Toronto-based software company in the environmental health, safety and quality audit business has been sold to a U.S. buyer.

Pittsburgh-based Industrial Scientific said on Thursday that it had purchased Toronto-based Intelix Technologies for US\$570-million. The sale follows last week's purchase by private-equity giant Thoma Bravo LLC of a control stake in Cority Software Inc., in a deal that valued the firm - a rival to Intelix - at more than \$500-million.

Both Intelix and Cority are believed to have revenues in the high tens of millions of dollars and were each controlled by private-equity firms prior to the transactions (JMI Equity and HarbourVest Partners LLC bought control of Intelix for \$160-million in 2015). But the circumstances of the Intelix transaction are very different.

Last October, Intelix chief executive Mark Jaine - who joined the company 20 years ago when it had three employees, little revenue and a lot of debt - said in an interview he anticipated the company was about equally likely to go public or seek fresh private-equity financing within the next two years. Within weeks, his thinking shifted about Intelix, which has more than 450 employees and about 1,100 customers ranging from industrial and manufacturing giants such as Magna International, Johnson & Johnson and NASA to Walmart, NBC Universal and Cirque du Soleil. He saw a gap between when customers experienced incidents such as workplace accidents or equipment malfunctions and when their staff recorded the events in the company's software.

Mr. Jaine decided to seek out a strategic partner in the industrial Internet of Things sector that collected and processed data instantaneously from sensors connected to the Web - data, he thought, could someday be automatically uploaded into Intelix software, triggering needed actions much quicker for its customers. That would create what he calls a "digital nervous system" for corporations regarding environmental, health, safety and quality (EHSQ) matters, enabling Intelix to "eventually build an enterprise resource planning tool for operational excellence."

He determined that partnering with a company such as Industrial Scientific - a connected sensing technology firm with 350,000 devices across 13,000 sites, and a subsidiary of NYSE-traded industrial technology giant Fortive Corp. - "made a lot more sense strategically" to accelerate Intelix's growth than waiting to go public. "We were only looking for a strategic partner that would add value to our customers and allow us to differentiate and create incredible value to our customer base," Mr. Jaine said.

Industrial Scientific president Justin McElhatten said in a statement: "We are building the company that our customers need - one capable of improving safety and productivity in the field while also being the system of record for EHSQ data. We are excited by the opportunity to expand our connected safety capabilities into the global EHSQ software space and beyond."

Intelix was co-founded in 1992 by Mr. Jaine's father, Andrew Jaine, and Ted Grunau. Mr. Jaine joined when he was 21 to head sales, and became president seven years later. Earlier this decade, he led the company's transformation from a provider of standard on-premise software to heavy industry clients to a cloud-based subscription software service. The company has steadily increased revenues by 35 per cent or more per year - more than twice the growth rate in the EHSQ space.

IN THE MATTER OF the Bankruptcy of Galty B.V.
Having its head Office in the City of Amersterdam,
In the Netherlands

Estate File No.: 31-2484304

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY**

**Affidavit of Victor M. Seabrook
Sworn October 19th, 2021**

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Lawyer for the Creditor
The Avenue Road Trust
File No. 77383
LSO Reg. No. 12820G

IN THE MATTER OF GALTU B.V.

**SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY**

Proceeding commenced at Toronto

**SUPPLEMENTARY RESPONDING
MOTION RECORD**

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