

Wallace
 Meschishnick
 Clackson
 Zawada

Memorandum to Court Runner



Client: PricewaterhouseCoopers Re: Cava	Q.B. No. 721 of 2012
Lawyer: Devin Dubois	Our File No.: 8298-16779
Return to: Karina, 659-1223	Date: May 16, 2012

COURT OF QUEEN'S BENCH

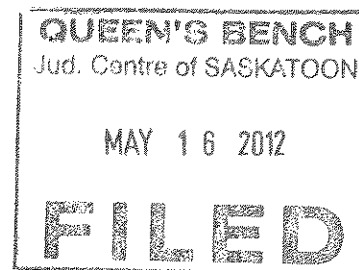
FILE	ISSUE	DOCUMENT
<input type="checkbox"/>	<input type="checkbox"/>	Statement of Claim
<input type="checkbox"/>		Statement of Defence
<input type="checkbox"/>		Acknowledgement of Service or Affidavit of Service
<input type="checkbox"/>		Memorandum to the Judge
<input type="checkbox"/>		Notice of Motion
<input type="checkbox"/>		Affidavit
<input type="checkbox"/>	<input type="checkbox"/>	Order
<input type="checkbox"/>	<input type="checkbox"/>	Judgment, Writ of Execution, Praecipe for Writ
<input type="checkbox"/>	<input type="checkbox"/>	Garnishee Summons; Affidavit for Garnishee Summons
<input type="checkbox"/>		Pre-Trial Conference Brief
<input type="checkbox"/>	<input type="checkbox"/>	Subpoena, Praecipe for Subpoena
<input type="checkbox"/>		Minutes of Settlement
<input checked="" type="checkbox"/>		First Report of the Interim Receiver
<input type="checkbox"/>		
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<input type="checkbox"/>	NOTE MATTER FOR DEFAULT	

Date: _____ Court Runner: _____

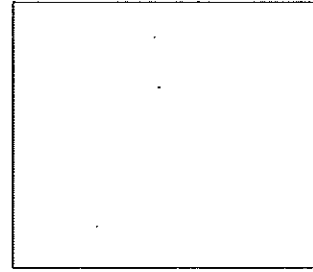
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Suite 901
 119 - 4th Ave. S.
 Saskatoon SK
 S7K 5X2

Ph: (306) 933-0004
 Fax: (306) 933-2006
 info@wmcz.com
 www.wmcz.com



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Court File Number Q.B. No. 721 of 2012

Court COURT OF QUEEN'S BENCH OF SASKATCHEWAN

Judicial Centre SASKATOON

Plaintiff THE TORONTO-DOMINION BANK

Defendants 101142701 SASKATCHEWAN LTD. AND CAVA
SECRETATA WINES AND SPIRITS LIMITED

Document FIRST REPORT OF PRICEWATERHOUSECOOPERS
INC. in its capacity as Interim Receiver of 101142701
Saskatchewan Ltd. and Cava Secreta Wines and Spirits Ltd.
dated May 16, 2012

Address for Service and
Contact Information of
Party Filing this Document:

WMCZ LAWYERS
901, 119 - 4TH Ave S.
Saskatoon, Sask. S7K 5X2

Attention: Gary Mescishnick, Q.C.
Telephone: (306) 659-1226
Facsimile: (306) 933-2006

INTRODUCTION

1. This report (the "First Report") is filed by PricewaterhouseCoopers Inc. ("PwC"), in its capacity as interim receiver (the "Receiver") of all of the assets, undertakings and properties of 101142701 Saskatchewan Ltd. ("1011") and Cava Secreta Wines and Spirits Ltd. ("Secreta"), (collectively "Cava" or the "Companies").
2. The Receiver was appointed by an Order granted by the Court of Queen's Bench of Saskatchewan (the "Court") on May 8, 2012 ("Interim Receivership Order").
3. In preparing this First Report, the Receiver has relied upon unaudited financial information, the Companies' records and information obtained from the Companies. Other than conducting a physical count of the inventories found at the Cava locations identified below, the Receiver has not performed an audit, review or other verification of such information. The Receiver does not express an opinion on the financial information contained herein.
4. The purpose of this report is to provide the Court with an update on the activities of the Receiver and:
 - (a) Its findings, to date, regarding the state of the Companies' financial situation and, in particular the Companies' inventories;
 - (b) The nature of potential claims against the assets of the Companies and, in particular, the inventories, that have come to the attention of the Receiver;
 - (c) To seek advice and directions as to any further action to be taken with respect to the assets of the Companies and a determination of the potential claims against those assets.

INITIAL ACTIVITIES OF THE RECEIVER

5. Upon appointment, the Receiver learned that all employees had received layoff notices and that the business operations had concluded on Wednesday, May 2, 2012. Thus far, the Receiver has not determined the quantum of outstanding wages, vacation pay and severance pay.
6. The Receiver immediately moved to secure the assets of the Companies. The locations identified to the Receiver included the following:

- (i) 1011 retail location reported to contain assets and inventory owned by both Companies and located at 110 – 19th St. W., Saskatoon, Sask.
 - (ii) 1011 warehouse reported to contain assets and inventory owned by both Companies and located at Bay 5, 2510 Jasper Ave., Saskatoon, Sask.
 - (iii) Secreta retail location reported to contain the assets of Cava Secreta Wines and Spirits Ltd. o/a Cava Cuisine Market Store located in the Saskatoon Farmer's Market, Saskatoon, Sask.
 - (iv) Secreta retail location reported to contain the assets of Cava Secreta Wines and Spirits Ltd. o/a Cava Cuisine located in the Ideas Inc. building, located at 103 – 120 Sonnenschein Way., Saskatoon, Sask.
7. The Receiver subsequently engaged an independent third party, WIS International Ltd. ("WIS") to inventory all assets of the Companies.
 8. The Receiver arranged for the continuation of insurance over the assets.
 9. The Receiver arranged for security on a continuous, around-the-clock basis.
 10. The Receiver has received a number of requests to release inventory and assets claimed by third parties as being owned by them. A copy of the reply that was sent to those parties is found at Schedule "A" to this report.
 11. PwC arranged for Canada Revenue Agency ("CRA") to conduct an audit of payroll records as well as Goods and Service Tax. CRA has provided a letter advising the outstanding employee withholdings are \$11,074 for 1011 and \$8,114 for Secreta. To date a copy of CRA's report with respect to GST has not been made available to the Receiver.
 12. PwC also arranged for Saskatchewan Finance to conduct an audit of Saskatchewan Liquor Consumption Tax. A copy of this report has not been made available to the Receiver to date.
 13. We arranged to freeze the Companies bank accounts and we are currently arranging the transfer of funds to accounts of the Receiver. To the best of our knowledge the accounts of 1011 and Secreta at TD Bank had no balance. Secreta had two accounts at HSBC, a Canadian account was overdrawn and a US Dollar account had a balance of less than \$5.
 14. We were advised that certain financial records and computers belonging to the Companies or used in the Companies business had been previously removed from the premises located at 110 – 19th St. W., Saskatoon, Sask. or were not available for review. Arrangements were made to have the financial records and computers owned by the Companies returned on Friday, May 11, 2012. Computers used in the Companies business have been made available. We have

also requested the computer and any records held by Mr. Cameron Rizzos; however we have not received this computer or information to date.

15. The Receiver reviewed the Companies' financial records to create a list of accounts receivable and accounts payable. The Receiver has also contacted the Companies' external accountant who has provided certain accounting records and has agreed to provide information he has on hand as the Receiver requests.
16. Our review of the financial records indicates they were not current. As a result the Receiver has not as of the date of this report been in a position to send the notice required by paragraph 30 of the Interim Receivership Order. Since this notice has not been sent no demands for notice have been received and no service list has been created. The Report has been served on those on the service list attached to the Notice of Motion requesting the appointment of the Receiver and those appearing on the return date of that motion.
17. The Receiver has reviewed the Companies' records and documentation pertaining to "wine futures" and has met with certain individuals purporting to have an interest in wine futures. To this date, the Receiver has not been able to completely quantify the issues surrounding wine futures, and will require further information in order to provide an informed report regarding this item.

INVENTORY VALUATION AND PROPOSED MARKETING

18. As noted above, the Receiver arranged for custody and the control of the inventory. Included in this work was a detailed inventory count by WIS. A summary of the WIS report is as follows:
 - (i) Wine inventory ("Wine"), either situated at the retail location or the warehouse, has an estimated cost value based on current Saskatchewan Liquor and Gaming Authority ("SLGA") Vendor Cost List at \$445,249.
 - (ii) Whole goods inventory ("Whole Goods"), comprised primarily of kitchen wares and appliances, have an estimated cost value of \$46,387, based on a review of records and discussions with prior employees.
 - (iii) Soft goods inventory ("Soft Goods"), comprised primarily of consumables has an estimated cost value of \$10,163, based on a review of records and discussions with prior employees.
 - (iv) A detailed inventory of furniture, fixtures and equipment ("FF&E") of 1011 and Secreta have been concluded; however FF&E has not been valued at this time.
 - (v) 1011 owned one automobile ("Auto") which has not been valued to date.
 - (vi) Numerous assets which do not appear to be used in the Companies operations, and which appear to be stored for third parties, are stored at the warehouse location.

19. For the purposes of the interim receivership, the Receiver has assumed that the Wine inventory is owned by 1011, the Whole and Soft Goods are owned by Secreta, that each owns a separate list of furniture, fixtures, equipment and that the Auto is owned by 1011. While this ownership appears to be consistent with financial records and financial statements these records are incomplete and are not current. As a result, the Receiver has not yet been able to confirm this ownership. However the Receiver believes we are capable of segregating these assets and identifying the proceeds of their sale should a direction be given on a sale process.

20. In addition to the Wine identified in our count, SLGA has provided a preliminary schedule of product that is paid for and scheduled to be delivered, product that is partially paid for and in the SLGA warehouse as well as period discount credits owing to 1011. These amounts have not been verified by the Receiver. The net amount based on SLGA's information is as follows:

Inventory Value	\$48,689.11
Owing to Cava by SLGA	\$16,309.15
Owing by SLGA to Cava	<u>\$33,649.39</u>
Net Value to Cava	\$31,351.87

21. As identified in paragraph 10, a number of third parties have claimed ownership of inventory. There are a number of issues surrounding both ownership, as well as priority under security agreements or claims of third parties.

22. Certain claims have already been advanced by the parties appearing on the initial application for the appointment of the Receiver. In addition, the Receiver's counsel has identified statutory claims and case law in Saskatchewan such as *Royal Bank v. 216200 Alberta Ltd.*, 1986 CarswellSask 264 (Sask CA) which indicate, that based on information available to the Receiver, the following additional claims may exist against the assets::

- (i) Employees for unpaid wages and severance;
- (ii) Approximately 52 claimants who were members of the "Wine of the Month Club" who prepaid various amounts to buy certain quantities of wine to be delivered during a 12 month period. It appears that most of these claimants received delivery of wine for the months of January to March of 2012 but did not take delivery of wine in April, 2012. It has not yet been ascertained if a specific wine was appropriated for delivery to Wine of the Month Club members for the month of April or for any future months or if those wines are in the existing inventory;
- (iii) Claimants who have advised that 1011 has in its warehouse a stove which is fully paid for and was stored in the 1011 warehouse until the claimants had completed renovations to their residence;

- (iv) Claimants who have advised that they have bought and paid for wine futures or other specific wine product purchased in Europe and the specific wines to be delivered under those arrangements.
- (v) Claimants who purchased and paid for wine that was in inventory prior to May 8 however had not taken delivery of the wine product.

The costs of securing the inventory are reducing the value of the inventory on a daily basis. Accordingly the Receiver seeks further directions as to whether to initiate a process to liquidate the inventory. At the same time, the Receiver seeks further direction on a process to resolve any competing claims to this inventory.

23. The options most likely to receive the highest value for the Wine are:

- (i) A return of eligible product to SLGA at the lower of cost or net realizeable value, less shipping costs;
- (ii) A bulk sale of product by way of tender or alternate means; and
- (iii) A retail sale.

24. Based on our experience in realizing on inventory; we consider the highest and best realization is likely a combination of the three options, with a sales program as follows:

- (i) Conduct a retail sale of the Wine including offering discounts where permitted. The sale process would likely be concluded in less than 14days;
- (ii) Permit bulk sales to restaurants, bars, and others at prevailing prices; and
- (iii) Return any remaining unsold inventory to SLGA, less shipping costs.

25. The Receiver considers that a well advertised retail sale will attract considerable interest from consumers, and may generate revenues of between \$550K and \$725K.

26. We estimate the potential operating costs associated with a two-week liquidation of the retail inventory, exclusive of other typical receivership costs, would be between \$70K and \$90K.

27. We have discussed with SLGA the ability to extend their previous deadline to rescind the liquor license issued to 1011 of May 29, 2012; however at this time we do not have their approval to do so.

28. With regard to Whole Goods and Soft Goods, we recommend a similar process to the sale of Wine to run concurrently with the retail sale. It would be our

intention to amalgamate the assets at the 1011 retail location for the purposes of the sale.

29. The remaining assets consist of FF&E and Autos the Receiver recommends advertising these assets for retail sale to run concurrently with the retail sale.

SECURED CREDITORS

30. The Receiver's legal counsel, WMCZ Lawyers, has not reviewed any security to date.

ADVICE AND DIRECTION SOUGHT

31. The Receiver requests the advice and direction of this Honourable Court in approving a process for interested parties to deal with their respective claims.
32. The Receiver requests direction of this Honourable Court with respect to the liquidation of inventory and other assets of the Companies.

Respectfully submitted,



PRICEWATERHOUSECOOPERS INC.
in its capacity as Interim Receiver of
101142701 Saskatchewan Ltd. and
Cava Secreta Wines and Spirits Ltd.

Schedule A

From: "Gary A. Meschishnick, Q.C." <gary.meschishnick@wmcz.com>
To:
Date: 05/10/2012 11:18 AM
Subject: RE: Interim receiver...

For the benefit of all parties interested in the affairs of Cava Secreta, including yourself, the Court of Queen's Bench for Saskatchewan empowered the Interim Receiver to take all necessary steps to preserve and protect the property of Cava Secreta and any property found in its premises. The Court also directed the Interim Receiver to conduct a review of the inventory found on the premises.

To ensure the interests of all interested parties are protected the Court determined that the safe course of action was not to disburse any of this property at this time. Similarly, until the interested parties are informed as to what property is found, no authority was given to the Interim Receiver to consider claims of creditors or those who assert a claim to property in the possession of the Interim Receiver.

While this process will no doubt inconvenience some interested parties, the Interim Receiver is working to protect everyone's rights and with the best interests of all interested parties in mind.

Although there is not, at this time, a process established for determining and verifying the claims of creditors or those who believe they are entitled to property in the possession of the Interim Receiver, we would recommend that you do take some time to gather the necessary documentation to verify your claim. That way, when it is appropriate to present the claim you will be in a position to do it in a timely fashion. You will be notified when you will be required to present your claim.

Certainly, if you feel it is necessary please consult your lawyer.

Gary A. Meschishnick Q.C.
WMCZ Lawyers
(306) 659-1226 | gary.meschishnick@wmcz.com
www.wmcz.com