

Court File No. CV-09-8103-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

BANK OF AMERICA, N.A.

Applicant

- AND -

**ROYAL DOULTON CANADA LIMITED and
WATERFORD WEDGWOOD CANADA INC.**

Respondents

**SECOND REPORT OF DELOITTE & TOUCHE INC.
IN ITS CAPACITY AS INTERIM RECEIVER AND RECEIVER OF
ROYAL DOULTON CANADA LIMITED and WATERFORD WEDGWOOD CANADA INC.**

January 17, 2012

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I. INTRODUCTION

1. On March 26, 2009, Bank of America, N.A. (“BOA”) made a motion for an Order pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* (the “BIA”) and section 101 of the *Courts of Justice Act* seeking the appointment of an interim receiver and receiver of all the assets, undertakings and properties of Waterford Wedgwood Canada Inc. (“WWCI”) and Royal Doulton Canada Limited (“RDCL” and, collectively with WWCI, the “Respondents”). By Order of Justice Lederman dated March 26, 2009 (the “Receivership Order”), Deloitte & Touche Inc. (“Deloitte”) was appointed as interim receiver and receiver (jointly, the “Receiver”) without security, of all the assets, undertakings and properties of the Respondents. Attached hereto as Exhibit “A” is a copy of the Receivership Order.
2. This report is the Receiver’s second and final report to the Court (the “Second Report”). Deloitte previously filed a preliminary report with the Court on March 26, 2009 in its capacity as proposed interim receiver and receiver (the “Preliminary Report”) and a first report with the Court on May 12, 2009 in its capacity as interim receiver and receiver (the “First Report”). Copies of the Preliminary Report and First Report, without exhibits, are attached hereto as Exhibit “B” and Exhibit “C”, respectively. The Preliminary Report was served on all secured creditors of RDCL and WWCI prior to the receivership motion. The First Report was served on the service list and on all secured creditors of RDCL and WWCI on May 13, 2009.
3. In order to keep WWCI and RDCL’s creditors and all other stakeholders informed, the Receiver has established a website, www.deloitte.com/ca/waterfordwedgwood (the “Receivership Website”), where it has posted all Court documents, Orders, and general information on the receivership. The Receiver has also established an email address and a telephone number on its website in order to receive and respond to any inquiries with regard to the WWCI and RDCL receivership proceedings.

II. QUALIFICATIONS

4. In preparing this Second Report, the Receiver has relied upon unaudited financial information, RDCL’s and WWCI’s books and records, the financial information prepared by RDCL and WWCI, and discussions with management of RDCL and WWCI. Deloitte has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information and,

accordingly, the Receiver expresses no opinion or other form of assurance on the information contained in this Second Report.

5. Certain of the information referred to in this Second Report consists of forecasts and/or projections. An examination or review of financial forecast and projections, as outlined in the Canadian Institute of Chartered Accountants Handbook, has not been performed. Future oriented financial information referred to in this Second Report was prepared by RDCL and WWCI based on management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, and even if the assumptions materialize, the variations could be significant.
6. Unless otherwise noted, all dollar amounts contained in this report are expressed in Canadian dollars.

III. PURPOSE OF REPORT

7. The purpose of the Second Report is to:
 - a) Report on the activities of the Receiver since the date of the First Report (May 12, 2009); and
 - b) Recommend that this Court grant an Order:
 - (i) approving this Second Report and the activities of the Receiver as set out herein;
 - (ii) approving the transfer of monies held by the Receiver to fund deficiencies in the bankrupt estates of RDCL and WWCI;
 - (iii) approving the fees and disbursements of the Receiver and its legal counsel, Osler, Hoskin & Harcourt LLP ("Osler"), for the period May 8, 2009 and May 12, 2009, respectively, to January 13, 2012;
 - (iv) approving distribution of the Final Dividend (as defined below) to BOA for the benefit of the Senior Lenders (as defined below); and

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- (v) discharging the Receiver upon the completion of the receivership proceedings and the filing by the Receiver of a certificate (the “Receiver’s Certificate”) and barring any claims against it.

IV. BACKGROUND

8. On the date of the Receivership Order, WWCI and RDCL were both Canadian subsidiaries of Waterford Wedgwood plc (“Waterford Wedgwood”), an Irish listed company that designs, manufactures and distributes table, crystal and silverware products under four primary brands: Waterford Crystal, Wedgwood, Rosenthal and Royal Doulton.
9. While globally the Waterford Wedgwood business involves the design and manufacture of crystal, ceramics and tableware, neither WWCI nor RDCL were involved in those aspects of the business in Canada.
10. WWCI was a sales and distribution entity that sold branded products to the Canadian marketplace, on a wholesale basis, through selected department and specialty store groups. WWCI operated out of a leased office and warehouse location in Richmond Hill, Ontario, and did not have any retail operations.
11. RDCL was primarily a wholesaler and retailer of Royal Doulton branded products in Canada. RDCL sold its products on a wholesale basis, through selected department and specialty store groups, and on a retail basis through its retail and outlet store locations, as well as directly to consumers via the internet.
12. RDCL operated fourteen retail stores in five provinces (Ontario, Alberta, British Columbia, New Brunswick and Nova Scotia) and maintained head office and warehouse locations in Toronto and Pickering, respectively. RDCL operated out of leased premises in all locations.
13. Pursuant to the terms of a credit facility agreement dated December 10, 2005 among Waterford Wedgwood, certain of its affiliates, a syndicate of lenders (the “Senior Lenders”) and BOA, as agent for the Senior Lenders (the “Waterford Wedgwood Facility”), WWCI and RDCL granted to the Senior Lenders continuing unlimited guarantees of all the indebtedness of Waterford Wedgwood and certain other borrowers under the Waterford Wedgwood Facility (the “Guarantee”).

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14. BOA acts as agent for the Senior Lenders pursuant to the Waterford Wedgwood Facility and is the security trustee for the Senior Lenders under the General Security Agreements executed by each of WWCI and RDCL in favour of BOA on December 10, 2005 (the "GSAs"). Pursuant to the GSAs, WWCI and RDCL granted to BOA, as security trustee, comprehensive general security over the machinery, equipment, stock, receivables, bank accounts, shares in subsidiaries and all other assets of WWCI and RDCL (the "Security"). As set out in the First Report, the Receiver received an opinion from its counsel that the Security is validly perfected.
 15. The Waterford Wedgwood Facility was breached in December 2008 when Waterford Wedgwood defaulted on a payment to The Bank of New York, London, one of the Senior Lenders. WWCI and RDCL had guaranteed the obligations of Waterford Wedgwood and were each respectively liable under the Guarantee, jointly and severally, as primary obligor.
 16. On January 5, 2009, ten of Waterford Wedgwood's subsidiaries registered in England & Wales (the "UK Administration Companies") entered administration with Angus Martin, Neville Khan, Nicholas Dargan and Dominic Wong (all of Deloitte LLP in the UK) being appointed as joint Administrators (the "UK Administrators"). Also on January 5, 2009, David Carson, of Deloitte & Touche in Ireland was appointed as receiver (the "Irish Receiver") of Waterford Wedgwood and three of its Irish subsidiaries (the "Irish Receivership Companies").
 17. Upon their appointment, the UK Administrators engaged J.P. Morgan Cazenove ("JPM Cazenove") to assist in the marketing of the Waterford Wedgwood group of companies on a global basis, focusing on the UK and Europe. During this process, JPM Cazenove contacted a number of potential strategic trade investors with a particular emphasis on worldwide strategic trade buyers.
 18. Pursuant to a Share and Business Sale Agreement dated March 26, 2009 (the "UK/Irish Sale Agreement") between the UK Administrators, the Irish Receiver and a Gibraltar company associated with KPS Capital Partners, LP ("KPS"), which was created for the purpose of the acquisition, most of the assets of the UK Administration Companies and the Irish Receivership Companies were agreed to be sold subject to the fulfillment of various conditions (the "UK/Irish Transaction"). The UK/Irish Sale Agreement provided that, as a condition precedent

to the UK/Irish Transaction, there must be a sale of substantially all of the assets of WWCI and RDCL for proceeds of €9,010,999 (the “Canadian Transaction”).

19. As described above, the Receiver was appointed by this Court over the assets of WWCI and RDCL on March 26, 2009. Pursuant to the Receivership Order, the Receiver did not take possession of WWCI’s or RDCL’s property or assets, nor did the Receiver operate the businesses in any manner. The Receivership Order authorized and directed the Receiver to enter into an Agreement of Purchase and Sale dated March 27, 2009 (the “Canadian Sale Agreement”) selling substantially all of WWCI’s and RDCL’s assets and transferring certain specified liabilities to WWRD Canada Inc. (the “Purchaser”), a wholly owned subsidiary of KPS.
20. In accordance with the Receivership Order, the Receiver entered into the Canadian Sale Agreement. On March 27, 2009, Justice Lederman approved the Canadian Transaction pursuant to the Approval and Vesting Order dated March 27, 2009 (the “Approval and Vesting Order”). Attached hereto as Exhibit “D” is a copy of the Approval and Vesting Order. Also on March 27, 2009, pursuant to the Approval and Vesting Order, the Receiver assigned RDCL and WWCI into bankruptcy and Deloitte & Touche Inc. was authorized to act as the trustee in bankruptcy of each of the Respondents (the “Trustee”). Further information on the RDCL and WWCI bankruptcies is included below.
21. Pursuant to the Sale Agreement, the Receiver, the Purchaser and the Respondents were required to enter into the interim transition agreements each dated March 27, 2009 (the “Interim Transition Agreements”) and the Trustee and the Purchaser were required to enter into replacement transition agreements (the “Trustee Transition Agreements”) upon the appointment of the Trustee. The Interim Transition Agreements were approved by this Court under the Approval and Vesting Order and the Trustee Transition Agreements were approved by Orders of this Court each dated March 30, 2009.
22. The Trustee Transition Agreement granted the Purchaser a license to occupy certain leased premises for the purpose of carrying on the business and/or removing the purchased assets for a period (the “Access Period”) commencing on March 27, 2009 and ending in respect of any leased premises on the earlier of: (i) 90 days from March 27, 2009; and (ii) the time the Trustee

Transition Agreement is otherwise terminated or the time at which the lease in respect of such leased premises is otherwise disclaimed or surrendered pursuant to the terms of the Trustee Transition Agreement. In addition, under the Trustee Transition Agreement the Trustee has the right to disclaim or surrender its interest in a lease prior to the date that was 80 days from March 27, 2009 if consent has not been obtained from the relevant landlord to assign the lease to the Purchaser on terms and conditions acceptable to the Purchaser.

23. A detailed discussion on the background of the business, debt structure and security position of BOA, as agent and security trustee for the Senior Lenders, causes of insolvency, asset realization and projected distribution, and the marketing and sale process undertaken with respect to the UK/Irish Transaction and the Canadian Transaction was provided in the Preliminary Report.

V. RECEIVER'S ACTIVITIES SINCE DATE OF FIRST REPORT

24. Following the First Report (May 12, 2009), the Receiver's activities have included:
- a) Distributing all proceeds realized from the Canadian Transaction to BOA from the Euro denominated trust account ("Euro Funds Account") opened by the Receiver to administer such proceeds pursuant to the Court Order dated May 19, 2009;
 - b) Disbursing funds to the Trustee from the Trust Account (as defined in the First Report) funded by the Purchaser for the payment of rent, expenses and occupation costs in accordance with the Interim Transition Agreement and the Trustee Transition Agreement;
 - c) Closing the Euro Funds Account and the Trust Account following disbursement of all funds from these two trust accounts to BOA and the Trustee, respectively;
 - d) Administering the General Funds Account (as defined in the First Report), maintained by the Receiver to administer the opening cash balances of WWCI and RDCL as at the date of the Receivership Order as well as subsequent cash collections, to perform the following tasks:
 - (i) Payment of fees and disbursements of the Receiver and its legal counsel pursuant to the Court Order dated May 19, 2009;

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- (ii) Distribution of remaining accounts receivable collections to the Purchaser as per the Canadian Sale Agreement;
 - (iii) Transferring funds to the Trustee to fund the administration of the RDCL and WWCI bankrupt estates; and
 - (iv) Interim distributions to Senior Lenders as per the Order of Justice Wilton-Siegel dated May 19, 2009.
- e) A preliminary investigation requested by the Canada Revenue Agency (“CRA”) into two transactions involving the reduction of share capital and an intercompany payable by RDCL. The results of the investigation are discussed below; and
 - f) Issuance of this Second Report to this Court.

VI. STATUS UPDATE OF RECEIVERSHIP SINCE DATE OF FIRST REPORT

Receivership Accounts

- 25. The Receiver maintained and administered the Euro Funds Account, Trust Account and General Fund Account. The Statement of Receipts and Disbursements for the period March 27, 2009 to January 16, 2012, detailing all receipts and disbursements of the Euro Funds Account, the Trust Account and the General Funds Account is attached as Exhibit “E”.
- 26. As noted in the First Report, the estates of WWCI and RDCL realized gross proceeds of €9,010,999 from the Canadian Transaction. These proceeds were placed into the Euro Funds Account that was administered by the Receiver.
- 27. Pursuant to the Court Order dated May 19, 2009, the Receiver made two distributions from the Euro Funds Account totaling €9,011,594. The total distribution represents payment of the gross proceeds of €9,010,999 plus interest less bank charges. No funds remained in the Euro Funds Account following the two distributions. As of the date of this Second Report, the Euro Funds Account is closed.
- 28. In accordance with the Interim Transition Agreement, the Receiver has made \$511,135 and \$54,818 disbursements from the Trust Account to the Trustee to pay rent, expenses and occupation costs for each of the RDCL and WWCI estates, respectively (collectively the “Occupation Costs”), for the months of April, May and June 2009. In addition, in accordance

with the terms of the Interim Transition Agreement, the Receiver disbursed \$183,567 from the Trust Account to refund to the Purchaser the *pro rata* amount of the Occupation Costs paid to the Receiver by the Purchaser for leases that were either assigned to the Purchaser or repudiated. No funds remained in the Trust Account following the aforementioned disbursements and a bank charge of \$34. As of the date of this Second Report, the Trust Account is closed.

29. The opening cash balance of the General Funds Account at the date of the Receivership Order was \$1,335,473. Since the commencement of the receivership, the Receiver has collected the following cash receipts and deposited them to the General Funds Account:

- a) \$15,040 in cash on hand representing petty cash and amounts remaining in the RDCL TD bank account;
- b) \$822,013 in accounts receivable;
- c) \$51,062 in miscellaneous refunds consisting of an RST overpayment and various courier refunds;
- d) \$40,870 in GST collected from the Purchaser pursuant to the Canadian Sale Agreement. Based on the Receiver's correspondence with CRA, any amounts that may have been payable to CRA as a result of the collection of this amount have been offset against other amounts;
- e) \$13,436 in GST refunds issued by CRA following date of the receivership pertaining to business activities prior to the date of receivership; and
- f) \$486 in QST refunds issued by the Ministere du Revenu du Quebec following date of receivership pertaining to business activities prior to the date of receivership.

30. Since the commencement of the receivership, the Receiver has made the following disbursements from the General Funds Account:

- a) \$822,013 to the Purchaser for accounts receivable collected and due to the Purchaser pursuant to the Sale Agreement;
- b) \$700,000 to BOA as an interim dividend to the Senior Lenders;
- c) \$392,229 (including GST) to Deloitte for professional fees of the Receiver;

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- d) \$136,894 (including sales tax) for legal fees including \$42,708 (including sales tax) to Bennett Jones LLP, Bull, Housser & Tupper LLP and Stewart McKelvey for security opinions with regard to BOA as security trustee, and \$94,186 (including GST) to Osler for the Receiver's legal fees;
 - e) \$17,500 to the Trustee for fees related to the costs of administering the RDCL bankrupt estate, pursuant to the Receivership Order;
 - f) \$17,500 to the Trustee for fees related to the costs of administering the WWCI bankrupt estate, pursuant to the Receivership Order;
 - g) \$2,063 (including GST) to payroll service provider (ADP) for generation of employee T4s, records of employment, and other payroll related services;
 - h) \$578 (including GST) to Mercer Canada Limited for consultation services regarding the Respondent's Canadian retirement plans;
 - i) \$140 for fees related to the costs of filing the RDCL and WWCI receiverships; and
 - j) \$116 for bank charges.

31. As of the date of this Second Report, the balance of the General Funds Account is \$189,348. Subject to an Order to be granted by this Court, the following disbursements will be issued from the General Funds Account:

- a) \$19,939.98 (including GST) to Deloitte for professional fees of the Receiver outstanding as at the date of this Second Report;
- b) \$12,383.05 (including GST) to Osler for the Receiver's legal fees outstanding as at the date of this Second Report;
- c) \$60,677.73 and \$11,527.86 to fund the deficiencies of the bankrupt estates of RDCL and WWCI, respectively (a further discussion of these deficiencies is provided below); and,
- d) Approximately \$85,000 to BOA for the benefit of the Senior Lenders (the "Final Dividend"), subject to a holdback of up to \$20,000 (the "Holdback") to fund any additional administration costs that may arise in the receivership or either of the bankruptcies of WWCI and RDCL. After such additional administration costs, if any,

have been satisfied the remaining amount of the Holdback will be distributed forthwith to BOA for the benefit of the Senior Lenders.

Claims in the Receivership

32. As reported in the Preliminary Report, notwithstanding the UK/Irish Transaction and the proceeds from the Canadian Transaction, the Senior Lenders suffered a significant shortfall on their outstanding debt under the Waterford Wedgwood Facility (the "Shortfall"). Due to the Shortfall, there will not be any funds remaining in the estates of WWCI and RDCL to make distributions to any creditor other than the Senior Lenders, except as discussed below.

A. Employee Claims

33. Under the Canadian Sale Agreement and as reported in paragraph 67 of the Preliminary Report, the Purchaser made offers to all of the employees of WWCI and RDCL, except eight employees whose employment was terminated as a result of the subsequent bankruptcies of each of the Respondents (the "Terminated Employees"). All but four of the employees who received offers of employment accepted them and signed corresponding employment letters from the Purchaser (the "Transferred Employees").

34. WWCI and RDCL paid all employee accrued wages, incentive compensation and vacation pay up to and including the date of the receivership (March 26, 2009), and the Purchaser is liable for all costs, obligations and liabilities of the Transferred Employees from the date of the closing of the Canadian Transaction onwards (March 27, 2009). Severance and termination claims for the Terminated Employees have been administered by the Receiver pursuant to the *Wage Earner Protection Program Act* ("WEPPA").

B. Landlord Claims

35. The Receiver has not received any claims from landlords for arrears of rent preceding the receivership and bankruptcy of WWCI and RDCL, because WWCI and RDCL paid rent to their landlords at the beginning of each month.

36. At the time of the receivership, on the closing of the Canadian Transaction and under the Interim Transition Agreement, the Purchaser paid to the Receiver the Occupation Costs for all of the twelve leases of RDCL and WWCI. The Receiver held these funds in the Trust Account and, under the terms of the Interim Transition Agreement and the Trustee Transition

Agreement, paid them to the Trustee, who in turn distributed the funds to the relevant landlords in satisfaction of their respective Occupation Costs. As of the date of this Second Report, and as discussed above, the Trustee has made all Occupation Costs payments to all relevant landlords for April, May and June 2009 pursuant to the Trustee Transition Agreement and has refunded the Purchaser the *pro rata* amount of the Occupation Costs paid to the Receiver by the Purchaser for leases that were either assigned to the Purchaser or repudiated.

37. The landlords, Trustee and the Purchaser have agreed upon all of the terms for eleven of the twelve consents to lease assignments, and the landlords and the Trustee have fully executed those eleven consents, which have been signed by the Purchaser. Discussions between the White Oaks Mall landlord, the Trustee and the Purchaser with regard to consent to the assignment for the White Oaks Mall lease were not finalized prior to expiry of the Transition Agreement. As such, the Trustee disclaimed the White Oaks Mall lease on June 17, 2009 to be effective as at end of day June 24, 2009 which was the last day of the Transition Agreement. Due to the ongoing discussions between the White Oaks Mall landlord and the Purchaser, the Trustee did not remove inventory, return the location to broomswept condition or return keys to the White Oaks Mall landlord. The White Oaks Mall landlord provided the Trustee with a release confirming receipt and acceptance of the lease disclaimer from the Trustee, waived the obligation of the Trustee to remove the inventory and return the premises in a broomswept condition at the end of day June 24, 2009, and accepted the Purchaser operating the premises as of June 25, 2009.
38. The Purchaser has not assumed certain leases under the Canadian Sale Agreement (the "Discontinued Leases") and, as such, the Purchaser requested that the Trustee disclaim four of the five Discontinued Leases. The Trustee issued formal lease disclaimers to the four landlords as requested by the Purchaser. Furthermore, the Trustee removed inventory, returned the premises in a broomswept condition, and returned keys to each of the four landlords. The Purchaser and the West Edmonton Mall landlord were engaged in discussions to continue the lease beyond the expiry of the Trustee Transition Agreement despite this premises being one of the five Discontinued Leases. Since these discussions were not finalized prior to June 24, 2009, the Trustee disclaimed the West Edmonton Mall lease on June 17, 2009 to be effective as at end of day June 24, 2009 which was the last day of the Trustee Transition Agreement. Due to the ongoing discussions between the West Edmonton Mall landlord and the Purchaser, the

Trustee did not remove inventory, return the location to broomswept condition or return keys to the West Edmonton Mall landlord. The West Edmonton Mall landlord provided the Trustee with a release confirming receipt and acceptance of the lease disclaimer from the Trustee, waived the obligation of the Trustee to remove the inventory and return the premises in a broomswept condition at the end of day June 24, 2009, and accepted the Purchaser operating the premises as of June 25, 2009.

C. Government Tax Claims

39. Statements of account for current source deductions (provided to the Respondents by CRA) indicate that there are no unpaid source deductions owing to the CRA as of April 20, 2009 and October 21, 2009 for WWCI and RDCL, respectively. The Respondents were subjected to a CRA audit on May 26, 2009. An examination by CRA of payroll records covering the periods January 1, 2008 to March 27, 2009 and January 1, 2008 to March 26, 2009 was conducted on RDCL and WWCI respectively. The results of the CRA audit yielded no amounts owing by either RDCL or WWCI.
40. In addition to an examination of the payroll records, CRA conducted a GST/HST examination on May 26, 2009 for the January 1, 2009 to March 31, 2009 period on both RDCL and WWCI. It was determined that WWCI had no amount owing; however, a balance owing of \$21,784 was calculated for RDCL on account of previous arrears. CRA filed an unsecured proof of claim for this amount on June 2, 2009, through the RDCL bankruptcy proceeding.
41. In the First Report, the Receiver identified potential GST/HST and incremental duty claims against RDCL. CRA submitted an unsecured proof of claim totaling \$471,718 for GST/HST and duties outstanding from RDCL, as part of the RDCL bankruptcy claims process. The Receiver did not remit payment to CRA on account of this claim as it did not rank in priority to BOA's security interest in RDCL.

D. 30 Days Goods Claims

42. In the First Report, the Receiver identified potential claims against WWCI and RDCL for repossession of goods supplied within 30 days prior to the date of bankruptcy pursuant to section 81.1 of the BIA (the "30 Day Goods Claims") that may rank in priority to the security of the Senior Lenders. Two of RDCL's suppliers, Samaco Trading Limited ("Samaco") and Northdale Trading Limited ("Northdale"), submitted written demands for repossession of

goods on April 6, 2009 in respect of such 30 Day Goods Claims, in accordance with section 81.1(1)(a) of the BIA. During RDCL's first meeting of creditors held on April 17, 2009, Samaco, Northdale and other suppliers with alleged 30 Day Goods Claims threatened a claim in relation to RDCL's alleged failure to segregate and release such goods to these suppliers. However, all of RDCL's assets, including the goods allegedly subject to the 30 Day Goods Claims, vested in the Purchaser prior to RDCL's assignment into bankruptcy. As of the date of the First Report, the creditors who filed proofs of claim as unsecured creditors in RDCL's bankruptcy proceeding and demanded repossession against the RDCL estate with respect to goods supplied to RDCL within 30 days prior to the date of bankruptcy, amounted to \$8,419 in the aggregate.

43. Following the date of the First Report, two additional suppliers of RDCL also submitted written demands for repossession of goods pursuant to section 81.1(1)(a) of the BIA: The Seagull Company Incorporated ("Seagull") and Enesco Canada Corporation ("Enesco") for \$1,048 and \$22,284 respectively. In total, each of Northdale, Samaco, Seagull and Enesco (collectively, the "Suppliers") have filed proofs of claim as unsecured creditors in RDCL's bankruptcy proceeding and made demands for repossession against the RDCL estate with respect to each of their 30 Day Goods Claims, for an aggregate amount of \$31,751.
44. The Trustee and the Suppliers came to an agreement to settle each of the 30 Days Goods Claims (the "Settlement Agreement") at an amount equal to 50% of the amount stated on each Supplier's proof of claim for a total of \$15,875, provided that, as of the date of the Trustee's discharge in connection with RDCL, no other proofs of claim are filed against RDCL in respect of any claim for goods or services delivered or provided to RDCL within 30 days prior to the date of bankruptcy, pursuant to s. 81.1 of the BIA. Sufficient funds will be available in the RDCL bankrupt estate subject to an Order being granted by this Court authorizing the Receiver to fund the RDCL estate deficiency, as discussed in detail below, to allow payment per the Settlement Agreement. A copy of the Settlement Agreement is attached as Exhibit F to this Second Report.

VII. PRELIMINARY INVESTIGATION OF RDCL TRANSACTIONS

45. On February 25, 2010, the CRA raised several questions regarding two transactions entered into by RDCL prior to the date of bankruptcy. These transactions are: i) the reduction on

February 21, 2008 in the amount of \$13 million in the share capital account maintained for the common shares of RDCL (the "Share Capital Account"); and ii) the reduction of an outstanding intercompany payable (the "Intercompany Payable") to Royal Doulton (UK) Limited ("RDUK") from \$4.4 million as at March 31, 2008 to \$1.5 million as at the date of bankruptcy. The Trustee performed a preliminary investigation on the transactions noted above, including a review of the books and records of the bankrupt estates and discussions with CRA and the former Officer and VP Finance of RDCL.

46. The preliminary investigation into the reduction of Share Capital Account on February 21, 2008, in the amount of \$13 million, produced the following facts:
- a) A solvency certificate dated February 21, 2008 was issued by the former Officer and VP Finance declaring that RDCL would be able to pay its obligations as they became due and the realizable value of its assets would be greater than the aggregate of its liabilities;
 - b) The funds generated through the reduction of capital were issued to Abdissenhof BV, the immediate parent of RDCL and provider of security under the Waterford Wedgwood Facility; and
 - c) The transaction was executed more than one year prior to the date of bankruptcy and therefore beyond the time period allowable for the Trustee to attack the transaction as a preference under the BIA.
47. The preliminary investigation into the reduction of the Intercompany Payable to RDUK from \$4.4 million as at March 31, 2008 to \$1.5 million as at the date of bankruptcy, produced the following facts:
- a) The \$4.4 million Intercompany Payable to RDUK arose via a journal entry relating to a retroactive, upward price adjustment for goods sold to and imported by RDCL during the period April 1, 2007 through March 31, 2008;
 - b) As a sales office, RDCL generated a positive cash flow, and throughout fiscal 2009, periodically transferred excess cash to RDUK in the ordinary course of business to reduce the Intercompany Payable to approximately \$1.5 million as at the date of bankruptcy. The transferred funds were co-mingled within RDUK's bank accounts.

These bank accounts as well as the other assets and operations of the Waterford Wedgwood Group in the United Kingdom, British Virgin Islands, Canada and other key subsidiaries around the world were fully encumbered by the Senior Lenders;

- c) The Trustee was informed that RDCL management, leading up to the date of bankruptcy, made a concerted effort to ensure all creditors were kept as current as possible and that no unsecured creditor was given preferential treatment at the expense of other unsecured creditors;
 - d) By way of written correspondence on February 12, 2009, RDCL informed the Client Services Division of the Canada Border Services Agency of the retroactive pricing adjustment, and its effect on custom duties and GST payable. A RDCL cheque in the amount of \$418,005 (\$104,012 for custom duties and \$313,993 for GST) was received by the Canada Border Services Agency well in advance of the bankruptcy. This cheque was not deposited until after the date of bankruptcy; and
 - e) Subsequent to the date of bankruptcy, CRA conducted an International Tax Audit for the 2007 and 2008 taxation years. Two reassessments were issued on August 17, 2009 for said taxation years, with a total reassessed corporate income tax balance owing of \$1.375 million. On March 8, 2010, CRA filed an amended proof of claim in the bankruptcy for corporate income taxes owing of \$1.375 million, adjusting the original claimed balance of \$471,718 in a proof of claim received on May 15, 2009.
48. As described above, the Senior Lenders suffered a worldwide shortfall on their outstanding debt under the Waterford Wedgwood Facility and that RDUK's assets are encumbered in favour of the claims of the Senior Lenders. The Trustee does not foresee any scenario where the unsecured creditors would receive a dividend in the RDCL bankruptcy.
49. The estate of RDCL is a "no asset estate", and as a result the Trustee did not have the funding to thoroughly investigate or attack the above transaction(s). It was also unlikely, in the Trustee's view, that creditors of the estate, aside from possibly CRA, would be willing to fund investigation costs. The Trustee also informed the CRA through correspondence dated June 16, 2010, of its ability to initiate a proceeding under section 38 of the BIA, with any benefits derived from the proceeding, to the extent of CRA's claim and costs, belonging exclusively to

CRA. The surplus, if any, would belong to the estate assuming no other creditors participated in the section 38 proceeding. The Trustee advised of its willingness to work with CRA in conducting a thorough investigation into the above noted transaction(s), if CRA was willing to fund the estate in respect of such an investigation.

50. On July 23, 2010, CRA informed the Trustee that it did not plan to take any action under section 38 of the BIA.

VIII. DEFICIENCIES OF THE BANKRUPT ESTATES OF RDCL AND WWCI

51. Administration of the bankrupt estates of RDCL and WWCI were more complex and time consuming than originally anticipated due to professional services required to i) execute the Trustee's duties under the Trustee Transition Agreement for both estates, ii) negotiate the Settlement Agreement with respect to the 30 Days Good Claims for the RDCL estate, iii) perform the preliminary investigation of RDCL transactions questioned by CRA and iv) administer and obtain certain tax refund amounts owed to RDCL and WWCI by CRA.
52. The final statements of receipts and disbursements for the RDCL and WWCI estates, as approved by the inspectors of the respective estates are attached as Exhibit "G" and Exhibit "H", respectively. Subsequent to the approval of the respective final statements of receipts and disbursements by the inspectors of each of RDCL and WWCI, the Trustee received tax refunds from CRA in respect of each of each of the estates. These tax refunds reduced the deficiency in each of the estates. The RDCL bankrupt estate has a deficiency of \$60,677.73. Additional funding provided by the Receiver, if authorized by this Court, will be used to first settle the 30 Days Goods Claim in accordance with the Settlement Agreement in the amount of \$15,875.16, and second to pay outstanding fees for professional services rendered by the Trustee and its legal counsel, Osler. The WWCI bankrupt estate has a deficiency of \$11,527.86. Additional funding provided by the Receiver, if authorized by this Court, will be used to pay outstanding fees for professional services rendered by the Trustee and its legal counsel, Osler, Hoskin & Harcourt LLP.
53. The Receiver recommends that this Court grant an Order approving the transfer of monies held by the Receiver to fund deficiencies in the bankrupt estates of RDCL and WWCI, amounting to \$60,677.73 and \$11,527.86, respectively. Legal advisors of the Senior Lenders have been

advised of the Receiver's intention to request additional funding to the bankrupt estates of RDCL and WWCI from funds held in trust by the Receiver, and have consented to this request. Once all necessary distributions and payments have been made with respect to each of the RDCL and WWCI bankrupt estates, the Trustee will apply to this Court to be discharged as the trustee in bankruptcy of both estates.

IX. DISCHARGE AND RELEASE OF RECEIVER

54. The Receiver is seeking an order approving the Receiver's conduct, discharging the Receiver (upon the filing of a Receiver's Certificate with the Court) and barring any claims against it.
55. As noted above, the Receiver's Statement of Receipts and Disbursements for the period beginning March 27, 2009 through to January 16, 2012 is attached as Exhibit "E". After funding the deficiencies of the RDCL and WWCI bankrupt estates, settling the final invoices of the Receiver and its legal counsel, and paying the Final Dividend to BOA on behalf of the Senior Lenders, there will be no remaining funds in the possession of the Receiver.

X. FEE APPROVAL

56. Pursuant to an order of Justice Wilton-Siegel dated May 19, 2009, the Court authorized and approved the Receiver's fees and disbursements and the fees and disbursements of Osler, as counsel for the Receiver, for the period up to May 8, 2009 and May 12, 2009 respectively.
57. During the course of the receivership between May 8, 2009 and through to January 13, 2012, the Receiver's fees and disbursements (including GST) total \$156,976.73. Included in the Motion Record is the Affidavit of Daniel Weisz, sworn on January 17, 2012, regarding the fees incurred by Deloitte with respect to the receivership.
58. The Receiver's average hourly rate for this matter is approximately \$382.
59. During the course of the receivership between May 12, 2009 and January 13, 2012, the fees and disbursements (including GST) incurred by Osler total \$19,868.99. Included in the Motion Record is the Affidavit of Marc Wasserman, sworn on January 17, 2012, regarding fees and disbursements incurred by Osler with respect to the receivership. The average hourly rate charged by Osler with regard to the receivership was approximately \$528.

60. The Receiver has reviewed the aforementioned fees and disbursements of Osler and believes that the fees and disbursements are fair and reasonable and are consistent with the rates of major law firms practicing in the field of insolvency.
61. BOA consents to the payment of fees and disbursements incurred by the Receiver and Osler in the receivership.

XI. CONCLUSION

62. Based on the foregoing, the Receiver respectfully recommends that this Court issue an Order:
- a) Approving the Receiver's activities as set out in this Second Report;
 - b) Approving the fees and disbursements of the Receiver and its legal counsel, Osler for the period May 8, 2009 and May 12, 2009 respectively, to January 13, 2012;
 - c) Approving the transfer of monies held by the Receiver in trust to fund deficiencies in the bankrupt estates of RDCL and WWCI;
 - d) Approving the payment of the Final Dividend to BOA, for the benefit of the Senior Lenders, subject to the terms described herein;
 - e) Releasing Deloitte from any liability, as set out in paragraph 9 of the proposed discharge Order; and
 - f) Discharging Deloitte as interim receiver and receiver, without security, of all the assets, undertakings and properties of each of WWCI and RDCL.

Dated the 17th day of January, 2012.

ALL OF WHICH IS RESPECTFULLY SUBMITTED,

Brent Houlden

Brent Houlden, CA•CIRP, CPA, MBA
Senior Vice-President

Deloitte & Touche Inc.
In its capacity as Interim Receiver and Receiver of
Waterford Wedgwood Canada Inc. and Royal Doulton Canada Limited
and not in its personal capacity.

TAB A

EXHIBIT A
RECEIVERSHIP ORDER

Court File No. CV-09-8103-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE <u>PIZ</u>)	THURSDAY, THE
)	26 TH DAY
JUSTICE <u>LEDERMAN</u>)	OF MARCH, 2009



IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED

AND IN THE MATTER OF SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED

BANK OF AMERICA, N.A.

Applicant

and

ROYAL DOULTON CANADA LIMITED and
 WATERFORD WEDGWOOD CANADA INC.

Respondents

ORDER

THIS MOTION, made by the Applicant for an Order pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended (the "CJA") appointing Deloitte & Touche Inc. ("Deloitte") as interim receiver and receiver, without security, of all of the assets, undertakings and properties of each of Royal Doulton Canada Limited and Waterford Wedgwood Canada Inc. (collectively, the "Debtors") for the principal purpose of effecting a sale (the "Transaction") of the Debtors' right, title and interest in their businesses and assets to

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WWRD Canada, Inc. (the "Purchaser") pursuant to an agreement of purchase and sale made as of March 1, 2009 to be entered into between the Receiver and the Purchaser (the "Agreement"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Robert M. Scalzitti sworn March 25, 2009 and the exhibits thereto and the Report of Deloitte as proposed Receiver, and on hearing the submissions of counsel for Bank of America, N.A., and counsel for the Purchaser, and on reading the consent of Deloitte to act as the Receiver.

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged so that this motion is properly returnable today.

1.A THIS COURT FURTHER ORDERS that service of these materials may be effected on the Service List in accordance with paragraph 23 hereof.

APPOINTMENT

2. THIS COURT ORDERS that, pursuant to section 47(1) of the BIA and section 101 of the CJA, Deloitte is hereby appointed interim receiver and receiver (in such capacities, the "Receiver"), without security, of all of the Debtors' current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property").

RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is not appointed as manager of the Debtors and shall not take possession of the Property or operate the businesses of the Debtors except as set out herein or upon further Order of this Court, but the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to apply for any orders necessary to approve the Transaction and the Agreement and to give effect to the Transaction and convey the Purchased

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Assets, as defined in the Agreement, free and clear of any liens or encumbrances affecting such Purchased Assets;

- (b) to the extent that the Transaction is approved by this Honourable Court pursuant to an approval and vesting order related to the Transaction (i) to enter into the Agreement and to execute all ancillary documents and agreements as may be necessary or desirable in connection with the Transaction, (ii) to complete the Transaction between the Receiver and the Purchaser as contemplated by the Agreement, and (iii) to receive and hold the proceeds of the Transaction pending further order of this Court (except as specifically provided herein);
- (c) take possession and control of the Excluded Assets, as defined in the Agreement, subject to the terms of the Agreement;
- (d) to enter into the interim transition agreement contemplated by the Agreement (the "Interim Transition Agreement"), and to perform the Receiver's obligations thereunder;
- (e) subject to the terms of the Agreement and the Interim Transition Agreement, to repudiate or terminate any contracts of the Debtors, or either of them, including real property leases;
- (f) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;
- (g) to execute, assign, issue and endorse documents of whatever nature in respect of the Transaction or any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, or either of them, for any purpose pursuant to this Order;

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- (h) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, or either of them, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (i) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (j) to fund the bankrupt estate(s) of the Debtors from the proceeds of the Transaction, provided that such funding shall not exceed \$35,000 unless permitted by further order of this Court;
- (k) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, or either of them, including, without limiting the generality of the foregoing, such agreements as may be necessary or desirable pursuant to the Interim Transition Agreement, including occupation agreements for any property leased by the Debtors, or either of them;
- (l) to exercise any shareholder, partnership, joint venture or other rights which the Debtors, or either of them, may have, to the extent not contrary to or otherwise inconsistent with the Transaction;
- (m) to take any steps reasonably incidental to the exercise of these powers; and
- (n) to receive from the Purchaser and hold in escrow, in an interest bearing account, all prepaid occupation costs in respect of leased real property in accordance with the Interim Transition Agreement referred to in the Agreement and to fund from such escrow funds the trustee in bankruptcy

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of the estates of the Debtors from time to time to pay such occupation costs to the landlords of such leased real property with any surplus funds (including accrued interest) to be returned to the Purchaser,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtors, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver or the Purchaser upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, or either of them, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service

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provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtors, or either of them, or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtors, or either of them, the Property or the Transaction are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtors, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business that the Debtors are not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtors from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any

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registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtors, or either of them, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtors, or either of them, or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtors, or either of them, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtors' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the applicable Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

12. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for

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herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

13. THIS COURT ORDERS that all employees of the Debtors shall remain the employees of the Debtors until such time as the Receiver, on the applicable Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, other than such amounts as the Receiver may specifically agree in writing to pay, or such amounts as may be determined in a Proceeding before a court or tribunal of competent jurisdiction. The Debtors are hereby authorized but not obligated to terminate the employment of their respective employees that are not offered employment by the Purchaser pursuant to the terms of the Agreement.

14. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to the Purchaser and its advisors in connection with the Transaction, but only to the extent desirable or required to negotiate and attempt to complete the Transaction. The Purchaser shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of and preparation for the Transaction, and if it does not complete the Transaction, shall return all such information to the Receiver, or in the alternative destroy all such information. The Purchaser shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release

or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

16. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

17. THIS COURT ORDERS that any expenditure or liability which shall properly be made or incurred by the Receiver, including the fees of the Receiver and the fees and disbursements of its legal counsel, incurred at the standard rates and charges of the Receiver and its counsel, shall be allowed to it in passing its accounts and shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person (the "Receiver's Charge").

18. THIS COURT ORDERS the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

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19. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

GENERAL

20. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

21. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors, or either of them.

22. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States and the United Kingdom or elsewhere to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

23. THIS COURT ORDERS that the Applicant, the Receiver, or any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, in accordance with the E-Filing protocol of the Commercial List to the extent practical, and the Receiver may post a copy of any or all such materials on its website at www.deloitte.com/ca/waterfordwedgwood; provided that for the purposes of the hearing of the relief pursuant to the Applicant's Notice of Motion returnable March 27, 2009 seeking, among other things, the approval of the Transaction, the Applicant's service of its materials by e-mailing such materials to the e-mail address available to it on the Service List, is effective for these purposes.

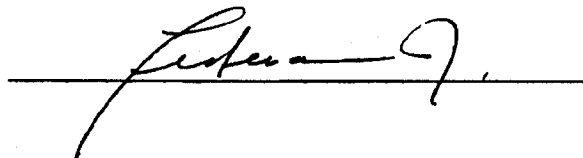
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24. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

25. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

26. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

27. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Daylight Saving Time on the date of this Order.



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ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

MAR 27 2009

PER / PAR: 

BANK OF AMERICA, N.A.
Applicant

ROYAL DOULTON CANADA LIMITED
and **WATERFORD WEDGWOOD**
CANADA INC.
Respondent

Court File No: CV-09-_____

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at «place»

ORDER

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Lawyers for the Applicant

TAB B

**EXHIBIT B
PRELIMINARY REPORT**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY*
ACT, R.S.C. 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF SECTION 101 OF THE *COURTS OF*
JUSTICE ACT, R.S.O. 1990, c. C.43, AS AMENDED**

BANK OF AMERICA, N.A.

APPLICANT

and

**ROYAL DOULTON CANADA LIMITED and
WATERFORD WEDGWOOD CANADA INC.**

RESPONDENTS

REPORT OF DELOITTE & TOUCHE INC.

**In its capacity as the Proposed Interim Receiver and
Receiver of the Respondents**

MARCH 26, 2009

INTRODUCTION

1. Deloitte & Touche Inc. (“**Deloitte**” or the “**Proposed Receiver**”) understands that an application has been made by the Bank of America, N.A. (“**BOA**”) for an order appointing Deloitte as interim receiver pursuant to section 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and receiver pursuant to section 101 of the *Courts of Justice Act* R.S.O. 1990 c. C.43, as amended, without security, of all the assets, undertaking and properties of Waterford Wedgwood Canada Inc. (“**WWCI**”) and Royal Doulton Canada Limited (“**RDCL**”) (collectively, the “**Respondents**”). The Proposed Receiver is consenting to act in that capacity.

PURPOSE

2. The purpose of this Proposed Receiver's Report (the "**Report**") is to provide this Honourable Court with information concerning:
 - (a) Background on the business and operations of the Respondents;
 - (b) Debt structure and estimated realization to secured lenders and the UK Administration and Irish Receivership processes;
 - (c) Cash position and liquidity;
 - (d) Marketing and sale process undertaken to sell the global business of the Waterford Wedgwood group of companies (the "**WW Group**"), including WWCI and RDCL;
 - (e) The Canadian Purchase Agreement (as defined herein); and
 - (f) Proposed Receiver's recommendations regarding the sale to WWRD Canada, Inc. (the "**Purchaser**"), an affiliate of KPS Capital Partners LP ("**KPS**"), pursuant to the Canadian Purchase Agreement.

QUALIFICATIONS

3. In preparing this Report, the Proposed Receiver has relied upon unaudited financial information, the Respondents' books and records, the financial information prepared by the Respondents, and discussions with management and legal counsel of the Respondents. Deloitte has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information and, accordingly, the Proposed Receiver expresses no opinion or other form of assurance on the information contained in this Report.
4. Certain of the information referred to in this Report consists of forecasts and/or projections. An examination or review of financial forecasts and projections, as outlined in the Canadian Institute of Chartered Accountants Handbook, has not been performed. Future oriented financial information referred to in this Report was prepared by the Respondents based on management's estimates and assumptions. Readers are cautioned that since projections are based upon

assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections and, even if the assumptions materialize, the variations could be significant.

5. Unless otherwise noted, all dollar amounts contained in this Report are expressed in Canadian dollars.

BACKGROUND ON THE BUSINESS AND OPERATIONS OF THE RESPONDENTS AND THE UK ADMINISTRATION AND IRISH RECEIVERSHIP PROCESSES

6. The WW Group is a multi-national enterprise that designs, manufactures and distributes table, crystal and silverware products under four primary brands: Waterford Crystal, Wedgwood, Rosenthal and Royal Doulton (the “**Brands**”). Waterford Wedgwood plc (“**Waterford Wedgwood**”), an Irish listed Company, is the ultimate parent of RDCL, WWCI and all other companies in the WW Group. Waterford Wedgwood and three of its subsidiaries are in receivership in Ireland and ten of Waterford Wedgwood’s UK subsidiaries are in insolvency administration in the UK.

Royal Doulton Canada Limited

7. RDCL is incorporated under the *Business Corporations Act*, R.S.O. 1990, c. B.16, as amended. RDCL maintains its head office at 305 Milner Ave, Suite 700, Toronto, Ontario.
8. Globally, the Royal Doulton business is the design and manufacture of tableware and ceramics; however, RDCL is a sales/distribution entity only. RDCL sells its products on a wholesale basis, through selected department and specialty store groups, and on a retail basis through its retail and outlet store locations, as well as directly to consumers via the Internet.
9. RDCL operates primarily as a wholesaler and retailer of Royal Doulton branded products. Sales of these products account for 85 percent of RDCL’s revenues. RDCL also sells and distributes certain other product lines such as Royal Crown Derby tableware, which are manufactured by third parties unrelated to the WW Group. Sales of other products make up approximately 15 percent of RDCL’s revenues.
10. RDCL currently operates fourteen retail stores in five provinces (Ontario, Alberta, British Columbia, New Brunswick and Nova Scotia) and maintains head office and warehouse locations

in Toronto and Pickering, Ontario, respectively. RDCL operates out of leased premises in all locations (retail, office and warehouse).

11. RDCL employs approximately two hundred and twenty people in various functions including warehouse and distribution, retail selling, wholesale selling, hotel and airlines selling, marketing, finance, information technology and personnel. RDCL also hired forty-eight people on a temporary basis for the period from March 2nd, 2009 through March 30th, 2009 to assist with a warehouse sale. RDCL and WWCI will be funding their respective payroll providers such that all of their employees, including those temporary employees, receive payment for all services performed up to March 28, 2009, prior to closing on the March 26, 2009 payroll run (which will also include accrued and unpaid vacation pay for employees who are not being offered continued employment by the Purchaser). Fifteen of the distribution employees are unionized and part of the National Automobile, Aerospace, Transportation & General Workers Union of Canada (CAW-Canada), Local 414 (the "Union").

Waterford Wedgwood Canada Limited

12. WWCI is incorporated under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended. WWCI has its head office at 20 West Beaver Creek Road, Richmond Hill, Ontario.
13. Globally, the Waterford and Wedgwood businesses are the design and manufacture of crystal and ceramics, respectively; however, WWCI is a sales/distribution entity that sells solely branded products ("**Branded Products**") to the Canadian market on a wholesale basis, through selected department and specialty store groups. WWCI does not operate any retail stores.
14. WWCI operates out of a leased office and warehouse location in Richmond Hill, Ontario.
15. WWCI employs approximately twenty-five individuals in sales, distribution, logistics and administrative functions. None of the WWCI employees are unionized.
16. WWCI and RDCL are both dependent on the other companies in the WW Group. Without the right to use the Brands and without access to the sources of supply that are provided through the WW Group, they have essentially no going concern business. Accordingly, RDCL and WWCI are

completely and inextricably tied to the business, assets and operations of other companies in the WW Group, in particular those based in the UK and Ireland.

Canadian Operations during Insolvency Proceedings in UK and Ireland

17. On January 5, 2009 (the “**Filing Date**”), ten of Waterford Wedgwood’s subsidiaries registered in England & Wales (the “**UK Administration Companies**”) entered administration with Angus Martin, Neville Khan, Nicholas Dargan and Dominic Wong (all partners in Deloitte LLP in the UK) being appointed as joint Administrators (the “**UK Administrators**”). Also on the Filing Date, David Carson, a partner with Deloitte & Touche in Ireland was appointed as Irish receiver (the “**Irish Receiver**”) of Waterford Wedgwood and three of its Irish Subsidiaries (the “**Irish Receivership Companies**”).
18. Since the Filing Date, the Respondents have worked diligently to maintain their operations in the normal course. The Respondents continue to sell products to their customers and have received a limited quantity of additional inventory from their suppliers. There have been no significant changes in the workforce. As described elsewhere in this report, the Respondents have self-financed their respective operations, through cash flows from operations, while the sale process for the global business of the WW Group continued.

Customers

19. Immediately upon commencement of insolvency proceedings in England & Wales and Ireland, the Respondents implemented a communication plan advising significant customers of the various filings and of their commitment to continue to meet customer obligations.
20. The Respondents continue to work with their customers to manage the operations on a “business as usual” basis.
21. Since the Filing Date, the Respondents continue to be in regular contact with many of their customers to assure them that orders will be filled to the best of their ability.

Suppliers

22. Prior to the Filing Date, Josiah Wedgwood & Sons Limited (now in administration) and Royal Doulton (UK) Limited (now in administration) initiated purchases from, and made payments to, the overseas suppliers on whom RDCL and WWCI rely for most of their inventory. Since the Filing Date, the Respondents have had to pay the overseas suppliers directly due to the various insolvency proceedings affecting certain members of the WW Group. Payments to these overseas suppliers have minimized supply chain disruptions to the extent possible.
23. The Respondents have continued to make payments to their trade creditors as of the Filing Date, with minimal balances owing over ninety days past the invoice date.

Employees

24. The Respondents continue to pay wages, salaries, commissions, employee benefits and other compensation, withholdings and deductions and reimbursable expenses. The Respondents also continue to make employee related payments on a "business as usual" basis and accrue vacation pay accordingly.
25. The Respondents continue to contribute to their registered pension plans in the ordinary course in accordance with legislated requirements. WWCI registered its company pension plan as a defined benefit plan in 1983. Sun Life Financial Inc. and Mercer Limited provide the group pension plan administration and pension plan consulting services, respectively, to WWCI. The most recent actuarial valuation, performed in December, 2005 with respect to the WWCI defined benefit plan, indicated an underfunded balance of \$513,300. An actuarial valuation to be performed as of December 31, 2008, is due no later than September 30, 2009.
26. RDCL registered its company pension plan as a defined benefit plan on July 1, 1970. On April 1, 2006, the defined benefit plan was frozen and a defined contribution plan was initiated. RDCL's defined contribution plan is held in trust by CIBC Mellon and the investment manager is Integra Capital. Based on the last actuarial valuation performed as of December 31, 2005, the going concern excess after reflection of the plan change amounted to \$4,280,600 and the solvency excess as of December 31, 2005, amounted to \$1,451,200. An actuarial valuation as of December 31, 2008, is due no later than September 30, 2009. RDCL has advised that, in light of recent equity

and capital market turmoil, it is anticipated that such valuation will show that the defined benefit plan has an unfunded liability.

DEBT STRUCTURE AND ESTIMATED REALIZATION TO SECURED LENDERS

27. A syndicate of lenders (the “**Senior Lenders**”) made in excess of €200 million and US\$60 million in revolving loans, term loans and other ancillary facility products and loans available to Waterford Wedgwood, and certain other members of the WW Group, pursuant to a Facility Agreement dated December 10, 2005 (the “**Waterford Wedgwood Facility**”). BOA is a Senior Lender and acts as Agent for the Senior Lenders and is also the Security Trustee.
28. Under the the Waterford Wedgwood Facility, receivables are paid into blocked accounts and cash is swept daily. WWCI and RDCL are generally self-funding entities whose cash is not paid into blocked accounts or swept daily; however, their respective bank accounts are subject to springing control agreements in favour of BOA, as Agent. WWCI and RDCL periodically transferred cash to Statum Limited, a WW Group company that provides the treasury function to Waterford Wedgwood, in the event that they had surplus cash.
29. The Waterford Wedgwood Facility was breached (by way of cross-default) on Monday, December 1, 2008 when Waterford Wedgwood defaulted on its semi-annual coupon payment due on the Notes (as defined herein). The non-payment of the coupon on the Notes constituted a cross-default under the Waterford Wedgwood Facility, resulting in the right to accelerate amounts owing under the Waterford Wedgwood Facility. Waterford Wedgwood sought and received forbearance from enforcement action in respect of the facilities under the Waterford Wedgwood Facility from the Senior Lenders a number of times, and the Fourth Forbearance Agreement expired at 5pm New York time on January 2, 2009.
30. On December 1, 2003, Waterford Wedgwood completed an Indenture with The Bank of New York, London as trustee for the holders of the €166,028,000 9½% Mezzanine Notes and six supplements thereto (the “**Notes**”). The Indenture states that the principal amount of the Notes is due on December 1, 2010, and the interest payment dates are June 1 and December 1 of each year, commencing June 1, 2004. As noted above, Waterford Wedgwood defaulted on its December 1, 2008 interest payment under the Notes.

31. WWCI and RDCL have guaranteed the obligations of Waterford Wedgwood under the Notes pursuant to the third and fourth supplement dated as of September 30, 2004 and March 3, 2005, respectively (the “**Note Guarantees**”).
32. On January 5, 2009, the UK Administration Companies entered administration and the Irish Receiver was appointed over the Irish Receivership Companies.
33. The secured lender balances are set out in the table below:

Secured Lender Balance	Euro '000s	*SCDN '000s
Tranche A	144,249	230,798
Tranche B	46,890	75,024
Collateral Providers	25,000	40,000
High Yield Bonds	166,028	265,645
Total	382,167	611,467

**Applied a foreign exchange rate of 1.6 to convert Euro balances to Canadian dollars*

34. The UK Administrators estimate that, based on the current offer and proposed transaction with KPS, the secured lenders as a whole detailed above will experience a total deficit in the range of \$372 million to \$385 million before professional costs, priority claims and operating costs. Furthermore, based on the current offer and proposed transaction with KPS, the Senior Lenders will experience a deficit in the range of \$66 million to \$80 million. There will still be a substantial deficiency after taking into account realizations from other related companies and personal guarantees.
35. Pursuant to the terms of the Waterford Wedgwood Facility, RDCL and WWCI have given continuing unlimited guarantees of all the indebtedness of Waterford Wedgwood and certain other borrowers under the Waterford Wedgwood Facility (collectively, the “**Guarantee**”). As a consequence of the shortfall the Tranche B Senior Lenders and the holders of the Notes are facing, RDCL and WWCI are exposed, under the Guarantee and the Note Guarantees, in an amount that vastly exceeds the liquidation value of the assets of the two companies. Based on a liquidation analysis prepared by the Deloitte UK administration team for the WW Group, the Senior Lenders would experience a deficit in the range of \$82 million to \$186 million following liquidation of the WW Group (including RDCL and WWCI). RDCL and WWCI are liable under the Guarantee jointly and severally as primary obligors and not merely as sureties. Both RDCL and WWCI

remain exposed to the outstanding indebtedness under the Waterford Wedgwood Facility and the Notes.

36. BOA, as Security Trustee for the Senior Lenders, has comprehensive general security over the machinery, equipment, stock, receivables, bank accounts, shares in subsidiaries and all other assets of RDCL and WWCI.
37. BOA, as Security Trustee, holds the security granted pursuant to the Waterford Wedgwood Facility for and on behalf of the Senior Lenders and most of the security on behalf of the holders of the Notes (the “**HY Bondholders**”). The security sharing arrangement and the relative priorities of the Senior Lenders and the HY Bondholders are governed by an Intercreditor and Security Trust Agreement dated December 10, 2005 (the “**Intercreditor Agreement**”). Pursuant to the Intercreditor Agreement: (i) the Senior Lenders' debt and security rank first in priority to the HY Bondholders' debt and security in connection with the assets of RDCL and WWCI; (ii) the Security Trustee is entitled to enforce the security and can claim and prove the debt owed to the HY Bondholders under the indenture; and (iii) the HY Bondholders are fully subordinated in right of payment to all amounts owing under the Waterford Wedgwood Facility.
38. Deloitte has obtained independent legal opinions on BOA's security, as Security Trustee for the Senior Lenders and the HY Bondholders. The law firms of Bennett Jones LLP for Ontario and Alberta (independent counsel to Deloitte), McInnes Cooper for Nova Scotia and New Brunswick (on the instructions of Bennett Jones LLP), and Bull, Housser & Tupper LLP for British Columbia (on the instructions of Bennett Jones LLP) have given an opinion (the “**Bennett Jones Opinion**”) that the security interests of the Security Trustee, on behalf of the Senior Lenders and the holders of the Notes, on the assets of RDCL and WWCI are valid and enforceable and have been properly perfected in Ontario, Alberta, Nova Scotia, New Brunswick and British Columbia with respect to RDCL and in Ontario with respect to WWCI, subject to standard assumptions, qualifications and limitations.
39. Given the shortfall that the Senior Lenders are expected to experience, unfortunately, there is no scenario under which HY Bondholders or the unsecured creditors will receive anything out of the realization on the assets of RDCL and WWCI.

CASH POSITION AND LIQUIDITY

40. Until the recent financial difficulties experienced by the WW Group, both WWCI and RDCL had positive cash flows. Attached as Appendix I is a copy of WWCI's statement of cash flows for the period ended March 13, 2009 and forecast through to the week ending May 1, 2009 and balance sheet as at February 28, 2009. Attached as Appendix II is a copy of RDCL's statement of cash flows for the period ended March 13, 2009 and forecast through to the week ending May 1, 2009 and balance sheet as at February 28, 2009.
41. In or about the end of January, 2009, in light of the difficulties faced by the WW Group, RDCL began curtailing the orders it was accepting, and has been paying most of its suppliers cash on delivery. As a result of these actions, RDCL's cash flow position has deteriorated from a balance of \$1.1 million at January 9, 2009 to a balance of \$0.3 million at March 13, 2009. Furthermore, based on management's forecast, continued net cash outflows are expected to result in a negative cash position/deficit during the week ending May 1, 2009 (refer to Appendix II).
42. WWCI's cash position has been, in recent months, better than that of RDCL. In or about the end of January, 2009, WWCI has been paying its local suppliers and one freight service supplier cash on delivery. International suppliers, on the other hand, have been paid on terms ranging from seven to fifteen days. Despite experiencing net cash outflows during the weeks ended February 6, 2009 and March 13, 2009, WWCI's cash balance has increased since the beginning of January, 2009. Accordingly, it has been largely business as usual for WWCI, which has been using surplus cash to fund ongoing operations. Based on management's forecast, WWCI's cash position will deteriorate through to the end of April, 2009 due to anticipated net cash outflows. This deterioration is not expected to result in a negative cash position/deficit during the forecasted period (refer to Appendix I).

MARKETING AND SALE PROCESS UNDERTAKEN TO SELL THE GLOBAL BUSINESS OF THE WW GROUP INCLUDING WWCI AND RDCL

43. Lazard Freres & Co. LLC (“Lazard”) and J.P. Morgan Cazenove (“JPM Cazenove”) were engaged in various capacities in relation to Waterford Wedgwood since August, 2008. Lazard was appointed by Waterford Wedgwood to advise on a proposed equity financing and follow on placement. The letter of engagement signed between Lazard and Waterford Wedgwood was dated August 11, 2008. During this process, Lazard contacted a number of potential financial investors globally, focusing on the United States. JPM Cazenove was also appointed by Waterford Wedgwood to advise on a proposed equity financing and follow on placement. The letter of engagement signed between JPM Cazenove and Waterford Wedgwood was dated September 11, 2008. During this process, JPM Cazenove contacted a number of potential strategic trade investors globally, focusing on the UK and Europe.
44. Upon their appointment, the UK Administrators were briefed by Lazard on the sale process. In total, Lazard contacted 182 parties, of which 7 parties demonstrated interest in leading an investment as at October 28, 2008 with two remaining parties at the end of November, 2008.
45. The UK Administrators did not appoint Lazard to assist and advise in relation to the conduct of the sale of business process; however, on January 14, 2009, the UK Administrators engaged JPM Cazenove for a fixed fee of €175,000 to assist in the marketing of WW Group. During this process, JPM Cazenove contacted a number of potential strategic trade investors globally, focussing on the UK and Europe. The engagement letter was signed between JPM Cazenove and Waterford Wedgwood (in receivership).
46. KPS approached the UK Administrators and the Irish Receiver soon after their appointment and a Letter of Intent was agreed with KPS on January 8, 2009. The Letter of Intent did not commit the UK Administrators and the Irish Receiver to sell to KPS, in fact, the Letter of Intent and corresponding press announcement specifically reflected the continuation of a sale process.

47. To ensure competitive tension with a view to maximize stakeholders' returns and ensure a timely transaction, a separate work stream was set up by the UK Administrators and Irish Receiver, to identify alternative bidders. This was designed to ensure that the market was thoroughly tested and to confirm that no better offers were available to that offered by KPS.
48. Following the above mentioned appointment, the UK Administrators and Irish Receiver arranged the continued involvement of JPM Cazenove to broaden the proactive marketing exercise, with a particular focus on worldwide strategic trade buyers. In addition, a number of parties contacted the UK Administrators and Irish Receiver directly following their appointment and the publicity resulting therefrom. As a result, a significant number of potential bidders have either directly expressed their interest or have been contacted, in the processes conducted by Lazard, JPM Cazenove and the UK Administrators and Irish Receiver as summarized in the table below:

	Lazard	JPM Cazenove	Deloitte
Parties contacted	182	65	78

49. In order to ensure appropriate coverage of all potential buyers, the above mentioned sale processes have had a global reach and have involved trade and financial parties.
50. Given that a large number of potential purchasers/financiers were based in the United States, the Corporate Finance practice of Deloitte US was appointed to engage with North American parties.
51. JPM Cazenove was an integral part of the team conducting the M&A process. JPM Cazenove had particular responsibility for identifying and approaching potential strategic purchasers and in utilising their network to identify other interested parties.
52. JPM Cazenove contacted 65 parties, predominantly strategic trade buyers, identified as having potential interest. Of these, 55 engaged in dialogue (the remainder being unresponsive).
53. A Waterford Wedgwood Hotline and Inbox were set up for both administration/receivership and transaction purposes, with sale of business enquiries passed to the sale of business team.
54. The UK Administrators identified the end of January, 2009 as a target for receiving final, binding offers, with a view to finalizing and completing a deal by early February, 2009. All parties expressing an interest in the Waterford Wedgwood business were individually assessed to

determine whether they were able to meet the aforementioned timeframe and could access significant funds to complete a transaction at short notice. Parties satisfying these criteria were sent a Non Disclosure Agreement, accompanied by a covering letter which clarified that offers should be made entirely in the form of cash and be capable of being completed within a short time frame.

55. Interest from bidders in either the Waterford or Wedgwood divisions was also pursued in the event that a whole business sale was not capable of being agreed. A transaction at a divisional level would require separation issues to be addressed. A limited number of parties pursued a divisional transaction; however, no offers capable of consideration by the UK Administrators/Irish Receiver were received.
56. Despite the number of parties involved in the process and the level of attention generated by the opportunity, the process only yielded one firm offer capable of consideration and acceptance by the UK Administrators and Irish Receiver. That one firm offer was from KPS.
57. KPS first demonstrated their interest in the business during the 2008 Lazard process and were identified as one of the two most interested parties by the end of November, 2008. While the other bidder subsequently withdrew from the Lazard process, KPS continued working on the opportunity and conducted significant levels of due diligence during December, 2008.
58. Pursuant to the Share and Business Sale Agreement dated March 26, 2009 (the “**UK/Irish Sale Agreement**”) between the UK Administrators, the Irish Receiver and a Gibraltar company associated with KPS, which was created for the purpose of the acquisition, most of the assets of the UK Administration Companies and Irish Receivership Companies were agreed to be sold subject to the fulfillment of various conditions. Some of those conditions relate to the various linked transactions required to be completed in the US, Canada and Australia.
59. The global transaction will see a combination of asset and share purchases that will result in the transfer of most of the assets of the WW Group to KPS or KPS associated companies. The consideration will be a minimum of €107.5 million. Various assets are specifically excluded such as the Rosenthal subsidiaries and the Irish property in Waterford.

60. The UK/Irish Sale Agreement provides that, as a condition precedent of the global transaction, there must be a sale of substantially all of the assets of RDCL and WWCI for proceeds of approximately €9 million (the “**Canadian Transaction**”).
61. Again, the Senior Lenders are owed approximately \$306 million. Even after the completion of the global transaction, the Senior Lenders are going to suffer a significant shortfall. The value of €9 million allocated to the assets subject to the Canadian Purchase Agreement represents 4.7% of the total Senior Lender balance, and following closing of the global transaction, as noted above, the Senior Lenders will still be owed in excess of \$66 million.

THE CANADIAN PURCHASE AGREEMENT

62. Attached hereto as Appendix III is a copy of the Agreement of Purchase and Sale to be entered into between Deloitte as Receiver (to the extent this Court makes the order appointing Deloitte as Receiver) and the Purchaser (the “**Canadian Purchase Agreement**”). Deloitte may also be referred to as Vendor in the remainder of this Report as that term is used in the Canadian Purchase Agreement.
63. A summary of some of the key terms in the Canadian Purchase Agreement is as follows (all capitalized terms in this paragraph that are not otherwise defined herein have the meanings as set out in the Canadian Purchase Agreement):
 - (a) The sale of substantially all of the assets of RDCL and WWCI including: Leased Real Property, chattels, Inventory, Receivables, goodwill, Owned Intellectual Property, Assigned Contracts, Permits and Licenses, and all files, operating data, books of account associated with or used by RDCL and WWCI in the conduct of Business or otherwise related to the Purchased Assets or the Assumed Obligations;
 - (b) The Purchased Assets shall not include the following assets of RDCL and WWCI: cash, bank balances, moneys in possession of banks and other depositories, term or time deposits and similar cash items of, owned or held by or for the account of RDCL and WWCI, all documents and other items related solely to the organization, existence or capitalization of RDCL and WWCI, any rights to Tax refunds, Tax returns, Excluded Contracts, Branded Inventory, Employee Plans, current and prior insurance policies, any rights, demands,

claims, credits, allowances, rebates, or rights of set-off relating to any of the Purchased Assets, deposits received from any subtenants with respect to any subleases of the Leased Real Property, prepaid and deferred items that relate to the Purchased Assets, and the benefit of any Business Claims;

(c) The Purchaser will assume the following Assumed Liabilities: all Liabilities of RDCL and WWCI under Contracts to be assigned to the Purchaser, all Liabilities in respect of Permits and Licenses to be assigned to the Purchaser, all Liabilities relating to gift certificates, customer deposits, credit notes, loyalty and rebate programs, all Liabilities in connection with the replacement, repair or repayment of the purchase price of any product, arising in the ordinary course of Business from claims of wholesale, retail or online customers under product warranties, product return policies or other wholesale, retail or online customer programs, all Liabilities arising from the conduct of the Business, including in connection with the ownership of, or interest in, the Purchased Assets to the extent arising from and after the Closing, all Liabilities with respect to Transferred Intercompany Loans, and all Liabilities with respect to Transferred Employees and Temporary Transferred Employees;

(d) All other Liabilities will be excluded including: all Taxes other than Transfer Taxes which the Purchaser has agreed, or is otherwise liable to pay, any Liabilities relating to, or arising out of, the Excluded Assets, except as otherwise expressly agreed to in the Canadian Purchase Agreement, all Accounts Payable, any accrued expenses of the Respondents except to the extent specifically assumed, the Vendor and the Respondents' obligations under the Canadian Purchase Agreement and any ancillary agreements, any Environmental Liabilities in respect of the Leased Real Property and any area used pursuant to the Permits and Licenses relating to the Respondents, or Hazardous Material or environmental conditions that exist on or prior to the Closing Date, any Liabilities arising as a result of any Action initiated at any time, to the extent related to the Respondents or the Purchased Assets, all Liabilities arising out of, relating to or with respect to (a) the employment or performance of services, or termination of employment or services of any Employee on or before the Closing Date (b) each of the Employee Plans or other benefit or compensation plan or programs (other than in respect of the RDCL Benefit Plan) or (c) workers'

compensation claims that relate to the period ending on the Closing Date, any Liabilities arising under Intercompany Loans and all promissory notes except for Transferred Intercompany Loans, all Liabilities arising under or with respect to indebtedness, all Liabilities with respect to Company Expenses, and any Liabilities with respect to any violation of an applicable Law or Order prior to the Closing Date by the Proposed Receiver or the Respondents, excluding any pension or other such liabilities;

- (e) The Purchase Price for the Purchased Assets, exclusive of all Transfer Taxes, shall be a total of: (i) cash in the amount of €9,010,999, plus (ii) the amount of the Assumed Liabilities, to be allocated as follows:
- (i) €6,048,999 plus 66.67% of the amount of the Assumed Liabilities in respect of the Purchased Assets of RDCL; and
 - (ii) €2,962,000 plus 33.33% of the amount of the Assumed Liabilities in respect of the Purchased Assets of WWCI, subject to certain adjustments as noted below.
- (f) No adjustment shall be made to the Purchase Price unless such adjustment (being a positive or a negative amount) is greater than €30,000. The Purchase Price will be adjusted in an amount equal to (i) the aggregate of the cash receipts received by any of the Proposed Receiver and/or the Respondents in the ordinary course of Business during the period from 12:01 a.m. (Toronto time) on March 26, 2009 up to and until 12:01 a.m. (Toronto time) on the Closing Date; less (ii) any expenses incurred by any of the Proposed Receiver and/or the Respondents in the ordinary course of Business (including without limitation any payroll expenses) during the period from 12:01 a.m. (Toronto time) on March 26, 2009 up to and until 12:01 a.m. (Toronto time) on the Closing Date. The mechanics for such adjustment are provided for in greater detail in the Canadian Purchase Agreement:
- (g) The Purchaser will either become the employer or make offers of employment to certain employees of RDCL and WWCI that would not occur in the event of liquidation. Specifically, the Purchaser shall become the employer of all Unionized Employees covered by the Collective Agreement, effective from the Closing Date, and subject to the terms and conditions provided in the Memorandum of Agreement (which is attached as Schedule

2.11(a) to the Canadian Purchase Agreement and as described in greater detail below). The Purchaser shall be bound by and comply with the terms of the Collective Agreement as amended pursuant the Memorandum of Agreement. In addition, the Purchaser will offer employment to the majority of Non-Unionized Employees. The offers of employment shall be on terms and conditions of employment, including salary, incentive compensation, and benefits, which are substantially similar to those currently available to such Non-Unionized Employees. The Unionized Employees, together with those Non-Unionized Employees who accept the offer of employment are referred to in the Canadian Purchase Agreement as Transferred Employees and the Purchaser will recognize all prior service of the Transferred Employees;

- (h) The Purchaser will also make offers of employment to a smaller number of Non-Unionized Employees on a temporary basis to assist with the transition and amalgamation of operations between RDCL and WWCI. These offers will be on terms and conditions that are in the Purchaser's sole discretion. All of the Non-Unionized Employees who accept the offer of temporary employment made by the Purchaser are referred to as Temporary Transferred Employees in the Canadian Purchase Agreement;
- (i) The Purchaser will have no liability for wages, salaries, bonuses and commissions owing prior to the Closing Date to any employee save and except for vacation pay accruals for the Transferred Employees and the Temporary Transferred Employees;
- (j) The Purchaser will be liable for all costs, obligations and liabilities of the Transferred Employees and the Temporary Transferred Employees, that arise following the Closing Date, including accrued and unpaid vacation pay, termination pay and severance pay;
- (k) Pursuant to the Memorandum of Agreement, subsection (b) of Schedule "B" to the Collective Agreement shall be deleted and the Purchaser shall not be required to provide the pension plan as set out to Schedule "B" to the Union members. Rather, a new subsection (b) of Schedule "B" shall be added to the Collective Agreement, which shall state that the Purchaser shall establish a defined contribution pension plan, that is comparable and no less favourable in the aggregate, as the terms and conditions set out in the Integra/Royal Doulton Canada Limited Defined Contribution booklet dated April 1,

2006. The new pension plan will be a defined contribution plan in its entirety. The Memorandum of Agreement was signed on March 13, 2009 by RDCL, the Union, and the Purchaser to effectuate this amendment. The Purchaser will not assume or provide any other pension plans of RDCL or WWCI upon closing of the respective sale transactions;

- (l) The assignment (subject to landlord consents) of Leased Real Property with the exception of four RDCL retail locations and the WWCI combined office/warehouse location. The Purchaser will require a transition agreement for a 90 day period after Closing to accommodate an orderly closing of each retail location not being assumed by the Purchaser and the WWCI office/warehouse location and to operate the Business at the Leased Real Property it will be assuming;
- (m) It is a term of the Canadian Purchase Agreement that the Vendor, the Respondents and the Purchaser enter into the interim transition agreement (the "**Interim Transition Agreement**") in respect of: (i) the leased premises that the Purchaser intends to continue operating (the "**Continued Premises**"); and (ii) the leased premises that will be discontinued (the "**Discontinued Premises**", and together with the Continued Premises, the "**Premises**"). Pursuant to the Interim Transition Agreement, the Purchaser will be granted a license to occupy: (i) the Continued Premises for the purpose of carrying on the Business; and (ii) the Discontinued Premises for the purpose of carrying on the Business and/or removing Purchased Assets. The maximum term of the license of occupancy will be 90 days and the license of occupancy will expire in respect of any Premises upon: (a) consent being obtained to the assignment of the applicable lease to the Purchaser; or (b) the date of disclaimer or surrender of the applicable lease. The Purchaser will be responsible for all Premises costs relating to the period of occupancy under the Interim Transition Agreement and the Purchaser shall be required to pay the expected amounts of such costs over the potential 90 day term (the "**Expected Occupancy Costs**") to the Vendor in advance, to be held in trust, in an interest bearing trust account, and returned to the Purchaser if not used to pay occupancy costs. The access period under the Interim Transition Agreement will expire upon a trustee in bankruptcy appointed in respect of the Respondents and entering into a replacement transition agreement (the "**Trustee Transition Agreement**", and together with the Interim Transition Agreement, the

“**Transition Agreements**”) applicable to the period after the appointment of such trustee. The Trustee Transition Agreement will be on substantially the same terms as the Interim Transition Agreement, except that occupancy costs in relation to the period of occupation shall be paid to the trustee by the Vendor on a monthly basis from the Expected Occupancy Costs held by to the Vendor pursuant to the Interim Transition Agreement (or the Vendor will continue to make payments in respect of the Expected Occupancy Costs directly). A copy of the Interim Transition Agreement is attached hereto as Appendix IV and a copy of the Trustee Transition Agreement is attached hereto as Appendix V. The Continued Premises and the Discontinued Premises are set out in the schedules to the Transition Agreement.

- (n) BOA will seek an order authorizing and directing the Proposed Receiver to assign the Respondents into bankruptcy which is expected to be done immediately after the Closing of the Canadian Transaction. This will: (i) effect the termination of the employment of all employees who are not Transferred Employees or Temporary Transferred Employees; (ii) allow for the orderly wind up of the Respondents’ defined benefit pension plans; and (iii) assist in allowing the Purchaser to access the Respondents’ leased real properties and in the assignment of real property leases in accordance with the terms of the Transition Agreements. In connection with point (iii), on the business day after the bankruptcy of the Respondents, Deloitte, as trustee in bankruptcy, will apply to this Court to enter into the Trustee Transition Agreement; and
- (o) The Purchaser will assume all personal property equipment leases (or return those assets to the applicable lessors) and will seek to vest out BOA and all “general security” in the Purchased Assets including the liens in favour of Falls Management Group L.P. (“**Falls Management**”), the landlord of the Discontinued Lease at the Niagara Falls location. The Falls Management liens relate to assets of RDCL on the subject premises. The Bennett Jones Opinion notes that, according to the personal property security act registry based on a search with a currency date of March 23, 2009, the registration in Ontario in favour of Falls Management is subsequent in time to the registration in favour of BOA.

PROPOSED RECEIVER'S RECOMMENDATIONS REGARDING THE SALE TO THE PURCHASER

64. Deloitte has considered the viability of the Canadian business as a standalone enterprise, and whether a sale of the Canadian business independent of the global transaction would be feasible. In our view, it would not since neither RDCL nor WWCI would or could exist but for their ability to sell Royal Doulton or Waterford Crystal, Wedgwood and Rosenthal branded products pursuant to their relationship with the WW Group. For RDCL, sales of products other than Royal Doulton branded products are a small percentage of its overall business, and would in no way be sufficient to sustain the business without the sale of such branded products. WWCI has no business other than selling branded products. Both companies are dependent on the WW Group to manufacture and deliver the branded products, and they have no right or ability to sell branded products except with the permission of their parent. As such, a proposed sale of RDCL and WWCI as a standalone business would not be feasible.
65. The Proposed Receiver has assisted and continues to assist the Respondents in their efforts to maintain operations. The Proposed Receiver believes that the Respondents are acting diligently and in good faith.
66. The Canadian Transaction is the best option for RDCL and WWCI in the circumstances. In particular, it preserves the businesses as a going concern and preserves the opportunity for employment for the majority of the employees of RDCL and WWCI.
67. The Purchaser has advised the Proposed Receiver that the process for the offers of employment will be as follows:
- (a) In accordance with Section 2.11 of the Canadian Purchase Agreement, the Purchaser will be making offers of employment as follows:
- (i) Approximately one hundred and eighty-two non-unionized employees from RDCL and WWCI will be given offers of employment from the Purchaser that are on terms and conditions of employment, including salary, incentive compensation and benefits which are substantially similar to those currently available to such employees;

- (ii) Approximately thirty-five non-unionized employees from RDCL and WWCI (thirteen in non-retail roles and twenty-two retail employees for those retail locations where the Purchaser will not assume the relevant leases) will be given offers of employment from the Purchaser on a temporary basis on terms and conditions of employment that are in the sole discretion of the Purchaser;
 - (iii) Approximately forty-eight non-unionized employees from RDCL who work at the warehouse sale on a temporary basis will be given temporary offers of employment from the Purchaser;
 - (iv) Approximately eight non-unionized employees from WWCI will not be offered employment by the Purchaser; and
 - (v) All of the unionized employees will continue in employment with the Purchaser.
- (b) All of the offers of employment from the Purchaser will be provided to RDCL and WWCI employees at the start of business on March 27, 2009. The Companies and the Purchaser have advised that at this time, such employees will be told about the transaction and that they have been offered employment by the Purchaser.
 - (c) The employees will be provided with the opportunity to either sign-back the offer letter and continue working on March 27, 2009, or to take some time off to consider the offer. In any event, all employees who are scheduled to work on March 27, 2009, will be paid for a full day's work on March 27, 2009, regardless of whether they continue to work or take time off to consider the Purchaser's offer. Once an employee signs back the Purchaser's offer, they will commence work with the Purchaser. An employee can commence work with the Purchaser provided that the employee accepts the Purchaser's offer.
68. The Canadian Transaction also benefits the suppliers and customers of RDCL and WWCI and maintains substantially all real property leases of RDCL. Therefore, in our view, the best outcome for stakeholders in the circumstances is a sale of the RDCL and WWCI businesses pursuant to the Canadian Purchase Agreement.
69. The Proposed Receiver supports an order appointing Deloitte as Receiver and, in an effort to

maximize stakeholder returns and to enable the transaction contemplated by the Canadian Purchase Agreement to be completed and the Proposed Receiver recommends approval of the sale of the assets of both WWCI and RDCL pursuant to the Canadian Purchase Agreement.

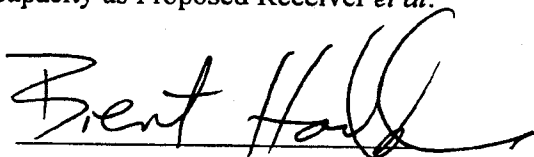
70. Upon issuance of the order to appoint Deloitte as Receiver and approval of the Canadian Purchase Agreement, Deloitte, as the Receiver shall enter into the Canadian Purchase Agreement and carry out the Canadian Transaction and the Interim Transition Agreement, and will forthwith after closing assign RDCL and WWCI into bankruptcy.
71. Immediately following the completion of the Canadian Transaction, Deloitte, as the Receiver will receive and hold all funds pursuant to the Canadian Purchase Agreement and pay all priority claims and professional fees and distribute the remaining balance to the Senior Lenders via BOA as Agent upon receiving a further order of this Honourable Court. The Purchaser will fund the occupation costs in advance pursuant to the Interim Transition Agreement, which the Receiver will hold in a separate interest bearing account. The Receiver will provide the funds to Deloitte as trustee to pay the occupancy costs when same are due and payable in accordance with the applicable real property lease and will return any balances not required to the Purchaser. Deloitte, as the Receiver will be authorized to transfer an amount of \$35,000 from the proceeds of sale to the trustees in bankruptcy of the Respondents to fund the bankruptcy proceedings.

All of which is respectfully submitted at Toronto, Ontario this 26th day of March, 2009.

DELOITTE & TOUCHE INC.

in its capacity as Proposed Receiver *et al.*

Per:



Senior Vice-President

TAB C

EXHIBIT C
FIRST REPORT

Court File No. CV-09-8103-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

BANK OF AMERICA, N.A.

Applicant

- AND -

ROYAL DOULTON CANADA LIMITED and
WATERFORD WEDGWOOD CANADA INC.

Respondents

**FIRST REPORT OF DELOITTE & TOUCHE INC.
IN ITS CAPACITY AS INTERIM RECEIVER AND RECEIVER OF
ROYAL DOULTON CANADA LIMITED and WATERFORD WEDGWOOD CANADA INC.**

May 12, 2009

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I. INTRODUCTION

1. On March 26, 2009, Bank of America, N.A. ("BOA") made a motion for an Order pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* (the "BIA") and section 101 of the *Courts of Justice Act* seeking the appointment of an interim receiver and receiver of all the assets, undertakings and properties of Waterford Wedgwood Canada Inc. ("WWCI") and Royal Doulton Canada Limited ("RDCL") (collectively, the "Respondents"). By Order of the Honourable Mr. Justice Lederman dated March 26, 2009 (the "Receivership Order"), Deloitte & Touche Inc. ("Deloitte") was appointed as interim receiver and receiver (jointly, the "Receiver") without security, of all the assets, undertakings and properties of the Respondents. Attached hereto as Exhibit "A" is a copy of the Receivership Order.
2. This report is the Receiver's first report to the Court (the "First Report"). Deloitte previously filed a preliminary report with the Court on March 26, 2009 in its capacity as proposed interim receiver and receiver (the "Preliminary Report"). A copy of the Preliminary Report, without exhibits, is attached as Exhibit "B". The Preliminary Report was served on all secured creditors of RDCL and WWCI prior to the receivership motion.
3. In order to keep WWCI and RDCL's creditors and all other stakeholders informed, the Receiver has established a website, www.deloitte.com/ca/waterfordwedgwood (the "Receivership Website"), where it has posted all Court documents, Orders, and general information on the receivership. The Receiver has also established an email address and a telephone number on its website in order to respond to any inquiries with regard to the WWCI and RDCL receivership proceedings.

II. QUALIFICATIONS

4. In preparing this First Report, the Receiver has relied upon unaudited financial information, RDCL and WWCI's books and records, the financial information prepared by RDCL and WWCI, and discussions with management of RDCL and WWCI. Deloitte has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information and, accordingly, the Receiver expresses no opinion or other form of assurance on the information contained in this First Report.

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5. Certain of the information referred to in this First Report consists of forecasts and/or projections, as outlined in the Canadian Institute of Chartered Accountants Handbook, has not been performed. Future oriented financial information referred to in this First Report was prepared by RDCL and WWCI based on management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, and even if the assumptions materialize, the variations could be significant.
 6. Unless otherwise noted, all dollar amounts contained in this report are expressed in Canadian dollars.

III. PURPOSE OF REPORT

7. The purpose of the First Report is to:
 - a) Report on the activities of the Receiver since its appointment on March 26, 2009; and
 - b) Recommend that this Honourable Court grant an Order:
 - (i) approving an interim distribution of certain of the funds held by the Receiver to the Respondents' first ranking secured creditor, BOA, acting as senior lender and agent and security trustee for a syndicate of senior lenders;
 - (ii) approving the fees and disbursements of the Receiver and its legal counsel, Bennett Jones LLP ("Bennett Jones") from February 26, 2009 until May 12, 2009 (which have already been paid to Bennett Jones by the Receiver); and Osler, Hoskin & Harcourt LLP ("Osler"), from the commencement of the receivership through to May 12, 2009;
 - (iii) approving this First Report and the activities of the Receiver as set out herein.

IV. BACKGROUND

8. WWCI and RDCL are both Canadian subsidiaries of Waterford Wedgwood plc (“Waterford Wedgwood”), an Irish listed company that designs, manufactures and distributes table, crystal and silverware products under four primary brands: Waterford Crystal, Wedgwood, Rosenthal and Royal Doulton.
9. While globally the Waterford Wedgwood business involves the design and manufacture of crystal, ceramics and tableware, neither WWCI nor RDCL were involved in those aspects of the business in Canada.
10. WWCI was solely a sales and distribution entity that sold branded products to the Canadian marketplace, on a wholesale basis, through selected department and specialty store groups. WWCI operated out of a leased office and warehouse location in Richmond Hill, Ontario, and did not have any retail operations.
11. RDCL was primarily a wholesaler and retailer of Royal Doulton branded products in Canada. RDCL sold its products on a wholesale basis, through selected department and specialty store groups, and on a retail basis through its retail and outlet store locations, as well as directly to consumers via the internet.
12. RDCL operated fourteen retail stores in five provinces (Ontario, Alberta, British Columbia, New Brunswick and Nova Scotia) and maintained head office and warehouse locations in Toronto and Pickering, respectively. RDCL operated out of leased premises in all locations.
13. Pursuant to the terms of a credit facility agreement dated December 10, 2005 (the “Waterford Wedgwood Facility”), WWCI and RDCL granted continuing unlimited guarantees of all the indebtedness of Waterford Wedgwood and certain other borrowers (the “Guarantee”) to a syndicate of lenders (collectively, the “Senior Lenders”).
14. BOA acts as agent (“Agent”) and is the security trustee (“Security Trustee”) for the Senior Lenders. As such, BOA holds comprehensive general security over the machinery, equipment, stock, receivables, bank accounts, shares in subsidiaries and all other assets of WWCI and RDCL. As set out elsewhere in the First Report, the security is validly perfected.

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15. The Waterford Wedgwood Facility was breached in December, 2008 when Waterford Wedgwood defaulted on a payment to The Bank of New York, London. WWCI and RDCL had guaranteed the obligations of Waterford Wedgwood and were each respectively liable under the Guarantee, jointly and severally, as primary obligor.
 16. On January 5, 2009, ten of Waterford Wedgwood's subsidiaries registered in England & Wales (the "UK Administration Companies") entered administration with Angus Martin, Neville Khan, Nicholas Dargan and Dominic Wong (all of Deloitte LLP in the UK) being appointed as joint Administrators (the "UK Administrators"). Also on January 5, 2009, David Carson, of Deloitte & Touche in Ireland was appointed as receiver (the "Irish Receiver") of Waterford Wedgwood and three of its Irish subsidiaries (the "Irish Receivership Companies").
 17. Upon their appointment, the UK Administrators engaged J.P. Morgan Cazenove ("JPM Cazenove") to assist in the marketing of the Waterford Wedgwood group of companies on a global basis. During this process, JPM Cazenove contacted a number of potential strategic trade investors globally, focusing on the UK and Europe, with a particular focus on worldwide strategic trade buyers.
 18. Pursuant to a Share and Business Sale Agreement dated March 26, 2009 (the "UK/Irish Sale Agreement") between the UK Administrators, the Irish Receiver and a Gibraltar company associated with KPS Capital Partners, LP ("KPS"), which was created for the purpose of the acquisition, most of the assets of the UK Administration Companies and the Irish Receivership Companies were agreed to be sold subject to the fulfillment of various conditions. The UK/Irish Sale Agreement provided that, as a condition precedent of the global transaction, there must be a sale of substantially all of the assets of WWCI and RDCL for proceeds of €9,010,999 (the "Canadian Transaction").
 19. Pursuant to the Receivership Order, the Receiver did not take possession of WWCI's or RDCL's property or assets, nor did the Receiver operate the businesses in any manner. The Receivership Order authorized and directed the Receiver to enter into an Agreement of Purchase and Sale (the "Sale Agreement") selling substantially all of WWCI's and RDCL's assets and transferring certain specified liabilities to WWRD Canada Inc. (the "Purchaser"), a wholly owned subsidiary of KPS.

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20. Pursuant to the Receivership Order, the Receiver entered into the Sale Agreement. On March 27, 2009, the Honourable Justice Lederman approved the Sale Agreement pursuant to the Approval and Vesting Order. Attached hereto as Exhibit "C" is a copy of the Approval and Vesting Order. Also on March 27, 2009, pursuant to the Approval and Vesting Order, the Receiver assigned RDCL and WWCI into bankruptcy. Further information on the RDCL and WWCI bankruptcies is included below.
21. Pursuant to the Sale Agreement, the Court ordered that an interim transition agreement ("Interim Transition Agreement") between the Receiver, the Purchaser and the Respondents, dated March 27, 2009 be approved. The Interim Transition Agreement grants the Purchaser a license to occupy the leased premises for the purpose of carrying on the business and/or removing the purchased assets for a period (the "Access Period") commencing on March 27, 2009 and ending in respect of any leased premises on the earlier of: (i) 90 days from March 27, 2009; and (ii) the time the Interim Transition Agreement is otherwise terminated in respect of the applicable leased premises pursuant to the terms of the Interim Transition Agreement, or the time at which the lease in respect of such leased premises is otherwise disclaimed or surrendered. In addition, under the Interim Transition Agreement the Purchaser may request that the Receiver disclaim a Lease prior to the date that is 90 days from March 27, 2009 in which event the Receiver shall disclaim the lease in accordance with the provisions of the Receivership Order.
22. The Receiver is in receipt of all of the funds received pursuant to the Sale Agreement with the intention of paying all priority claims, professional fees, and distributing the balance to BOA as Agent for the Senior Lenders.
23. The Receiver has obtained independent legal opinions on BOA's security, as Security Trustee for the Senior Lenders and the note-holders. The law firms of Bennett Jones for Ontario and Alberta (independent counsel to the Receiver), McInnes Cooper for Nova Scotia and New Brunswick (on the instructions of Bennett Jones), and Bull, Housser & Tupper LLP for British Columbia (on the instructions of Bennett Jones) have given an opinion that the security interests of BOA, as Security Trustee for the Senior Lenders, on the assets of RDCL and WWCI are valid and enforceable and have been properly perfected in Ontario, Alberta, Nova Scotia, New Brunswick and British Columbia with respect to RDCL and in Ontario with

respect to WWCI, subject to standard assumptions, qualifications and limitations (the "Security Opinion").

24. A detailed discussion on the background of the business, debt structure and estimated realization to BOA, as Security Trustee for the Senior Lenders, security position of BOA, causes of insolvency, asset realization and projected distribution, and the marketing and sale process undertaken with respect to the sale of Waterford Wedgwood and the Sale Agreement is contained in the Preliminary Report.

V. RECEIVER'S ACTIVITIES TO DATE

25. Following its appointment on March 26, 2009, the Receiver's activities have included:

- a) Filing the Receiver's Certificate;
- b) Executing the Sale Agreement and completing the transaction to convey the purchased assets to the Purchaser pursuant to the Approval and Vesting Order;
- c) Taking possession and control of certain of the Excluded Assets, as defined in the Sale Agreement including cash, bank balances, moneys in possession of banks and other depositories;
- d) Entering into the Interim Transition Agreement contemplated by the Sale Agreement and performing the Receiver's obligations thereunder;
- e) Arranging for the WWCI and RDCL bank accounts to be frozen and immediately opening new bank accounts under the Receiver's name;
- f) Ensuring appropriate insurance and security arrangements are in place for the estate effective as of the appointment of the Receiver; and
- g) Completing a computer back-up of all of WWCI and RDCL's electronic records stored at their head offices located at 20 West Beaver Creek Road in Richmond Hill, Ontario and 305 Milner Road in Toronto, Ontario, respectively.

26. On March 27, 2009, pursuant to the Approval and Vesting Order, the Court ordered that the Receiver be authorized and directed to file an assignment in bankruptcy on behalf of each of

WWCI and RDCL for the general benefit of their creditors pursuant to the BIA, and Deloitte was authorized to act as the trustee in bankruptcy (the "Trustee") of WWCI and RDCL.

27. Deloitte filed the assignment in bankruptcy on behalf of each of WWCI and RDCL on March 27, 2009. At that time, the Interim Transition Agreement was replaced by a transition agreement between the Trustee and the Purchaser (the "Trustee Transition Agreement"). The terms of the Trustee Transition Agreement are substantially similar to those of the Interim Transition Agreement except that the Trustee effectively assumes the role of the Receiver under the agreement.
28. Since the bankruptcies, the Trustee has, among other activities, sent statutory notices and creditor packages to all known creditors of WWCI and RDCL, held a first meeting of creditors and first meeting of inspectors for both estates on April 17, 2009, and performed its duties under the Trustee Transition Agreement.

VI. STATUS OF RECEIVERSHIP

Receivership Accounts

29. The estates of WWCI and RDCL realized gross proceeds of €9,010,999 under the Sale Agreement. These proceeds were placed into a Euro denominated trust account ("Euro Funds Account") that is administered by the Receiver.
30. In addition to the Euro Funds Account, the Receiver also maintains and administers two additional trust accounts (all amounts in Canadian dollars):
 - (i) a trust account funded by the Purchaser for the sole purpose of paying rent, expenses and occupation costs ("Trust Account") relating to the premises which the Receiver is obligated to pay pursuant to the terms of the leases (in accordance with the Interim Transition Agreement and the Trustee Transition Agreement); and
 - (ii) a trust account which captured the opening cash balances as at the date of the receivership of WWCI and RDCL, as well as subsequent cash collections (the "General Funds Account").

Copies of the Statements of Receipts and Disbursements for the period March 27, 2009 to May 8, 2009, which detail all receipts and disbursements for the Euro Funds Account, the Trust Account and the General Funds Account are attached as Exhibits "D" and "E".

31. As of the date of this First Report, the balance of the Trust Account is \$279,703. The Receiver has made \$408,020 and \$61,830 disbursements from the Trust Account to the Trustee for RDCL and for WWCI respectively, to pay rent, expenses and occupation costs (collectively the "Occupation Costs") for the months of April and May, 2009.
32. The opening cash balance of the General Funds Account at the date of the WWCI and RDCL receivership was \$1,335,473. Since the receivership, the Receiver has collected the following cash receipts and deposited them to the General Funds Account:
- a) \$12,362 in petty cash;
 - b) \$773, 183 in accounts receivable;
 - c) \$45,818 in miscellaneous refunds consisting of an RST overpayment and various courier refunds; and
 - d) \$40,870 in GST collected from the Purchaser pursuant to the Sale Agreement.
33. Since the receivership, the Receiver has made the following disbursements from the General Funds Account:
- a) \$1,389 for bank charges;
 - b) \$752,495 to the Purchaser for accounts receivable collected and due to the Purchaser pursuant to the Sale Agreement;¹
 - c) \$38,062 (including GST) to Bennett Jones for its security opinion with regard to BOA as Security Trustee;
 - d) \$1,990 to the Trustee for fees related to the costs of filing the RDCL bankruptcy;
 - e) \$1,880 to the Trustee for fees related to the costs of filing the WWCI bankruptcy;

¹ Under Sale Agreement, all amounts on behalf of accounts receivable received by the estates of RDCL and WWCI must be distributed to the Purchaser. The discrepancy in the Statement of Receipts and Disbursements between the amounts received and disbursed with regard to accounts receivable reflects additional amounts having been received by the Receiver following the last transfer to the Purchaser which was made on April 24, 2009.

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- f) \$1,499 to payroll service provider (ADP) for generation of employee T4s and records of employment;
 - g) \$140 for fees related to the costs of filing the RDCL and WWCI receiverships; and
 - h) \$75 for GST.

As of the date of this First Report, the balance of the General Funds Account is \$1,410,174.

Potential Claims in the Receivership

34. As reported in the Preliminary Report, notwithstanding the global transaction and the proceeds from the Sale Agreement, the Senior Lenders suffered a significant shortfall on the realization of the assets of RDCL and WWCI (the "Shortfall"). Due to the Shortfall, the Receiver does not anticipate that at final distribution there will be any funds remaining in the estates of WWCI and RDCL to make distributions to any creditors after BOA as agent for the Senior Lenders or for priority claims.

A. Employee Claims

35. Under the Sale Agreement and as reported in paragraph 67 of the Preliminary Report, the Purchaser made offers to all of the employees of WWCI and RDCL, except eight, whose employment was terminated as a result (the "Terminated Employees"). All but four of the employees who received offers of employment accepted them and signed corresponding employment letters from the Purchaser.
36. WWCI and RDCL paid all employee accrued wages, incentive compensation and vacation pay up to and including the date of the receivership (March 26, 2009), and the Purchaser is liable for all costs, obligations and liabilities of the Transferred Employees from the date of the sale onwards (March 27, 2009). Severance and termination claims for the Terminated Employees will be administered by way of the *Wage Earner Protection Program Act* ("WEPPA").
37. The Receiver therefore does not anticipate that there will be any employee claims made against RDCL and WWCI that will rank in priority to BOA's security interest.

B. Landlord Claims

38. The Receiver does not anticipate any claims by landlords for arrears of rent preceding the receivership and bankruptcy of WWCI and RDCL, because WWCI and RDCL paid rent to their landlords in advance of, or at the beginning of each month.
39. At the time of the receivership, on the closing of the Sale Agreement and under the Interim Transition Agreement, the Purchaser paid to the Receiver the Occupation Costs for all of the twelve leases of RDCL and WWCI. The Receiver holds these funds in the Trust Account and, under the terms of the Interim Transition Agreement and the Trust Transition Agreement, pays them to the Trustee who pays them to the relevant landlords in respect of their Occupation Costs. As of the date of this First Report, and as discussed above, the Trustee has made all Occupation Costs payments to all relevant landlords from the Trust Account for April and May, 2009 pursuant to the Trust Transition Agreement.
40. The terms of the Trustee Transition Agreement continue to apply to each lease until the Purchaser has obtained a consent from the landlord assigning that lease. Once a lease has been assigned to the Purchaser, the Trustee must return a pro rata amount of the Occupation Costs paid to the Receiver by the Purchaser for that particular lease. As of the date of this First Report, the landlords, Trustee and the Purchaser have agreed upon all of the terms for nine of the twelve consents to lease assignments, and the landlords and the Trustee have fully executed those nine consents, which are currently in the process of being signed by the Purchaser. Discussions between the landlords, the Trustee and the Purchaser with regard to consents for the three remaining lease assignments are well underway.
41. While the Purchaser has not assumed certain leases under the Sale Agreement (the "Discontinued Leases"), as of the date of this First Report, the Purchaser has not requested that the Receiver disclaim any of the leases. All of the landlords of the Discontinued Leases have been served in this proceeding with Motion Records containing the Sale Agreement and the Preliminary Report of the Trustee addressing Discontinued Leases.
42. One of the Discontinued Leases under the Sale Agreement is that of the RDCL retail location at the Niagara Fallsview Casino Resort (the "Fallsview Premises"). The landlord of the Fallsview Premises is the Fallsview Management Group L.P. ("Fallsview"). As of the date of this First Report, the Purchaser continues to occupy the Fallsview Premises, and the lease has not yet

been disclaimed. As indicated in paragraph 63(o) of the Preliminary Report, pursuant to the Approval and Vesting Order, the Purchaser assumed all personal property equipment leases (or returned those assets to the applicable lessors) and vested out BOA and all "general security" in the purchased assets including liens in favour of Fallsview. The liens in favour of Falls Management relate to assets of RDCL on the Fallsview Premises. The Security Opinion notes that, according to the personal property security act registry based on a search with a currency date of March 23, 2009, the registration in Ontario in favour of Fallsview is subsequent in time to the registration in favour of BOA.

43. The Receiver therefore does not anticipate any claims from landlords that would rank in priority to BOA's security interest in RDCL and WWCI.

C. Government Tax Claims

44. Statements of account for current source deductions (provided to the Respondents by the Canada Revenue Agency) indicate that there are no unpaid source deductions owing to the Canada Revenue Agency (the "CRA") as of April 20, 2009 and February 18, 2009 for WWCI and RDCL, respectively. The Respondents have not yet been subjected to a CRA audit. The Receiver is in contact with the CRA with regard to same.

D. Potential Priority Claims Identified by the Receiver

45. The Receiver has identified the following claims which, should they arise, may take priority over BOA's security interest in WWCI and RDCL (the "Potential Priority Claims"):
- a) RDCL has prepared a GST/HST return for the March 1st, 2009 to March 27th, 2009 period which results in a total balance owing of \$21,784. In addition, as a result of a fiscal 2008 transfer pricing adjustment, RDCL made a voluntary disclosure filing to pay the corresponding incremental duty and GST. The amount payable, as determined by RDCL, with respect to duties and GST are \$104,012 and \$313,993 respectively. RDCL issued a cheque to the Canada Border Services Agency (the "CBSA") for a total of \$418,005 on February 12, 2009. The proof of delivery obtained from the courier indicates that the cheque and related correspondence were sent on March 10, 2009 and arrived at the CBSA location on March 11, 2009. The cheque was not deposited by the CBSA prior to the date of receivership (March 26, 2009) and, since the accounts of

RDCL were frozen on that date, any attempt by the CBSA to deposit the cheque subsequent to March 26, 2009 would be unsuccessful. As a result of the bankruptcy of RDCL, payment of the aforementioned amounts (GST and duties) has yet to be resolved. There are therefore potential GST/HST and incremental duty claims for a total of \$439,789.

- b) Two of RDCL's suppliers, Samaco Trading Limited ("Samaco") and Northdale Trading Limited ("Northdale"), submitted written demands for repossession of goods on April 6, 2009. During RDCL's first meeting of creditors held on April 17, 2009, a representative of these, and other, suppliers (the "Representative") threatened a claim in relation to RDCL's alleged failure to segregate and release 30 day goods to these suppliers. However, all of RDCL's assets, including the goods supplied by Samaco and Northdale, vested in the Purchaser prior to RDCL's assignment into bankruptcy. The Receiver and the Trustee will work with the Representative in an effort to resolve this matter. The creditors who have raised the 30 day goods issue are owed \$8,419 in the aggregate.

VII. PROPOSED INTERIM DISTRIBUTION

Proposed Interim Distribution

46. At this time, the Receiver proposes to distribute €8,000,000 to BOA from the Euro Funds Account in the form of an interim distribution (the "Proposed Interim Distribution"). A €1,011,700 balance will remain in the Euro Funds Account following the Proposed Interim Distribution (the "Remaining Balance"), and the Receiver will hold the Remaining Balance, together with the funds in the General Trust Account (a balance of \$1,410,174), to fund the ongoing administration of the receivership.
47. The Preliminary Report was served upon all registered secured creditors of WWCI and RDCL. As noted above, the total amount of the Potential Priority Claims, if they were to materialize, does not exceed the funds available following the Proposed Interim Distribution. The Remaining Balance together with the funds in the General Funds Account are expected to be sufficient to address:
- a) the Potential Priority Claims; and

b) any and all fees incurred by the Receiver and its counsel for the purposes of administering the WWCI and RDCL estates

while still maintaining a reserve of an excess of \$2,000,000 for additional unanticipated claims should they arise (less any fees).

Future Distributions

48. Given the above, and the fact that due to the Shortfall it is not likely that there will any distribution to unsecured creditors, the Receiver also recommends that it be authorized to make further distributions to BOA net of any funds required for the administration of the receivership, including any claims which may rank in priority to BOA's security, without any further order of this Honourable Court before such distributions are made.

VIII. FEE APPROVAL

49. From the commencement of Deloitte's activities in preparation for the receivership on February 2, 2009 until its appointment as Receiver on March 26, 2009 and through to May 8, 2009, the Receiver's fees and disbursements (including GST) total \$255,192. Included in the Motion Record is the Affidavit of Huey Lee, sworn on May 12, 2009, regarding the fees incurred by Deloitte with respect to the receivership.

50. The Receiver's average hourly rate for this matter is approximately \$417.

51. In the preparation of its security opinion with regard to BOA as Security Trustee between February 26, 2009 and May 12, 2009, the fees and disbursements (including GST) incurred by Bennett Jones total \$38,062. The average hourly rate charged by Bennett Jones with regard to this opinion was approximately \$355.50.

52. In preparing for the receivership of the Respondents and in the course of the receivership between March 12, 2009 and May 12, 2009, the fees and disbursements (including GST) incurred by Osler total \$86,700. Included in the Motion Record is the Affidavit of Gillian Scott, sworn on May 12, 2009, regarding fees and disbursements incurred by Osler with respect to the receivership. The average hourly rate charged by Osler with regard to the receivership was approximately \$533.66.

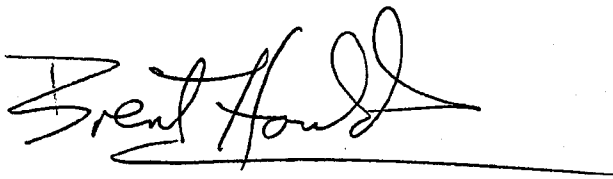
-
53. The Receiver has reviewed the aforementioned fees and disbursements of Osler and believes that the fees and disbursements are fair and reasonable and are consistent with the rates of major law firms practicing in the field of insolvency.
54. BOA consents to the payment of fees and disbursements incurred by the Receiver and Osler in the receivership.

IX. CONCLUSION

55. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court issue an Order granting the relief detailed in the Notice of Motion.

Dated the 12th day of May, 2009.

ALL OF WHICH IS RESPECTFULLY SUBMITTED,



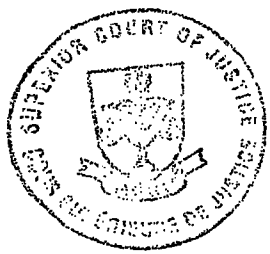
Brent Houlden, CA, CPA, MBA
Senior Vice-President

Deloitte & Touche Inc.
In its capacity as Interim Receiver and Receiver of
Waterford Wedgwood Canada Inc. and Royal Doulton Canada Limited
and not in its personal capacity.

TAB D

EXHIBIT D
APPROVAL AND VESTING ORDER

Court File No. CV-09-8103-00CL



ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.
JUSTICE LEDERMAN

)
)
)

FRIDAY, THE 27TH
DAY OF MARCH, 2009

IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION 47(1)
OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS
AMENDED

AND IN THE MATTER OF SECTION 101 OF THE COURTS OF JUSTICE
ACT, R.S.O. 1990, c. C.43, AS AMENDED

BANK OF AMERICA, N.A.

Applicant

and

ROYAL DOULTON CANADA LIMITED AND WATERFORD WEDGWOOD
CANADA INC.

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by the Applicant Bank of America, N.A. for an order, *inter alia*, approving the sale transaction (the "Transaction") contemplated by the Agreement of Purchase and Sale made as of March 27, 2009 (as amended from time to time, the "Sale Agreement") between WWRD Canada, Inc. (the "Purchaser") and Deloitte & Touche Inc., in its capacity as

- 2 -

the interim receiver and receiver ("Deloitte" or "Receiver") of Waterford Wedgwood Canada Inc. and Royal Doulton Canada Limited (collectively the "Debtors") and appended as Exhibit ^{v. 3} "3" to the Report of Deloitte, as proposed interim receiver and receiver, dated March 26, 2009 (the "Report"), and vesting in the Purchaser all of the Debtors' and the Receiver's right, title and interest, if any, in and to the Purchased Assets described in the Sale Agreement, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Robert M. Scalzitti sworn March 25, 2009 and the Exhibits thereto, filed, and the Report and the Exhibits thereto, filed, and on hearing the submissions of counsel for the Bank of America, N.A., the Receiver, the Purchaser and other counsel, no one appearing for any other person on the service list attached hereto as Schedule A, although properly served as appears from the Affidavit of Service of Katie Legree sworn March 26, 2009 filed:

1. **THIS COURT ORDERS** that all capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed thereto in the Sale Agreement.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved and that the Sale Agreement is commercially reasonable and in the best interests of the Debtors and their stakeholders. The Receiver is hereby authorized and directed to execute the Sale Agreement and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. **THIS COURT ORDERS** that the interim transition agreement between the Receiver, the Purchaser and the Debtors, dated March 27, 2009 (the "Interim Transition Agreement") is hereby approved. The Receiver and the Debtors are hereby authorized and directed to execute the Interim Transition Agreement, to perform their respective obligations thereunder, and to take such additional steps and execute such additional documents as may be necessary or desirable in connection with the Interim Transition Agreement and their respective obligations thereunder.
4. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule B hereto (the

- 3 -

“Receiver’s Certificate”), all of the Debtors’ and the Receiver’s right, title and interest, if any, in and to the Purchased Assets described in the Sale Agreement shall vest, without further instrument of transfer or assignment, absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “Claims”). including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Lederman dated March 26, 2009; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “Encumbrances”, which term shall not include the permitted liens and permitted encumbrances that are set out in Schedule C hereto) and for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that where any real property leases of the Debtors are not, in accordance with their terms, transferable or assignable to the Purchaser without first obtaining the consent of the applicable landlord, none of such real property leases shall be transferred, conveyed, assigned or vested in the Purchaser by operation of this Order.

6. **THIS COURT ORDERS** that, for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof to the Purchaser.

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8. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.

9. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall they constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario) and any equivalent or applicable legislation under any other province or territory in Canada.

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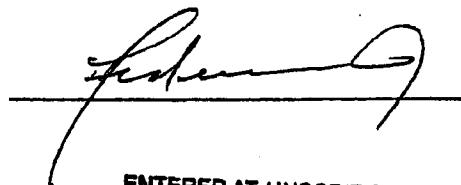
11. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada against all persons, firms, corporations, governmental, municipal and regulatory authorities against whom it may otherwise be enforceable.

12. **THIS COURT ORDERS** that, forthwith after the closing of the Transaction, the Receiver is hereby authorized and directed to file an assignment in bankruptcy on behalf of each of the Debtors for the general benefit of their creditors pursuant to the *Bankruptcy and Insolvency Act* (Canada), and Deloitte is hereby authorized to act as the trustee in bankruptcy of each of the Debtors, it being understood that, as such trustee, Deloitte will as soon as possible seek approval to enter into the form of Transition Agreement attached as Exhibit 5 to the Report.

13. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to perform its obligations under Sections 2.4(c) and (d) of the Sale Agreement in respect of the Designated Contracts, and to take such additional steps and execute such additional documents as may be necessary or desirable in connection with such obligations.

14. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United Kingdom or in the United States or elsewhere, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance as may be necessary or desirable to give effect to this Order.

15. **THIS COURT HEREBY** approves the activities of the Receiver as set out in the Report.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

MAR 27 2009

PER / PAR: 

TAB E

EXHIBIT E
STATEMENT OF RECEIPTS AND DISBURSEMENTS – RECEIVERSHIP

Deloitte & Touche Inc.
Interim Receiver and Receiver of
Royal Doulton Canada Limited and Waterford Wedgwood Canada Inc.
Final Statement of Receipts and Disbursements
For the Period March 26, 2009 to January 16, 2012

	Trust Account (CDN\$) (Note 1)	General Funds Account (CDN\$) (Note 2)	Euro Funds Account (Euro€) (Note 3)
Receipts			
1. Realization of assets			
Proceeds from sale of WWCI & RDCL assets			9,010,999.00
Transfer of WWCI & RDCL bank account balances		1,335,472.50	
Cash on hand (Note 4)		15,039.65	
Accounts receivable (Note 5)		822,012.93	
Miscellaneous refund collections (Note 6)		51,062.18	
GST refund collections (Note 7)		13,435.51	
GST collection pursuant to the Sale Agreement (Note 8)		40,870.00	
QST refund collections		486.09	
2. Fund deposit per Transition Agreements			
Funds forwarded by Purchaser per the Transition Agreements	749,552.93		
3. Other			
Interest received			700.86
Total Receipts	<u>749,552.93</u>	<u>2,278,378.86</u>	<u>9,011,699.86</u>
Disbursements			
1. Transfer to Trustee per Transition Agreements			
Occupancy costs - RDCL (Note 9)	511,135.08		
Occupancy costs - WWCI (Note 10)	54,817.50		
2. Transfer to Trustee to fund bankrupt estates			
Miscellaneous estate costs - RDCL		17,500.00	
Miscellaneous estate costs - WWCI		17,500.00	
3. Professional fees			
Legal fees		130,158.72	
GST paid - Legal fees		6,425.52	
PST paid - Legal fees		262.50	
HST paid - Legal fees		46.32	
Receiver fees		373,551.44	
GST paid - Receiver fees		18,677.57	
Consultation services		550.00	
GST paid - Consultation services		27.50	
4. Other estate administration costs			
Filing fees		140.00	
Payroll Services		1,965.11	
GST paid - Payroll services		98.25	
Bank Charges	33.66	115.50	106.09
5. Distribution to Purchaser per Sale Agreement			
Accounts receivable - Refund to Purchaser (Note 11)		822,012.93	
6. Reimbursement to Purchaser per Transition Agreements			
Occupancy costs - Refund to Purchaser (Note 12)	183,566.69		
7. Distribution to Senior Lenders			
Interim distributions to Senior Lenders		700,000.00	9,011,593.77
Total Disbursements	<u>749,552.93</u>	<u>2,089,031.36</u>	<u>9,011,699.86</u>
Funds Held in Trust - Actual	<u>-</u>	<u>189,347.50</u>	<u>-</u>

Deloitte & Touche Inc.
Interim Receiver and Receiver of
Royal Doulton Canada Limited and Waterford Wedgwood Canada Inc.
Final Statement of Receipts and Disbursements
For the Period March 26, 2009 to January 16, 2012

Note 1: The Trust Account was funded by the Purchaser and administered by the Receiver pursuant to the terms of the Transition Agreements. Funds were used to settle rent, expenses and occupation costs relating to each leased premises.

Note 2: The General Funds Account was administered by the Receiver to capture the initial transfer of WWCI's and RDCL's bank balances and subsequent cash collections following the freeze of WWCI's and RDCL's bank accounts on the date of the receivership.

Note 3: The Euro Funds Account was administered by the Receiver to capture funds upon consummation of the Sale Agreement, and to effect the subsequent distribution of proceeds to the Senior Lenders.

Note 4: Amount represents petty cash and amounts remaining in RDCL's TD bank account; excluded assets pursuant to the terms of the Sale Agreement.

Note 5: Accounts receivable collections in the accounts of WWCI and RDCL subsequent to date of receivership; an included asset pursuant to the terms of the Sale Agreement.

Note 6: Amounts collected with respect to RST overpayment and miscellaneous courier refunds.

Note 7: GST refunds issued by CRA following the date of receivership, but pertaining to business activities prior to the date of receivership; an excluded asset pursuant to the terms of the Sale Agreement.

Note 8: GST collections from the purchaser pursuant to the Sale Agreement. Based on the Receiver's correspondence with CRA, any amounts that may have been payable to CRA as a result of the collection of this amount have been offset against other amounts.

Note 9: Disbursement by Receiver to Trustee for purposes of paying RDCL rent, expenses and occupation costs for the months of April, May and June 2009, pursuant to the Transition Agreements.

Note 10: Disbursement by Receiver to Trustee for purposes of paying WWCI rent, expenses and occupation costs for the months of April, May and June 2009, pursuant to the Transition Agreements.

Note 11: The total disbursement to the Purchaser by the Receiver, pertaining to accounts receivable collections that were deposited into the frozen WWCI and RDCL bank accounts subsequent to the closing of the Sale Agreement.

Note 12: Refund to the Purchaser of excess amounts funded to the Receiver pursuant to the Transition Agreements. Occupancy costs were less than anticipated as certain leases were repudiated or assigned to the Purchaser. As a result, June rent payments were not required for all leases.

Note 13: As detailed in the Receiver's Second Report to the Court, the Receiver recommends that this Court make an Order approving the transfer of monies held in trust by the Receiver to fund deficiencies in the bankrupt estates of RDCL and WWCI, amounting to \$60,677.73 and \$11,527.86, respectively. Legal advisors of the Senior Lenders have been advised of the Receiver's intention to request additional funding to the bankrupt estates of RDCL and WWCI from funds held in trust by the Receiver, and have consented to this request. Funds remaining in trust subsequent to funding the deficiencies of the RDCL and WWCI bankrupt estates, and the payment of professional accounts of the Receiver and its counsel, are proposed to be distributed to the Senior Lenders.

TAB F

EXHIBIT F
SETTLEMENT AGREEMENT

MAR. 12. 2010 3:46PM NC CAMERON & LTD

NO. 968 P. 1

AGREEMENT**THIS AGREEMENT** is made as of January ●, 2010**BETWEEN:**

Deloitte & Touche Inc., in its capacity as Trustee in Bankruptcy of Royal Doulton Canada Limited, and not in its personal capacity

("Deloitte")

- and -

Northdale Trading Limited, a corporation governed by the laws of Ontario

("Northdale")

- and -

Samaco Trading Limited, a corporation governed by the laws of Ontario

("Samaco")

- and -

The Seagull Company Incorporated, a corporation governed by the laws of Ontario

("Seagull")

- and -

Enesco Canada Corporation, a corporation governed by the laws of Ontario

("Enesco")

RECITALS:

- A. On March 26, 2009, Deloitte was appointed by the court as interim receiver, pursuant to section 47(1) of the *Bankruptcy and Insolvency Act* ("BIA"), and as receiver, pursuant to section 101 of the *Courts of Justice Act*, over the assets of Royal Doulton Canada Limited ("RDCL").
- B. Pursuant to an Agreement of Purchase and Sale between Deloitte and WWRD Canada, Inc. (the "Purchaser") dated March 27, 2009 (the "Purchase Agreement") all of the assets of the RDCL (and a related company, Waterford Wedgwood Canada Inc.) were

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NC-CAMERON & LTD

NO. 968 P. 2

- 2 -

sold to the Purchaser. All funds received by Deloitte pursuant to the Purchase Agreement were used to pay priority claims and professional fees with the remaining balance paid to the Debtors' major secured creditors pursuant to an order of the Ontario Superior Court of Justice dated May 19, 2009.

- C. Pursuant to an order of the Ontario Superior Court of Justice dated March 27, 2009, Deloitte filed an assignment in bankruptcy on behalf of RDCL and Deloitte was appointed as the trustee in bankruptcy of the RDCL estate.
- D. Each of Northdale, Samaco, Seagull, and Enesco (collectively, the "Suppliers") have filed proofs of claim as unsecured creditors (each a "Proof of Claim") and demands for repossession against the RDCL estate with respect to goods supplied to RDCL within 30 days prior to the date of bankruptcy (collectively, the "30-Day Claims"). A summary of the 30-Day Claims is attached as Appendix "A".

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties intending to be lawfully bound agree as follows:

1. **Payment of Claims.** The parties hereby agree to settle each of the 30-day Claims upon payment by Deloitte to the Suppliers' counsel, Aird & Berlis LLP, of an amount equal to 50% of the amount stated on each Supplier's Proof of Claim, as listed in Appendix "A" attached hereto (the "Settlement Payments"), immediately upon discharge of Deloitte as trustee in bankruptcy, provided that, as of the date that Deloitte is granted a discharge as trustee in bankruptcy of RDCL, no other proofs of claim are filed against the RDCL estate with respect to any claim for goods or services delivered or provided to RDCL within 30 days prior to the date of bankruptcy, pursuant to s. 81.1 of the BIA.
2. **Satisfaction of Claims.** The Suppliers agree that receipt by each of them, or their counsel, in trust, of the Settlement Payments, shall be in full satisfaction of their respective 30-Day Claims, without any further claim to or liability of the RDCL estate.
3. **No Liability of Trustee.** The Suppliers agree that Deloitte & Touche Inc., in its personal capacity or otherwise, shall not be liable for any damages on any basis, in contract, tort or otherwise, of any kind and nature whatsoever, arising out of or in connection with this Agreement, the receivership, the bankruptcy, the Purchase Agreement, or any other event whatsoever, howsoever caused, with the exception of damages of any kind and nature caused by Deloitte's gross negligence, or by a fundamental breach of contract or any other breach of duty whatsoever.
4. **Inspector Approval.** This Agreement shall be conditional upon approval of this Agreement by the inspectors of the RDCL estate.
5. **Assignment.** Except as expressly provided herein, the parties hereto may not assign or transfer, whether absolutely, by way of security or otherwise, all or any part of their respective rights or obligations under this Agreement without the prior written consent of the other parties.

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NO. 968 P. 3

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6. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
7. **Successors and Assigns.** This Agreement shall enure to the benefit of, and be binding upon, each of the parties hereto and their respective successors and permitted assigns.
8. **Counterparts.** This Agreement may be delivered by facsimile transmission and be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same instrument.

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IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first written above.

DELOITTE & TOUCHE INC., in its capacity as Trustee in Bankruptcy of Royal Doulton Canada Limited and Waterford Wedgwood Canada Inc.

By: _____

Name:

Title:

Brent Houlder

By: _____

Name:

Title:

Brent Houlder
Partner

NORTHDALE TRADING LIMITED

By: *Porcellato*

Name: *SUZANNE PORCELLATO*

Title: *V.P. FINANCE*

By: _____

Name:

Title:

SAMACO TRADING LIMITED

By: *Porcellato*

Name: *SUZANNE PORCELLATO*

Title: *V.P. FINANCE*

By: _____

Name:

Title:

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- 5 -

THE SEAGULL COMPANY INCORPORATED

By: Gene Francella, Credit Manager
Name:
Title:

By: _____
Name:
Title:

ENESCO CANADA CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title:

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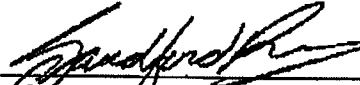
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THE SEAGULL COMPANY INCORPORATED

By: _____
Name:
Title:

By: _____
Name:
Title:

ENESCO CANADA CORPORATION

By: 
Name: *BERNARD ROSS*
Title: *VP FINANCE*

By: _____
Name:
Title:

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NO. 968 P. 6

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APPENDIX A

Company	Proof of Claim (Unsecured)	Damaged for Reproduction	Settlement Payment
Northdale Trading Limited	\$ 2,142.84	Yes	\$ 1,071.42
Sarusco Trading Limited	\$ 6,275.98	Yes	\$ 3,137.99
Seagull Pewter Inc.	\$ 1,047.98	Yes	\$ 523.99
Enecco Canada Corp.	\$ 22,283.32	Yes	\$ 11,141.76
Total Claims (Unsecured)	\$ 31,750.32		

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TAB G

EXHIBIT G
FINAL STATEMENT OF RECEIPTS AND DISBURSEMENTS – RDCL BANKRUPTCY

District of Ontario
Division No. 31
Estate No. 31-1183928

IN THE MATTER OF THE BANKRUPTCY OF
ROYAL DOULTON CANADA LIMITED

Trustee's Final Statement of Receipts and Disbursements
for the Period March 27, 2009 to February 11, 2011

		Trust Account (CDN\$)
Receipts		
1. Realization of assets		
Transfer from Court-Appointed Receiver to settle occupancy costs		511,135.08
Transfer from Court-Appointed Receiver to fund bankrupt estate		17,500.00
Total Receipts		<u>528,635.08</u>
Disbursements		
1. Transfer to Trustee per Transition Agreements		
Occupancy costs - rent, expenses and occupation costs	483,012.32	
GST paid - Occupancy costs	21,731.87	
HST paid - Occupancy costs	6,356.50	511,100.69
2. Professional fees		
Trustee fees	27,553.00	
GST/HST paid - Trustee fees	1,777.65	
Legal fees	36,877.18	
HST paid - Legal fees	2,243.86	68,451.69
3. Distribution to Creditors		
Settlement of 30 Days Goods claims		15,875.16
4. Other estate administration costs		
Administration filing fee	150.00	
Administration discharge fee	150.00	
Publication costs	1,502.84	
GST paid - Publication costs	75.14	
Notice for Application for Trustee Discharge	337.50	
Bank Charges	44.82	2,260.30
Total Disbursements		<u>597,687.84</u>
Deficiency		<u>(69,052.76)</u>

Notes:

- Funds transferred from the Receiver for the sole purpose of paying rent, expenses and other occupancy costs relating to the leased premises of Royal Doulton Canada Limited ("RDCL"). A Receivership Order of the Ontario Superior Court of Justice Commercial List authorized and directed the Receiver to enter into an agreement of purchase and sale selling substantially all of WWC's assets and transferring certain specified liabilities to WWRD Canada Inc. (the "Purchaser"). Under the Interim Transition Agreement, the Purchaser paid to the Receiver all occupation costs for RDCL's existing leases. The Receiver held these funds in trust and under the terms of the Interim Transition Agreement and the Trustee Transition Agreement, paid them to the Trustee, who in turn distributed the funds to the relevant landlords to settle occupancy obligations. The Trustee has made all occupancy obligation payments to all relevant landlords for April, May and June 2009 pursuant to the Trustee Transition Agreement.
- The Trustee entered an agreement with each of Northdale Trading Limited, Samaco Trading Limited, Seagull Company Incorporated and Enesco Canada Corporation (collectively, the "Suppliers") regarding the settlement for the demand for repossession of goods supplied to RDCL with 30 days prior to the date of bankruptcy (collectively, the "30-Day Goods Claims"). The above parties agreed to settle each of the 30-Day Goods Claims upon payment by the Trustee to the Supplier's counsel, Aird & Berlis LLP, of an amount equal to 50% of each Supplier's proof of claim totaling \$31,750.32, immediately upon discharge of the Trustee in bankruptcy, provided that, as of the date of Trustee discharge, no other proof of claim are filed against RDCL with respect to any claim for goods or services delivered or provided to RDCL within 30 days prior to the date of bankruptcy, pursuant to s.81.1 of the Bankruptcy and Insolvency Act.
- To date, the bankrupt estate has incurred \$28,163.51 in GST/HST expense relating to occupancy and publication costs. The Trustee filed GST and HST remittances related to value added taxes paid on occupancy and publication expenses, however CRA has denied refund payment due to outstanding claims against the estate. The Trustee will be submitting a further remittance for GST/HST associated with final payment of professional fees and request a refund, however it is unlikely a refund will be realized given CRA's previous rejection of refund payment due to significant outstanding claims against the estate.
- The Statement of Receipts and Disbursements indicates that the estate has a deficiency of \$69,052.76. Estate administrative costs of up to \$17,500 have been approved and transferred from the Court-Appointed Receiver to the Trustee, per the Initial Order passed by the Ontario Superior Court, pursuant to the receivership of Royal Doulton Canada Limited and Waterford Wedgwood Canada Inc. Deloitte & Touche Inc., in its capacity as Court-Appointed Receiver intends to request approval for additional funding of \$69,052.76 to the RDCL bankrupt estate from funds held in trust by the Court-Appointed Receiver, in order to fully fund the trust account deficiency. Funding received by the estate less than the current deficiency will first be distributed to settle the 30-Day Goods Claims, and second, distributed to the Trustee and its legal counsel on a pro rata basis until the accounts are paid in full.
- There will not be a distribution to the creditors of the estate.

TAB H

EXHIBIT H
FINAL STATEMENT OF RECEIPTS AND DISBURSEMENTS – WWRD
BANKRUPTCY

District of Ontario
Division No. 31
Estate No. 31-1183929

IN THE MATTER OF THE BANKRUPTCY OF
WATERFORD WEDGWOOD CANADA INC.

Trustee's Final Statement of Receipts and Disbursements
for the Period March 27, 2009 to February 11, 2011

		Trust Account (CDN\$)
Receipts		
1. Funds Transferred from Receiver		
Transfer from Court-Appointed Receiver to settle occupancy costs		54,817.50
Transfer from Court-Appointed Receiver to fund bankrupt estate		17,500.00
Total Receipts		72,317.50
Disbursements		
1. Transfer to Trustee per Transition Agreements		
Occupancy costs - rent, expenses and occupation costs	52,533.34	
GST paid - Occupancy costs	2,284.16	54,817.50
2. Professional fees		
Trustee fees	17,125.00	
GST/HST paid - Trustee fees	1,256.25	
Legal fees	14,827.00	
HST paid - Legal fees	941.35	34,149.60
3. Other estate administration costs		
Administration filing fee	150.00	
Administration discharge fee	150.00	
Publication costs	1,601.52	
GST paid - Publication costs	80.08	
Notice for Application for Trustee Discharge	135.00	
Bank Charges	107.24	2,223.84
Total Disbursements		91,190.94
Deficiency		(18,873.44)

Notes:

- Funds transferred from the Receiver for the sole purpose of paying rent, expenses and other occupancy costs relating to the leased premises of Waterford Wedgwood Canada Inc. ("WWCI"). A Receivership Order of the Ontario Superior Court of Justice Commercial List authorized and directed the Receiver to enter into an agreement of purchase and sale selling substantially all of WWCI's assets and transferring certain specified liabilities to WWRD Canada Inc. (the "Purchaser"). Under the Interim Transition Agreement, the Purchaser paid to the Receiver all occupation costs for WWCI's existing leases. The Receiver held these funds in trust and under the terms of the Interim Transition Agreement and the Trustee Transition Agreement, paid them to the Trustee, who in turn distributed the funds to the relevant landlords to settle occupancy obligations. The Trustee has made all occupancy obligation payments to all relevant landlords for April, May and June 2009 pursuant to the Trustee Transition Agreement.
- To date, the bankrupt estate has incurred \$2,364.24 in GST/HST expense relating to occupancy and publication costs. The Trustee filed GST and HST remittances related to value added taxes paid on occupancy and publication expenses, however CRA has denied refund payment due to outstanding claims against the estate. The Trustee will be submitting a further remittance for GST/HST associated with final payment of professional fees and request a refund, however it is unlikely a refund will be realized given CRA's previous rejection of refund payment due to significant outstanding claims against the estate.
- The Statement of Receipts and Disbursements indicates that the estate has a deficiency of \$18,873.44. Estate administrative costs of up to \$17,500 have been approved and transferred from the Court-Appointed Receiver to the Trustee, per the Initial Order passed by the Ontario Superior Court, pursuant to the receivership of Royal Doulton Canada Limited and Waterford Wedgwood Canada Inc. Deloitte & Touche Inc., in its capacity as Court-Appointed Receiver intends to request approval for additional funding of \$18,873.44 to the WWCI bankrupt estate from funds held in trust by the Court-Appointed Receiver, in order to fully fund the trust account deficiency. Funding received by the estate less than the current deficiency, will be distributed to the Trustee and its legal counsel on a pro rata basis until the accounts are paid in full.
- There will not be a distribution to the creditors of the estate.

BANK OF AMERICA
Applicant

ROYAL DOULTON CANADA LIMITED and
WATERFORD WEDGWOOD CANADA INC.
Respondents

Court File No. CV-09-8103-4

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

SECOND REPORT OF THE RECEIVER
(January 17, 2012)

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