

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**B E T W E E N:**

**THE EQUITABLE TRUST COMPANY**

Applicant

- and -

**TUESDAY EQUITIES LTD. as General Partner for and on behalf of  
PRINCE ROYAL LIMITED PARTNERSHIP**

Respondents

**MOTION RECORD  
(Returnable March 4, 2011)**

February 23, 2011

**THORNTON GROUT FINNIGAN LLP**  
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Lawyers for the Receiver

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## MOTION RECORD INDEX

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# TAB 1

**ONTARIO  
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**B E T W E E N:**

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**TUESDAY EQUITIES LTD. as General Partner for and on behalf of  
PRINCE ROYAL LIMITED PARTNERSHIP**

Respondents

**NOTICE OF MOTION**

Deloitte & Touche Inc., in its capacity as the receiver and manager (the “**Receiver**”) of all of the assets, undertakings and properties of Tuesday Equities Ltd. and Prince Royal Limited Partnership (together, the “**Debtors**”) acquired for, or used in relation to the following businesses carried on by the Debtors, including all proceeds thereof: (i) The Benmiller Inn & Spa; (ii) The Elora Mill Inn; and (iii) the Hidden Valley Resort (collectively, the “**Property**”), will make a motion to a Judge presiding over the Commercial List on Friday, March 4, 2011 at 10:00 a.m. at 330 University Avenue, in the City of Toronto.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR:**

1. An order, if necessary, abridging the time for service of the Notice of Motion and Motion Record herein and dispensing with further service thereof.

2. An order approving the Receiver's activities as described in the Fourth Report of the Receiver dated February 23, 2011 (the "**Fourth Report**") including, without limitation, the steps taken by the Receiver pursuant to the Revised Marketing Process.
3. An order authorizing and directing the Receiver to enter into and carry out the terms of the FCMC Sale Agreement, together with any amendments thereto deemed necessary by the Receiver in its sole opinion and vesting title to that part of the Property comprised by The Benmiller Inn & Spa in and to First Canadian Management Corp. upon closing of the FCMC Sale Agreement.
4. An order that if the FCMC Sale Agreement is terminated in accordance with its terms the Receiver shall be authorized and directed to commence negotiations with any other party or parties identified by the Receiver through the Marketing Process, the Revised Marketing Process or otherwise whereby the Receiver shall sell The Benmiller Inn & Spa to such party or parties, subject to Court approval.
5. An order approving the Receiver's Statement of Receipts and Disbursement for the period from May 26, 2010 to December 31, 2010.
6. An order approving the professional fees and disbursements of the Receiver for the period November 14, 2010 to February 11, 2011, and its independent legal counsel, Thornton Grout Finnigan LLP, for the period from November 1, 2010 to January 31, 2011 and authorizing the Receiver to pay all such fees and disbursements.
7. An order approving the professional fees and disbursements of the Receiver's independent real estate counsel, Torkin Manes LLP, for the period December 1, 2010 to January 31, 2011.
8. An order approving the professional fees and disbursements of Adam Vassos, special counsel to the Receiver in connection with liquor licensing matters, for the period December 1, 2010 to January 26, 2011.
9. Such further and other relief as counsel may advise and this Honourable Court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

1. As set out in the Fourth Report.
2. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. The Fourth Report; and
2. Such further and other material as counsel may advise and this Honourable Court may permit.

February 23, 2011

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**Attention: Vic Gupta**

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**Attention: Vic Gupta**

**THE EQUITABLE TRUST COMPANY**

and

**TUESDAY EQUITIES LTD.**, as General Partner for and on behalf of  
**PRINCE ROYAL LIMITED PARTNERSHIP**

Applicant(s)

Respondent(s)

Court File No.: CV-10-8592-00CL

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

Proceedings commenced at Toronto

**NOTICE OF MOTION**

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# TAB 2

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

BETWEEN:

THE EQUITABLE TRUST COMPANY

Applicant

- and -

TUESDAY EQUITIES LTD. as General Partner for and on behalf of  
PRINCE ROYAL LIMITED PARTNERSHIP

Respondent

FOURTH REPORT OF THE RECEIVER  
DATED FEBRUARY 23, 2011

**INTRODUCTION**

1. By Order of the Ontario Superior Court of Justice (the "Court") dated May 26, 2010 (the "Appointment Order"), Deloitte & Touche Inc. ("Deloitte") was appointed as the receiver and manager (the "Receiver") of all of the assets, undertakings and properties of Tuesday Equities Ltd. and Prince Royal Limited Partnership (together, the "Debtors") acquired for, or used in relation to the following businesses carried on by the Debtors, including all proceeds thereof: (i) The Benmiller Inn & Spa; (ii) The Elora Mill Inn; and (iii) the Hidden Valley Resort (collectively, the "Property"). A copy of the Appointment Order is attached hereto as Exhibit "A".
2. The Appointment Order authorized the Receiver to, among other things, take possession of, and exercise control over the Property and any and all proceeds, receipts and disbursements, arising out of, or from, the Property. In addition, the Receiver was authorized to sell, convey, transfer, lease or assign the Property or any part thereof out of the ordinary course:
  - (a) without the approval of the Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and

- (b) with the approval of the Court in respect of any transaction exceeding \$100,000 or exceeding \$250,000 in the aggregate.
3. On June 11, 2010, the Receiver issued its First Report to the Court (the "**First Report**") for the purpose of, *inter alia*, seeking an order of the Court approving the marketing plan proposed by the Receiver for the sale of the Property. By order of the Court dated June 17, 2010 (the "**Marketing Order**"), the Receiver's plan for marketing the Property as set out in the First Report (the "**Marketing Process**") was approved.
  4. On August 19, 2010, the Receiver issued its Second Report to the Court (the "**Second Report**") for the purpose of, *inter alia*, seeking an order of the Court approving an agreement of purchase and sale in connection with The Elora Mill Inn and seeking an order of the Court approving the revised marketing plan proposed by the Receiver for the sale of the remaining Property comprised of Hidden Valley Resort and The Benmiller Inn & Spa. By Order of the Court dated August 25, 2010 (the "**Revised Marketing Process Order**"), the Receiver's revised marketing plan as set out in the Second Report (the "**Revised Marketing Process**") was approved. A copy of the Revised Marketing Process Order is attached hereto as Exhibit "**B**".
  5. Pursuant to a second Order of the Court dated August 25, 2010 (the "**Elora Approval and Vesting Order**"), the Court approved the Agreement of Purchase and Sale between the Receiver and Pearle Hospitality Inc. ("**Pearle**") dated as of August 19, 2010 (the "**Pearle Sale Agreement**") and vested in Pearle all of the Debtors' and the Receiver's right, title and interest, if any, in and to that part of the Property comprised by The Elora Mill Inn upon closing of that transaction.
  6. On December 17, 2010, the Receiver issued its Third Report to the Court (the "**Third Report**") for the purpose of, *inter alia*, seeking an order of the Court approving an agreement of purchase and sale in connection with Hidden Valley Resort and seeking an order of the Court approving the activities of the Receiver as described in the Third Report including, without limitation, the steps taken by the Receiver pursuant to the Revised Marketing Process, authorizing and directing the Receiver to continue to offer The Benmiller Inn & Spa for sale pursuant to the Revised Marketing Process, approving certain professional fees and disbursements of the Receiver and its independent legal counsel, and approving the Receiver's statement of receipts and disbursements.
  7. Pursuant to the Order of the Court dated December 30, 2010 (the "**Hidden Valley Approval and Vesting Order**"), the Court approved the Agreement of Purchase and Sale between the Receiver

and Paul D. Rice, in trust for a corporation to be incorporated under the laws of the Province of Ontario (“Rice”), dated October 13, 2010 and as amended by the amending agreement dated November 30, 2010 (together, the “**Rice Sale Agreement**”), and vested in Rice all of the Debtors’ and the Receiver’s right, title and interest, if any, in and to that part of the Property comprised by Hidden Valley Resort upon closing of that transaction.

8. The Appointment Order, together with related Court documents and additional Orders, the previous reports of the Receiver (the “**Previous Reports**”) and the Notice to Creditors have been posted on the Receiver’s website at [http://www.deloitte.com/view/en\\_CA/ca/specialsections/insolvencyandstructuringproceedings/TuesdayEquities-PrinceRoyal/index.htm](http://www.deloitte.com/view/en_CA/ca/specialsections/insolvencyandstructuringproceedings/TuesdayEquities-PrinceRoyal/index.htm).

9. The purpose of this fourth report of the Receiver (the “**Fourth Report**”) is to:

- (a) report on the results of the operations of Hidden Valley Resort for the receivership period commencing on May 26, 2010 (the date of the appointment of the Receiver) and to provide an update to the Court regarding the closing of the sale of Hidden Valley Resort to Rice pursuant to the Rice Sale Agreement;
- (b) report on the results of the operations of The Benmiller Inn & Spa for the receivership period commencing on May 26, 2010 (the date of the appointment of the Receiver) to December 31, 2010;
- (c) provide a summary of the Revised Marketing Process and all other marketing activities undertaken by the Receiver with respect to the Property comprised by The Benmiller Inn & Spa since the Third Report;
- (d) provide the Court with the evidentiary basis to make an Order:
  - (i) authorizing and directing the Receiver to enter into and carry out the terms of the agreement of purchase and sale between the Receiver and First Canadian Management Corp. (“**FCMC**”) dated January 24, 2011 (the “**FCMC Sale Agreement**”) together with any further amendments thereto deemed necessary by the Receiver in its sole opinion, and vesting title to that part of the Property comprised by The Benmiller Inn & Spa in and to FCMC upon closing of the FCMC Sale Agreement;
  - (ii) if the FCMC Sale Agreement is terminated in accordance with its terms, authorizing and directing the Receiver to commence negotiations with any other



- party or parties identified by the Receiver through the Marketing Process, the Revised Marketing Process or otherwise for the sale of The Benmiller Inn & Spa to such party or parties, subject to Court approval;
- (iii) approving the activities of the Receiver as described in the Fourth Report including, without limitation, the steps taken by the Receiver pursuant to the Revised Marketing Process;
  - (iv) approving the professional fees and disbursements of the Receiver for the period November 14, 2010 to February 11, 2011, and its independent legal counsel, Thornton Grout Finnigan LLP (“TGF”), for the period from November 1, 2010 to January 31, 2011;
  - (v) approving the professional fees and disbursements of the Receiver’s independent real estate counsel, Torkin Manes LLP, for the period December 1, 2010 to January 31, 2011;
  - (vi) approving the professional fees and disbursements of Adam Vassos, special counsel to the Receiver in connection with liquor licensing matters, for the period December 1, 2010 to January 26, 2011; and
  - (vii) approving the Receiver’s Statement of Receipts and Disbursements for the period from May 26, 2010 to December 31, 2010.

#### **TERMS OF REFERENCE**

10. In preparing the Fourth Report and making the comments contained herein, Deloitte has been provided with and has relied upon unaudited financial information, the Debtors’ books and records, financial information prepared by the Debtors and their advisors, including Crescent Hotels and Resorts Canada Company (“Crescent”), the independent property manager engaged by the Debtors, and discussions with management of the Debtors. Deloitte has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information and, accordingly, Deloitte expresses no opinion or other form of assurance on the information contained in the Fourth Report.
11. Unless otherwise stated, all dollar amounts contained in the Fourth Report are expressed in Canadian dollars.

12. The Benmiller Inn & Spa, The Elora Mill Inn and Hidden Valley Resort are collectively referred to herein as the "Hotels" and each a "Hotel". Unless otherwise provided, all other capitalized terms not otherwise defined in this Fourth Report are as defined in the Previous Reports or the Appointment Order.

## **BACKGROUND**

13. The Receiver has only been appointed over the Property, which is all located in the Province of Ontario.

### *The Benmiller Inn & Spa*

14. The Benmiller Inn & Spa is an historic country inn located in Goderich, Ontario. The Benmiller Inn & Spa consists of 6 main buildings, with 57 guest rooms, food and beverage services that include a 125 seat dining room, 80 seat seasonal patio and 33 seat lounge, 4 meeting rooms, a full service spa and various recreational amenities including an indoor pool, outdoor tennis courts and access to walking/cross-country skiing trails. The Benmiller Inn & Spa also includes a decommissioned turbine generator that has not been operational for the past seven years. As at December 31, 2010, the Debtors employed approximately 44 active employees at The Benmiller Inn & Spa.

### *The Elora Mill Inn*

15. The Elora Mill Inn is located in the village of Elora, Ontario. The Elora Mill Inn is a designated historical building consisting of four main buildings with 32 guest rooms and suites, food and beverage service that includes a 70 seat restaurant, 60 seat lounge and a 16 seat enclosed patio overlooking the Elora Gorge, meeting space comprised of a 1,886 square foot main function room, 594 square foot smaller meeting room, a 583 square foot tea room as well as 528 square feet in the James Ross House. The Elora Mill Inn also includes a non-utility generator that provides electricity to the local power grid. The Debtors employed approximately 55 employees at The Elora Mill Inn until its temporary closure on October 31, 2010.
16. As described in the Third Report, the transaction under the Pearle Sale Agreement closed on November 30, 2010. The Receiver has filed its Certificate with the Court confirming closing of the transaction. In accordance with the terms of the Elora Approval & Vesting Order, the

Receiver holds the proceeds under the Pearle Sale Agreement in place and stead of that part of the Property comprised by The Elora Mill Inn.

*Hidden Valley Resort*

17. The Hidden Valley Resort is located in Huntsville, Ontario on approximately 6 acres of land with waterfront access to Peninsula Lake, directly across from the Hidden Valley Highlands Ski Hill. The resort consists of 94 guest rooms, 2 hospitality suites, a 220 seat restaurant with an adjacent lounge and licensed outdoor patio overlooking Peninsula Lake, meeting space comprised of 2,223 square foot and 2,108 square foot function rooms, as well as indoor and outdoor pools, fitness room, sauna and tennis courts. As at December 31, 2010, the Debtors employed approximately 51 employees at Hidden Valley Resort.
18. As described further in this report, the transaction contemplated by the Rice Sale Agreement closed on January 28, 2011 and the Receiver has filed its Certificate with the Court confirming closing of the transaction.

**UPDATE ON OPERATIONS**

19. Prior to the appointment of the Receiver, the Hotels were managed by Crescent. Crescent is continuing as manager of The Benmiller Inn & Spa, but, as described below, has been terminated as manager of The Elora Mill Inn and Hidden Valley Resort.

*The Benmiller Inn & Spa*

20. Operations have been stabilized and maintained in the normal course at The Benmiller Inn & Spa since the date of the Appointment Order.
21. Consistent with previous years, certain buildings at The Benmiller Inn & Spa were idled after October 31, 2010 to reflect the reduced occupancy levels in the winter months. Additional units are reopened periodically to accommodate instances of increased demand. Crescent and local management (collectively, "Benmiller Management") have attempted to implement additional cost cutting initiatives to better manage cash flow during the current winter period.

*Hidden Valley Resort*

22. Operations were stabilized and maintained in the normal course at Hidden Valley Resort since the date of the Appointment Order.
23. The Receiver took steps to ensure an orderly transition of operations at Hidden Valley Resort to Rice. The Receiver worked with Crescent and local management (collectively, “**Hidden Valley Management**”) to arrange in respect of the receivership period payment of known accounts payable, the collection of outstanding accounts receivable, and finalizing matters relating to payroll.
24. The Receiver notified the employees of the Debtors employed at Hidden Valley Resort that their employment by the Debtors would be terminated effective January 27, 2011. The Receiver has arranged for the issuance of records of employment and funded the payment of the final payroll including outstanding vacation pay. The Receiver has facilitated the preparation and delivery of T4 slips through the existing third party payroll service provider. Rice informed the Receiver that all active employees, except for two members of local management, have been offered employment.
25. The Debtors did not hold in a segregated account the deposits paid to the Debtors by the various event patrons (the “**Event Patrons**”) prior to the Receiver’s appointment. Any deposits with respect to sales event contracts that were collected subsequent to the date of the Appointment Order were maintained in a trust account of the Receiver (the “**Event Trust Funds**”). As part of the Rice Sale Agreement, the future sales event contracts, including those entered into before and after the date of the Appointment Order, and the remaining Event Trust Funds, have been assigned to Rice. The Receiver has notified the Event Patrons of the sale of Hidden Valley Resort and that their contracts have been assigned to Rice. With respect to outstanding room deposits that were collected by the Receiver subsequent to the date of the Appointment Order, these amounts were also assigned to Rice who has undertaken to honour such future obligations.
26. Rice did not wish to take an assignment of the hotel management agreement with respect to Hidden Valley Resort with Crescent. Accordingly, the Receiver terminated Crescent’s engagement as manager of Hidden Valley Resort effective as at the close of business on January 27, 2011.

#### UPDATE ON THE SALE OF HIDDEN VALLEY RESORT

27. As described in the Third Report, Rice submitted an offer to purchase the Hidden Valley Resort which culminated in the execution of the Rice Sale Agreement.
28. The Rice Sale Agreement was conditional on, among other things, this Court granting the Hidden Valley Approval and Vesting Order, and the issuance of a new liquor licence to the purchaser by the Alcohol and Gaming Commission of Ontario. This licence was issued on January 26, 2011 and the transaction under the Rice Sale Agreement closed on January 28, 2011. The Receiver has filed its Receiver's Certificate with the Court confirming the closing of the transaction. In accordance with the terms of the Hidden Valley Approval & Vesting Order, the Receiver holds the proceeds under the Rice Sale Agreement in place and stead of that part of the Property comprised by Hidden Valley Resort.

#### UPDATE ON THE RECEIVER'S REVISED MARKETING ACTIVITIES

29. In accordance with the Revised Marketing Process Order, the Receiver has carried out the Revised Marketing Process with respect to The Benmiller Inn & Spa. The Receiver, with the assistance of CB Richard Ellis Canada ("CBRE"), took the following steps, all with a view to generating further interest in this remaining Hotel:
  - (a) the Receiver continued to offer The Benmiller Inn & Spa for sale, subject to the Revised Conditions of Sale approved pursuant to the Revised Marketing Process Order, all as more particularly described in the Second Report and the Third Report. As authorized by the Revised Marketing Process Order, rather than pursuing a second formal tender process, the Receiver reserved its right to negotiate with any party to purchase this Hotel and to accept an offer or offers to purchase this Hotel at any time. In support of this process, the Receiver continued the MLS listing with respect to The Benmiller Inn & Spa with a reduced listing price;
  - (b) in order to enhance the opportunity, the Receiver and CBRE developed with The Equitable Trust Company ("Equitable") the terms of potential financing to be made available by Equitable to purchase the remaining Hotels, subject to its usual underwriting criteria;
  - (c) CBRE contacted those parties which had expressed the greatest interest during the Marketing Process in purchasing the remaining Hotel. CBRE advised these parties of the

- available purchase financing from Equitable and attempted to solicit offers to purchase this Hotel on terms acceptable to the Receiver;
- (d) in November, 2010, CBRE distributed another flyer with respect to The Benmiller Inn & Spa, which reflected the reduced selling price and potential purchase financing, to approximately 1,000 potential purchasers;
  - (e) the Receiver and CBRE provided potential purchasers who signed a confidentiality agreement with access to the password protected electronic data room, additional requested information, tours of the Hotel and access to management, as required;
  - (f) a total of 33 interested parties signed confidentiality agreements with respect to The Benmiller Inn & Spa, all of which were given access to the CBRE data room;
  - (g) there were 8 interested parties who attended at The Benmiller Inn & Spa to inspect the property and to carry out further due diligence;
  - (h) the Receiver assisted in responding to inquiries from prospective purchasers throughout the Revised Marketing Process;
  - (i) received two written offers and two verbal offers for the property (including the offer from FCMC);
  - (j) the Receiver liaised with and received reporting from CBRE with respect to the Revised Marketing Process; and
  - (k) the Receiver provided periodic reporting to Equitable regarding the status of the Revised Marketing Process.

*Sale of The Benmiller Inn & Spa*

- 30. Pursuant to the Revised Marketing Process, FCMC submitted an offer to purchase The Benmiller Inn & Spa. Negotiations between the Receiver, FCMC and Equitable, culminated in the FCMC Sale Agreement in January, 2011, attached hereto as Exhibit "C". In accordance with the FCMC Sale Agreement, a deposit of 15% of the purchase price was paid to the Receiver.
- 31. On February 4, 2011, the Receiver's legal counsel was informed by FCMC's legal counsel that the Title Diligence condition in the FCMC Sale Agreement was waived.
- 32. Although a closing date has not been established, the outside date for closing is March 21, 2011, subject to Court approval and FCMC obtaining a new liquor license for The Benmiller Inn & Spa.

33. The Receiver recommends that the Court authorize and direct the Receiver to enter into and to carry out the terms of the FCMC Sale Agreement for the following reasons:
- (a) the Marketing Process and Revised Marketing Process conducted by the Receiver and CBRE resulted in both broad and thorough, as well as targeted, exposure of The Benmiller Inn & Spa to the marketplace;
  - (b) the FCMC Sale Agreement contains no material amendments to the form of template sale agreement prepared by the Receiver;
  - (c) following consultation with CBRE, the Receiver has concluded that it is unlikely that it could obtain a superior offer for The Benmiller Inn & Spa if the Court does not approve the FCMC Sale Agreement and the Receiver continues to canvass the market;
  - (d) the other offers received by the Receiver were conditional, did not follow the template form of offer and were inferior in price as compared to the offer from FCMC;
  - (e) the Benmiller Inn & Spa is the last remaining operating asset in the receivership and would permit the Receiver to seek Court approval of a distribution and discharge; and
  - (f) Equitable supports the Receiver's recommendation that it be authorized and directed to enter into the FCMC Sale Agreement.
34. In the event that the FCMC Sale Agreement is terminated in accordance with its terms, the Receiver recommends that it be authorized to commence negotiations with any other party or parties identified by the Receiver through the Marketing Process, the Revised Marketing Process or otherwise whereby the Receiver would sell The Benmiller Inn & Spa to such party or parties, subject to Court approval.

#### **STATEMENT OF RECEIPTS AND DISBURSEMENTS**

35. Attached as Exhibit "D" is the Combined Statement of Receipts and Disbursements for the period May 26, 2010 to December 31, 2010 (the "Receivership Period"). As at December 31, 2010, the closing cash balance was approximately \$2,100,000.
36. Including the proceeds from the sale of The Elora Mill Inn pursuant to the Pearle Sale Agreement, the deposit from the Rice Sale Agreement, and opening cash on hand, net of operating disbursements and professional fees, the Receiver has a surplus of receipts over disbursements of \$2,141,000 as at December 31, 2010. No distributions have been made from the receivership estate to date.

37. The balance of the proceeds for the sale of Hidden Valley Resort in connection with the Rice Sale Agreement was collected on January 31, 2011.
38. Also included in the cumulative surplus as at December 31, 2010 is approximately \$34,000 representing deposits received by the Receiver and held in trust pending the delivery of contracted future events at Hidden Valley Resort and The Benmiller Inn & Spa. As set out earlier in this report, all contracted future events at Hidden Valley Resort and all deposits with respect thereto were assigned to Rice.
39. Operating cash disbursements for the Receivership Period to December 31, 2010 were \$4,600,000 and composed of payroll costs (\$2,000,000), food and beverage costs (\$734,000), GST/PST/HST remittances (\$548,000), utility costs (\$287,000), property taxes (\$212,000), property management fees (\$183,000), and room and hotel supplies (\$103,000). Included in these total operating cash disbursements are payments of pre-receivership liabilities with respect to payroll totalling \$165,000 for the period May 9, 2010 to May 25, 2010 paid as scheduled on May 28, 2010 and June 11, 2010. Also, approximately \$37,000 was paid to Crescent with respect to out-of-pocket costs incurred prior to the date of the Appointment Order. Deposits made by patrons prior to the date of the Appointment Order with respect to events delivered during the Receivership Period have been honoured, which has reduced cash realizations from these services.

#### **OTHER ACTIVITIES OF THE RECEIVER**

40. In addition to the Receiver's marketing activities with respect to the Hotels and other activities as described above, the Receiver has also carried out the following activities subsequent to the issuance of the Revised Marketing Process Order:
  - (a) continued supervision and funding of the Hotels under the management of Crescent;
  - (b) continued collection of post-receivership accounts receivable owing to the Hotels;
  - (c) negotiated the terms and supervised the delivery of events, banquets and other functions at the Hotels;
  - (d) engaged employees for and in the name of the Debtors as required for the continued operation of the Hotels;
  - (e) authorized and funded necessary repairs and maintenance to the Hotels;



- (f) arranged with Crescent to renew appropriate insurance coverage in respect of the Property; and
- (g) facilitated provision of access and information requests to prospective purchasers.

#### PROFESSIONAL FEES

41. The Receiver, TGF, Torkin Manes LLP and Mr. Adam Vassos have maintained detailed records of their professional time and costs since the issuance of the Appointment Order. Pursuant to paragraph 18 of the Appointment Order, the Receiver and its legal counsel were directed to pass their accounts from time to time before this Honourable Court. Pursuant to the Order of the Court dated December 30, 2010, the fees and disbursements of the Receiver to November 12, 2010, TGF to October 31, 2010, Torkin Manes LLP to November 30, 2010, and Mr. Vassos to November 30, 2010, were authorized and approved.
42. The total fees of the Receiver during the period from November 14, 2010 to February 11, 2011, amount to \$301,215.00, together with expenses and disbursements in the sum of \$719.83 and harmonized sales tax (“HST”) in the amount of \$39,251.52, totalling \$341,186.35 (the “Receiver’s Fees”). The time spent by the Receiver is more particularly described in the Affidavit of Paul Casey of Deloitte & Touche Inc., sworn February 23, 2011 (the “Casey Affidavit”) in support hereof and attached hereto as Exhibit “E”.
43. The total legal fees incurred by the Receiver during the period November 1, 2010 to January 31, 2011, for services provided by TGF as the Receiver’s independent legal counsel amount to \$81,697.50, together with disbursements in the sum of \$2,688.48 and HST in the amount of \$10,953.68, totalling \$95,339.66. The time spent by TGF personnel is more particularly described in the Affidavit of Seema Aggarwal, an associate of TGF, sworn February 23, 2011 (the “Aggarwal Affidavit”) in support hereof and attached hereto as Exhibit “F”.
44. The total legal fees incurred by the Receiver during the period December 1, 2010 to January 31, 2011, for services provided by Torkin Manes LLP as the Receiver’s independent legal counsel amount to \$30,174.50, together with disbursements in the sum of \$1,397.78 and HST in the amount of \$4,037.84, totalling \$35,610.12. The time spent by Torkin Manes LLP personnel is more particularly described in the Affidavit of Leonard Rodness, a partner of Torkin Manes LLP, sworn February 8, 2011 (the “Rodness Affidavit”) in support hereof and attached hereto as Exhibit “G”.

45. The total legal fees incurred by the Receiver during the period December 1, 2010 to January 26, 2011, for services provided by Mr. Vassos as the Receiver's independent legal counsel amount to \$9,000.00, together with HST in the amount of \$1,170.00, totalling \$10,170.00. The time spent by Mr. Vassos is more particularly described in the Affidavit of Adam Vassos, sworn February 17, 2011 (the "Vassos Affidavit") in support hereof and attached hereto as Exhibit "H".
46. In accordance with paragraph 19 of the Appointment Order, the Receiver has periodically paid fees and disbursements incurred by the Receiver, TGF, Torkin Manes LLP and Mr. Vassos subject to approval of such accounts by Equitable and the Court.

#### RECEIVER'S RECOMMENDATIONS


47. For the reasons set out above, the Receiver recommends that the Court make an Order:
  - (a) approving the activities of the Receiver as described in the Fourth Report including, without limitation, the steps taken by the Receiver pursuant to the Revised Marketing Process;
  - (b) authorizing and directing the Receiver to enter into and carry out the terms of the FCMC Sale Agreement, together with any amendments thereto deemed necessary by the Receiver in its sole opinion and vesting title to that part of the Property comprised by The Benmiller Inn & Spa in and to FCMC upon closing of the FCMC Sale Agreement;
  - (c) if the FCMC Sale Agreement is terminated in accordance with its terms, authorizing and directing the Receiver to commence negotiations with any other party or parties identified by the Receiver through the Marketing Process, the Revised Marketing Process or otherwise whereby the Receiver would sell The Benmiller Inn & Spa to such party or parties, subject to Court approval;
  - (d) approving the Receiver's Statement of Receipts and Disbursements for the period from May 26, 2010 to December 31, 2010; and
  - (e) approving the professional fees and disbursements of the Receiver and its independent legal counsel set out herein and authorizing the Receiver to pay all such fees and disbursements.

All of which is respectfully submitted at Toronto, Ontario this 23rd day of February, 2011.

**Deloitte & Touche Inc.**

solely in its capacity as the Court-appointed receiver and manager of the Property (as defined herein) of Tuesday Equities Ltd. and Prince Royal Limited Partnership and without personal or corporate liability

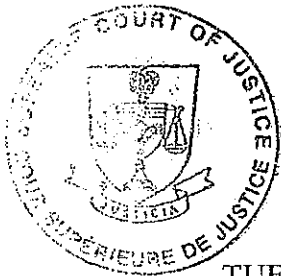
Per:

  
\_\_\_\_\_  
Paul Casey, CA-CIRP  
Senior Vice-President

# TAB A

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE MR. )  
 )  
 )  
JUSTICE CUMMING ) WEDNESDAY, THE 26<sup>TH</sup> DAY  
 )  
 ) OF MAY, 2010



THE EQUITABLE TRUST COMPANY

Applicant

- and -

TUESDAY EQUITIES LTD. as General Partner for and on behalf of  
PRINCE ROYAL LIMITED PARTNERSHIP

Respondent

ORDER

THIS Application made by the Applicant for an Order pursuant to section 243(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 as receiver and manager (in such capacities, the "Receiver") without security, of certain assets, undertakings and properties of Tuesday Equities Ltd. and Prince Royal Limited Partnership (the "Debtors") acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Andrew Moor sworn February 18, 2010 and the Exhibits thereto, the supplemental affidavit of Andrew Moor sworn May 14, 2010 and the Exhibits thereto, and on hearing the submissions of counsel for The Equitable Trust

Company, the Receiver, a representative of Ballycurkeen Investment Corp., and on reading the consent of Deloitte & Touche Inc. to act as the Receiver,

### SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

### APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, Deloitte & Touche Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties (including, without limitation, the real property as set out in the legal descriptions attached at Schedule "B") of the Debtors acquired for, or used in relation to the following businesses carried on by the Debtors, including all proceeds thereof: (1) The Benmiller Inn & Spa, (2) The Elora Mill Inn and (3) the Hidden Valley Resort (collectively, the "Property").

### RECEIVER'S POWERS

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, including but not limited to the bank accounts associated with the Property, which are with the Royal Bank of

Canada in the name of Shaner Solutions, LP, 1965 Waddle Road,  
State College, PA, USA 16803;

- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtors with respect to the Property, including the powers to enter into any agreements, incur and pay any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors in respect of the Property;
- (d) to pay any obligations of the Debtors in respect of trade creditors in existence as at the date of this order;
- (e) to honour the pre-Receivership deposits of customers of the Debtors for room, event and restaurant reservations;
- (f) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons (including, without limitation, affiliates of the Receiver) from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (g) without limiting the forgoing, to continue the engagement of Crescent Hotels and Resorts Canada (the "Management Company") by the Debtors under the agreement between the

Debtors and the Management Company ("Management Agreement") and to make payments, as required, under the Management Agreement, provided that the Receiver shall not incur or assume any liability under the Management Agreement by making any such payments. The Receiver shall not be deemed to have adopted or otherwise become a party to the Management Agreement or any other agreement to which the Debtors are a party unless the Receiver agrees by written notice to all parties to such agreement to adopt or become a party to such agreement;

- (h) in the alternative to subparagraph (g), to enter into a new agreement with the Management Company to continue the management of the Property, or such other hotel management company as it sees fit;
- (i) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (j) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors with respect to the Property and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (k) to settle, extend or compromise any indebtedness owing to the Debtors in respect of the Property;
- (l) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or



in the name and on behalf of the Debtors, for any purpose pursuant to this Order;

- (m) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;
- (n) 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 in relation to the Property, 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;
- (o) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (p) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000.00, provided that the aggregate consideration for all such transactions does not exceed \$250,000.00; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act* shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.

- (q) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (r) 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;
- (s) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (t) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (u) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (v) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have; and

- (w) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

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 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 Property, 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 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 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 the Property 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 this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtors to carry on any business which 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 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, 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 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, food and beverage services, laundry services, security, internet services, utility or other services to the Debtors 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 in respect of the Property, 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 Debtors 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 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 Debtors' behalf, may terminate the employment of such employees. In this regard, the Receiver may confirm the continuation of the employment by the Debtors of any of their employees pursuant to a letter from the Receiver on behalf of the Debtors. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

#### PIPEDA

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 prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property 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, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. 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 the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, as well as for any expenditures or liabilities properly made or incurred by the Receiver, and that the Receiver's Charge 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, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.



18. THIS COURT ORDERS that 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.

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.

#### FUNDING OF THE RECEIVERSHIP

20. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

21. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

22. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

23. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### GENERAL

24. 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.

25. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtors.

26. 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 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.

27. 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, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

28. THIS COURT ORDERS that the Applicant, the Receiver, and 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 practicable, and the Receiver may post a copy of any or all such materials on its website.

29. 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.

30. 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.

May 26, 2010 Peter A. Cumming J.

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

MAY 26 2010

PER / PAR:

*JN*

Joanne Nicoara  
Registrar, Superior Court of Justice

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$\_\_\_\_\_

31. THIS IS TO CERTIFY that Deloitte & Touche Inc., the receiver and manager (the "Receiver") of assets, undertakings and properties of Tuesday Equities Ltd. and Prince Royal Limited Partnership (the "Debtors") acquired for, or used in relation to the following businesses carried on by the Debtors, including all proceeds thereof (the "Property"): (1) The Benmiller Inn & Spa, (2) The Elora Mill Inn and (3) the Hidden Valley Resort, appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the 26<sup>TH</sup> day of May, 2010 (the "Order") made in an action having Court file number CV-10-8592-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$250,000.00 which the Receiver is authorized to borrow under and pursuant to the Order.

32. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the 1st day of each month after the date hereof at a notional rate per annum equal to the rate of 4.65 per cent above the prime commercial lending rate of The Equitable Trust Company from time to time.

33. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.