

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 0092 OF 2013 ( )

IN THE MATTER OF THE COMPANIES LAW (2012 REVISION) (AS AMENDED)

AND

IN THE MATTER OF SERENA OWNERSHIP LIMITED



WINDING UP PETITION



TO THE GRAND COURT

The humble petition of Royal Bank of Scotland PLC, 2<sup>nd</sup> Floor, 280 Bishopsgate, London, EC2M 4RB, England (the “**Petitioner**”) shows that:

**Preamble**

1. The Petitioner presents this petition for the winding up of Serena Ownership Limited (the “Company”) and the appointment of joint official liquidators.
2. The Petitioner is a creditor of the Company and seeks the winding up of the Company pursuant to section 93 of the Companies Law (2012 Revision) (as amended) (the “Companies Law”) on the grounds that the Company is unable to pay its debts.

**Background and Corporate Structure of Company**

3. The Company (formerly known as WBHL Ownership Limited) was incorporated on 1 October 2002 as an exempted limited company under company number 120254. The registered office of the Company is situated at Maricorp Services Limited, PO Box 2075 GT, # 31 The Strand, 46 Canal Point Road, West Bay Road, Grand Cayman, Cayman Islands.

00200873-1 **THIS PETITION** was presented by **SOLOMON HARRIS** of 3<sup>rd</sup> Floor, First Caribbean House, P.O. Box 1990, Grand Cayman, KY1-1104, Cayman Islands, Attorneys-at-law for and on behalf of the Petitioner whose address for service is that of its said Attorneys.

4. The Company is, and was at all material times, an exempted limited company incorporated in the Cayman Islands. The Company's business is stated to be the holding of issued share capital in Welcome Break Property Company Limited, now known as Serena Properties Limited (the "Borrower"). As such the Company did not conduct business other than in the Cayman Islands.
5. The entire issued share capital of the Company is directly, legally and beneficially owned and controlled by Roadster L.P. (a limited partnership with its registered office at Investec House, La Plaiderie, St Peter Port, Guernsey and parent company of the Company).

### **Contractual Background**

6. The Company agreed to guarantee certain underlying obligations between the Petitioner and the Borrower contained in a senior facility agreement, various mezzanine facility agreements and a debenture (all dated 8 June 2004) (each a "Finance Document" and together the "Finance Documents") pursuant to Deeds of Accession also dated 8 June 2004 (the "Deeds").

### **The Debt**

7. On 23 April 2013 the Petitioner, by letter to the Company, confirmed that an event of default had been triggered under the terms of the Finance Documents and that it had accelerated the payment obligations under the Finance Documents. The Petitioner required payment of the sum of £80,529,042.05 by 30 April 2013 in satisfaction of the liabilities to be met under the terms of the Finance Documents and the Deeds (the "Debt").
8. No payment was received by 30 April 2013 and to date the Debt remains unpaid.
9. On 6 May 2013 the Petitioner's Cayman Counsel, Solomon Harris, wrote to the registered office of the Company stating that it had been instructed to present a Petition to wind-up the Company and requesting certain information in relation to the Company.

10. The Company responded through its Cayman Counsel, Walkers on 16 May 2013 stating,

*"...we are instructed by the Company to confirm the following:*

- 1. The Debt [as defined above] is now due from the Company to the Bank;*
- 2. The Company is unable to pay the Debt;*
- 3. Roadster L.P. is the only shareholder of the Company; and*
- 4. There are no other creditors (secured or otherwise) of the Company other than the [Petitioner], Maricorp Services Ltd. in respect of certain registered office fees and the Cayman Islands government in respect of certain unpaid annual fees."*

11. In these premises the Company is deemed to be unable to pay its debts pursuant to Section 93 (c) of the Companies Law.

#### **Qualified Insolvency Practitioner**

12. David Walker and Ian Stokoe, whose business address is at PwC Corporate Finance & Recovery (Cayman) Limited ("PwC") of PO Box 258, Strathvale House, 90 North Church Street, George Town, Grand Cayman KY1-1104 have agreed to be appointed as joint official liquidators of the Company. David Walker and Ian Stokoe are qualified insolvency practitioners resident in the Cayman Islands.

#### **The Order Sought**

Your Petitioner therefore humbly prays that:-

1. The Company be wound up in accordance with the Companies Law (2012 Revision) (as amended).
2. David Walker and Ian Stokoe, whose business address is at PwC Corporate Finance & Recovery (Cayman) Limited ("PwC") of PO Box 258, Strathvale House, 90 North Church Street, George Town, Grand Cayman KY1-1104, be appointed as joint official liquidators of the Company with the power to act jointly and severally.
3. The joint official liquidators shall not be required to give security for their appointment.

4. The joint official liquidators be granted sanction to exercise the following powers pursuant to Part I of Schedule 3 of the Companies Law (2012 Revision) (as amended):
  - 4.1. Power to engage staff from PwC, Cayman Islands and attorneys Solomon Harris (whether or not as employees of the Company) to assist them in the performance of their functions.
  - 4.2. The joint official liquidators' remuneration and expenses be paid out of the assets of the Company in accordance with Part III of the Insolvency Practitioners Regulations 2008 (as amended) and Companies Winding Up Rules 2008 (as amended), Order 20, r. 4(4).
  - 4.3. The joint official liquidators be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties and such payments shall be made as and when they fall due out of the assets of the Company and shall be expenses in the liquidation.
  - 4.4. The joint official liquidators be at liberty to apply for further directions relating to the winding up of the affairs of the Company, in particular a direction to dispense with further requirements to advertise the Petition.
  - 4.5. The costs of and incidental to this Petition be paid out of the assets of the Company as an expense of the liquidation; and
  - 4.6. The Court make such other orders and directions as it deems necessary or expedient.

AND your Petitioner will ever pray etc.

DATED the        day of July 2013

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**SOLOMON HARRIS**  
**ATTORNEYS-AT-LAW FOR THE PETITIONER**

**NOTE:** This petition is intended to be served on the Company at its registered office at Maricorp Services Limited, PO Box 2075 GT, #31 The Strand, 46 Canal Point Road, West Bay Road, Grand Cayman, Cayman Islands.

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## NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on *30<sup>th</sup> July* 2013 at 10.00 a.m.

Any correspondence or communication with the Court relating to the hearing of this petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman, KY1-1106, telephone 345 949 4296.