

LIST OF REGISTERED RECEIVABLES

Ostrava Regional Court, Havlickovo nabrezi 1835/34, Ostrava

Case file No. KSOS 25 INS 10525 / 2016

Review procedure scheduled for 9 August 2016

Debtor: OKD, a.s., Stonavska 2179, Kraviná, 73506, ID No.: 26863154

Creditor: Citibank, N.A., London Branch, Citigroup Centre, Canada Square 25, London, E14 5LB, United Kingdom

Creditor's number: 31

Insolvency trustee: Ing. Lee Louda, Vodickova 41, 110 00 Prague 1

Registration number: P100

Date of receipt: 27 May 2016

Partial receivable: 1

Total amount - of which principal - interest and fees	CZK	621 273 214.79	621 273 214.79	0.00
Enforceable amount	CZK	0.00		
Conditional receivable (specify reasons)				
Legal grounds giving rise to the receivable		Guarantee for the liabilities of NWR Holdings B.V., a company incorporated pursuant to Dutch law with its seat at Herengracht 448, 1017CA, Amsterdam, Netherlands, under the EUR 35,000,000 Super Senior Term Facility Agreement made on 9 September 2014 by and between NWR Holdings as the borrower, Deutsche Bank AG, London Branch as the agent, the creditor as the security agent, the debtor as guarantor, New World Resources N.V., and other parties, and the Intercreditor Agreement made between NWR Holdings, NWR, the debtor, the creditor - agent, and other parties of 7 October 2014		
Contested	Existence	Existence contested		
	Amount - of which recognized	CZK	621 273 214.79	0.00

Total amount registered: CZK 621 273 214.79**Of which confirmed:****CZK 0.00**

Debtor's position:

1 - contests the existence, contests the amount of CZK 621 273 214.79

The debtor contests the existence of receivable No. 1.

a) Debtor's controlling entity induced the debtor to assume obligations as guarantor (Art. 18 SSFA)

At the time at which the Scheme of Arrangement was negotiated and executed between New World Resources N.V. ("NWR NV") and its creditors pursuant to Part 26 of the United Kingdom's Companies Act 2006 ("Restructuring of NWR's Debt"), NWR NV was an entity in control of the debtor.

Going forward with the transactions pertaining to the Restructuring of NWR's Debt, i.e., in particular, the €35,000,000 Super Senior Term Facility Agreement (the "SSFA Facility") was in the interest of NWR NV and other persons belonging to the NWR NV group of companies but not in the interest of the debtor. The interest of NWR NV and other persons belonging to the NWR NV group of companies turned out to be at odds with the interest of the debtor.

NWR NV prevailed upon the debtor to enter into transactions without which the Restructuring of NWR's Debt would not have taken place. NWR NV presented the debtor with a standard-form ("blanket" or "boilerplate") letter which, if signed by the debtor, confirmed the debtor's consent with the transactions pertaining to the Restructuring of NWR's Debt, including the SSFA Facility and the Guarantee and Indemnity anticipated by Article 18 of the SSFA Facility, within the context of which the registered receivable on grounds of guarantorship was agreed. The standard-form consent with the said transactions and the drafts of all relevant documents were prepared by legal counsel of NWR NV, i.e., the law firm White and Case (Europe) LLP, and the debtor had no opportunity to take position on the said transactions. NWR NV instructed the board of directors of the debtor to promptly pass the requisite resolution per rollam.

b) The guarantee was not duly and properly agreed and executed by the debtor, on grounds of a conflict of interests on the part of the debtor's representatives.

By way of the above-mentioned resolution by the debtor's board of directors, NWR NV was being authorized to represent the debtor in connection with all documents drawn up within the context of the Restructuring of NWR's Debt, including the SSFA Facility. The interests of NWR NV and the interests of the debtor were in conflict.

The individual authorized on the part of the debtor to draw up and execute all documents in connection with the Restructuring of NWR's Debt was Mr. Boudewijn Wentink, an employee of NWR NV. The interests of Mr. Boudewijn Wentink were at odds with those of the debtor.

Negotiating and/or contracting an obligation through a person who lacks proper authority or who is in a conflict of interest is a manifest breach of public order within the meaning of Sec. 4 of the Act on International Private Law.

Trustee's position:

1 - contests the existence, contests the amount of CZK 621 272 214.79

The insolvency trustee contests the existence of partial receivable No. 1, which, upon retraction by the creditor, was registered in the amount of CZK 621 273 214.79.

a) Non-existence of the underlying debt; non-existence of the guarantee

Above all, the creditor has failed to demonstrate that the debt (obligation) of NWR Holdings B.V. has come into existence, i.e., that any performances were rendered by the creditor. If the primary debt does not exist, then the obligation under the guarantorship cannot exist either. The creditor has provided no evidence for the existence of the primary debt for which OKD, a.s. supposedly vouches as a guarantor, as alleged in the registration of the receivable.

Also, no evidence has been provided that OKD, a.s. validly assumed the guarantorship – in particular, no valid power of attorney has been produced for the individual who signed. The receivable has been registered on grounds of a guarantee for liabilities supposedly incurred by NWR Holdings B.V. under the €35,000,000 Super Senior Term Facility Agreement of 9 September 2014 (the "SSTF") and the Intercreditor Agreement of 7 October 2014 (the "ICA"). From these documents, we gather that a single individual – Mr. Boudewijn Wentink – signed both on behalf of the NWR Group companies and on behalf of the guarantor (i.e., the debtor). Even if power of attorney had been presented, it would still be manifestly obvious that the person who signed the relevant document on behalf of the debtor also signed in his capacity as the representative of all other parties on the part of NWR, so that his interests were in direct conflict with those of the debtor. As explained in the debtor's statement which forms a part of the motion for a temporary injunction, NWR Group forced the debtor to sign the said agreements and took no steps whatsoever to ensure that OKD, a.s. would not find itself in a situation of insolvency (whereas in this regard, we cannot rule out that the legal transaction at hand is in fact null and void, due in particular to the lack of the relevant declaration of the will to contract on the part of OKD, a.s.).

b) Inoperativeness of the legal transactions in question (invoked for the event that they are found to be principally valid)

The receivable has been registered on grounds of the guarantee for liabilities of NWR Holdings B.V. under the SSTF and the ICA. The insolvency trustee inter alia contests the receivable because both legal transactions which the creditor invokes as grounds (legal title) for the registered receivable (namely, the SSTF and the ICA) are legally inoperative vis-a-vis the debtor, represent transactions without adequate counter-performance within the meaning of Sec. 240 of the Insolvency Act, or, as the case may be, transactions which constitute preferential treatment within the meaning of Sec. 241 of the Insolvency Act.

Pursuant to Sec. 240 of the Insolvency Act, a legal transaction without adequate counter-performance is a legal transaction by which the debtor undertook to render performances for no consideration at all, or for a counter-performance whose customary value is substantially lower than the value of the performances which the debtor undertook to render (para. (1)). A transaction only qualifies as a transaction without adequate counter-performance if the debtor engaged in it at a time at which it was insolvent or if the transaction itself resulted in the debtor's insolvency. A legal transaction without adequate counter-performance that was carried out for the welfare of a person close to the debtor or for the welfare of a person who together with the debtor forms a group of companies is considered a transaction performed by the debtor at a time at which it was insolvent (para. (2)). A legal transaction without proper counter-performance may be challenged if it was carried out for the welfare of a person close to the debtor or for the welfare of a person who together with the debtor forms a group of companies within the last three years prior to the commencement of insolvency proceedings, or for the welfare of another person within the last year prior to the commencement of insolvency proceedings (para. (3)).

If the registered creditor files declaratory action for confirmation of the existence and the amount of the receivable, the insolvency trustee shall file, within the same procedure (Sec. 97 (1) of the Code of Civil Procedure), negatory action (cf. Supreme Court 29 ICdo 13/2012).

The course of action taken by NWR, whose liabilities the debtor was supposed to secure if we are to believe the creditor, has also been the subject of preliminary scrutiny by the Olomouc Upper Court, which stated (in 4 VSOL 856/2016-B-133): The court of appeals considers the fact to be of material importance that NWR B.V. (the appellant) as the single shareholder of the debtor and NWR N.V. as the single shareholder of NWR B.V. burdened the debtor with obligations which have been invoked against the debtor by the creditor Citibank N.A. as a receivable of the latter on grounds of the debtor's guarantorship, i.e., at the very least they encumbered the debtor with obligations in an amount of CZK 9,530,033,808.71 and CZK 955,109,001.09. The court of appeals further considers it of material importance that the debtor has assets in a value of CZK 6,748,568,000 to satisfy receivables of the creditors in an amount of CZK 17,246,248,966. In this respect, the court of appeals notes that NWR B.V. and NWR N.V. had to know what they were doing, at least with respect to the execution of the document referenced as Indenture (schedule to registration P33) which caused the debtor to be thus encumbered, because one and the same individual – Boudewijn Wenti[n]k – always signed on behalf of NWR N.V. as the issuer and on behalf of NWR B.V. and on behalf of the debtor as the guarantor. Further, registrations P33 and P100 suggest that neither NWR B.V. nor NWR N.V. repaid their debts (whereas it cannot be told from the partial revocation of registration P100-4 whether NWR B.V. and NWR N.V. partially paid their debt), i.e., they did nothing to eliminate the burden on the debtor. NWR B.V. and NWR N.V. are thus responsible for the fact that the satisfaction of creditors (whether in the form of reorganization or in the form of bankruptcy) will be substantially lower than if no such guarantee / indenture existed on the part of the debtor. In other words, there is a very real risk that these companies may act in an adequate manner, both with respect to decisions on the debtor's assets and with respect to decisions on personnel changes at the debtor. This fact is in and by itself a substantial reason for putting a check on corporate decisions at the debtor by way of a temporary injunction.

The insolvency trustee firmly believes that the legal transactions which, as per the assertions of the creditor, represent a proper legal title giving rise to guarantorship on the part of OKD, a.s. are legal transactions carried out for the welfare of a person close to the debtor or for the welfare of a person who together with the debtor forms a group (NWR Holdings B.V., New World Resources N.V.) and that no adequate counter-performance was rendered.

These transactions could at the same time equally be considered a form of preferential treatment of the registered creditor. The purpose of the provisions stipulating the inoperativeness of legal transactions which give preferential treatment is to prevent a situation in which a creditor, as a consequence of such treatment, receives satisfaction to a greater degree than rightfully belonging to them in bankruptcy, at the expense of other creditors. The significance of the guarantee as a means of securing debt in this case lies in the fact that it allows the creditor to demand the discharge of the debt not only from the party which directly owes the debt, but also from the guarantor (which of course also holds true if insolvency proceedings are being conducted against the guarantor). In this manner, the circle of assets from which the creditor may satisfy its unpaid receivable is being widened by way of the guarantee. Economic analyses have shown that these legal transactions led to the debtor's insolvency.

Contestation of the amount of the receivable:

In eventum, the insolvency trustee also contests the amount of the registered receivable, for the event that the existence of the receivable were to be confirmed. The insolvency trustee contests the receivable as regards the amount of CZK 621,272,214.79 and asserts that the actual and proper amount of the receivable is CZK 1,000. To the extent of the contested amount, the registered receivable does not exist, and the incurrence of the primary debt in such amount has not been proven.

Other relevant circumstances:

Result of the review procedure:

Notes:

Ing. Lee Louda (*signature*)
signature of the insolvency trustee:

OKD, a.s. (*stamp, signature*)
signature of the debtor:
Ing. Pavel Jilek
based upon PoA of 13 July 2016

Mgr. Petr Kula
signature of the judge:

LIST OF REGISTERED RECEIVABLES

Ostrava Regional Court, Havlickovo nabrezi 1835/34, Ostrava

Case file No. KSOS 25 INS 10525 / 2016

Review procedure scheduled for 9 August 2016

Debtor: OKD, a.s., Stonavska 2179, Kraviná, 73506, ID No.: 26863154

Creditor: Citibank, N.A., London Branch, Citigroup Centre, Canada Square 25, London, E14 5LB, United Kingdom

Creditor's number: 31

Insolvency trustee: Ing. Lee Louda, Vodickova 41, 110 00 Prague 1

Registration number: P33

Date of receipt: 17 May 2016

Partial receivable: 1

Total amount - of which principal - interest and fees	CZK	9 530 033 808.71	9 530 033 808.71	0.00
Enforceable amount	CZK	0.00		
Conditional receivable (specify reasons)				
Legal grounds giving rise to the receivable		Guarantee for the liabilities of New World Resources N.V., a company incorporated pursuant to Dutch law with its seat at 115 Park Street, London, W1K 7AP, United Kingdom ("NWR") under the document referenced as Indenture "EUR 300,000,000 Senior Secured PIK Toggle Notes due 2020" made on 7 December 2014 by and between NWR as the issuer, the creditor as the security agent, the debtor as guarantor, and Deutsche Trustee Company Limited as the fiduciary (the "Fiduciary") and other parties. Based upon the Indenture, NWR issued debenture notes in a total nominal value of EUR 300,000,000, due 2020.		
Contested	Existence	Existence contested		
	Amount - of which recognized	CZK	9 530 033 808.71	0.00

Total amount registered: CZK 9 530 033 808.71**Of which confirmed:****CZK 0.00**

Debtor's position:

1 - contests the existence, contests the amount of CZK 9 530 033 808.71

The debtor contests the existence of receivable No. 1.

a) Lack of cause and conflict with public order

The creditor registered its receivable based on so-called parallel debt, which lacks proper cause.

The receivable from parallel debt is an abstract receivable, without cause, given that the creditor never rendered any performance to the debtor or to the person for whom the debtor should vouch as a guarantor.

The requirement of proper cause in relationships under the law of obligations follows from Sec. 1791 of the New Civil Code, according to which the creditor must demonstrate the cause of the given obligation. The creditor has failed to do so for the registered receivable. Recognizing the binding character or valid existence of obligations without cause would be a manifest breach of public order within the meaning of Sec. 4 of the Act on International Private Law.

b) Debtor's controlling entity induced the debtor to assume obligations as guarantor (Art. XII of the Indenture)

At the time at which the Scheme of Arrangement was negotiated and executed between New World Resources N.V. ("NWR NV") and its creditors pursuant to Part 26 of the United Kingdom's Companies Act 2006 ("Restructuring of NWR's Debt"), NWR NV was an entity in control of the debtor.

Going forward with the transactions pertaining to the Restructuring of NWR's Debt, i.e., in particular, the "Indenture €300,000,000 Senior Secured PIK Toggle Notes due 2020" (the "Indenture") was in the interest of NWR NV and other persons belonging to the NWR NV group of companies but not in the interest of the debtor. The interest of NWR NV and other persons belonging to the NWR NV group of companies turned out to be at odds with the interest of the debtor.

NWR NV prevailed upon the debtor to enter into transactions without which the Restructuring of NWR's Debt would not have taken place. NWR NV presented the debtor with a standard-form ("blanket" or "boilerplate") letter which, if signed by the debtor, confirmed the debtor's consent with the transactions pertaining to the Restructuring of NWR's Debt, including the Indenture and the Guaranteed Obligations under Article XII of the Indenture, within the context of which the registered receivable on grounds of guarantorship was agreed. The standard-form consent with the said transactions and the drafts of all relevant documents were prepared by legal counsel of NWR NV, i.e., the law firm White and Case (Europe) LLP, and the debtor had no opportunity to take position on the said transactions. NWR NV instructed the board of directors of the debtor to promptly pass the requisite resolution per rollam.

b) The guarantee was not duly and properly agreed and executed by the debtor.

By way of the above-mentioned resolution by the debtor's board of directors, an employee of NWR NV was being authorized to represent the debtor in connection with all documents drawn up within the context of the Restructuring of NWR's Debt. The interests of NWR NV and the interests of the debtor were in conflict.

The individual authorized on the part of the debtor to draw up and execute all documents in connection with the Restructuring of NWR's Debt was Mr. Boudewijn Wentink. The interests of Mr. Boudewijn Wentink were at odds with those of the debtor.

Mr. Boudewijn Wentink signed the Indenture on behalf of both NWR NV and NWR Holdings B.V. in his capacity as Chief Legal Officer. However, Boudewijn Wentink never held this position at the debtor. When Boudewijn Wentink signed the Indenture, he did not state that he was acting as an authorized representative of the debtor, and thus could not have legally bound the debtor by his actions. The creditor is well aware of the issue, which must be why it produced a deed which was modified after the fact and which supposedly shows that Boudewijn Wentink acted as the representative of the debtor. However, in this particular regard, the original of the deed differs from the copy presented by the creditor and contains no representation clause.

Negotiating and/or contracting an obligation through a person who lacks proper authority or who is in a conflict of interest is a manifest breach of public order within the meaning of Sec. 4 of the Act on International Private Law.

Trustee's position:

1 - contests the existence, contests the amount of CZK 9 530 032 808.71

The insolvency trustee contests the existence of partial receivable No. 1, which, upon retraction by the creditor, was registered in the amount of CZK 9 530 033 808.71

a) Non-existence of the underlying debt; non-existence of the guarantee

Above all, the creditor has failed to demonstrate that the debt (obligation) of New World Resources N.V. has come into existence, i.e., that any performances were rendered by the creditor (whereas no evidence has been produced for performances rendered to the debtor or to NWR). If the primary debt does not exist, then the obligation under the guarantorship cannot exist either. The creditor has provided no evidence for the existence of the primary debt for which OKD, a.s. supposedly vouches as a guarantor, as alleged in the registration of the receivable.

Also, no evidence has been provided that OKD, a.s. validly assumed the guarantorship – in particular, no valid power of attorney has been produced for the individual who signed. The receivable has been registered on grounds of a guarantee for liabilities supposedly incurred by New World Resources Holdings N.V. under the "Indenture €300,000,000 Senior Secured PIK Toggle Notes due 2020" of 7 October 2014 (the "Indenture"). From this document, we also gather that a single individual – Mr. Boudewijn Wentink – signed both on behalf of the

issuer and of all guarantors. Even if power of attorney had been presented, it would still be manifestly obvious that the person who signed the relevant document on behalf of the debtor also signed in his capacity as the representative of all other parties on the part of NWR, so that his interests were in direct conflict with those of the debtor. As explained in the debtor's statement which forms a part of the motion for a temporary injunction, NWR Group forced the debtor to sign the said agreements and took no steps whatsoever to ensure that OKD, a.s. would not find itself in a situation of insolvency (whereas in this regard, we cannot rule out that the legal transaction at hand is in fact null and void, due in particular to the lack of the relevant declaration of the will to contract on the part of OKD, a.s.).

Mr. Boudewijn Wentink signed the Indenture on behalf of both NWR NV and NWR Holdings B.V. in his capacity as Chief Legal Officer. However, Boudewijn Wentink never held this position at the debtor. When Boudewijn Wentink signed the Indenture, he did not state that he was acting as an authorized representative of the debtor, and thus could not have legally bound the debtor by his actions. The counterpart of the Indenture that has been submitted by the creditor contains later changes which cannot be found on the original deed (namely, the information that the above-mentioned individual signed in the capacity of an authorized agent was added, and the corporate position CLO was crossed out), i.e., the contract was modified after the fact by persons unknown.

b) Inoperativeness of the legal transactions in question (invoked for the event that they are found to be principally valid)

The receivable has been registered on grounds of the guarantee for liabilities of New World Resources N.V., under the contract referenced as Indenture. The insolvency trustee inter alia contests the receivable because the legal transaction which the creditor invokes as grounds (legal title) for the registered receivable (namely, the Indenture) is legally inoperative vis-a-vis the debtor, represents a transaction without adequate counter-performance within the meaning of Sec. 240 of the Insolvency Act, or, as the case may be, a transaction which constitutes preferential treatment within the meaning of Sec. 241 of the Insolvency Act.

Pursuant to Sec. 240 of the Insolvency Act, a legal transaction without adequate counter-performance is a legal transaction by which the debtor undertook to render performances for no consideration at all, or for a counter-performance whose customary value is substantially lower than the value of the performances which the debtor undertook to render (para. (1)). A transaction only qualifies as a transaction without adequate counter-performance if the debtor engaged in it at a time at which it was insolvent or if the transaction itself resulted in the debtor's insolvency. A legal transaction without adequate counter-performance that was carried out for the welfare of a person close to the debtor or for the welfare of a person who together with the debtor forms a group of companies is considered a transaction performed by the debtor at a time at which it was insolvent (para. (2)). A legal transaction without proper counter-performance may be challenged if it was carried out for the welfare of a person close to the debtor or for the welfare of a person who together with the debtor forms a group of companies within the last three years prior to the commencement of insolvency proceedings, or for the welfare of another person within the last year prior to the commencement of insolvency proceedings (para. (3)).

If the registered creditor files declaratory action for confirmation of the existence and the amount of the receivable, the insolvency trustee shall file, within the same procedure (Sec. 97 (1) of the Code of Civil Procedure), negatory action (cf. Supreme Court 29 ICdo 13/2012).

The course of action taken by NWR, whose liabilities the debtor was supposed to secure if we are to believe the creditor, has also been the subject of preliminary scrutiny by the Olomouc Upper Court, which stated (in 4 VSOL 856/2016-B-133): The court of appeals considers the fact to be of material importance that NWR B.V. (the appellant) as the single shareholder of the debtor and NWR N.V. as the single shareholder of NWR B.V. burdened the debtor with obligations which have been invoked against the debtor by the creditor Citibank N.A. as a receivable of the latter on grounds of the debtor's guarantorship, i.e., at the very least they encumbered the debtor with obligations in an amount of CZK 9,530,033,808.71 and CZK 955,109,001.09. The court of appeals further considers it of material importance that the debtor has assets in a value of CZK 6,748,568,000 to satisfy receivables of the creditors in an amount of CZK 17,246,248,966. In this respect, the court of appeals notes that NWR B.V. and NWR N.V. had to know what they were doing, at least with respect to the execution of the document referenced as Indenture (schedule to registration P33) which caused the debtor to be thus encumbered, because one and the same individual – Boudewijn Wenti[n]k – always signed on behalf of NWR N.V. as the issuer and on behalf of NWR B.V. and on behalf of the debtor as the guarantor. Further, registrations P33 and P100 suggest that neither NWR B.V. nor NWR N.V. repaid their debts (whereas it cannot be told from the partial revocation of registration P100-4 whether NWR B.V. and NWR N.V. partially paid their debt), i.e., they did nothing to eliminate the burden on the debtor. NWR B.V. and NWR N.V. are thus responsible for the fact that the satisfaction of creditors (whether in the form of reorganization or in the form of bankruptcy) will be substantially lower than if no such guarantee / indenture existed on the part of the debtor. In other words, there is a very real risk that these companies may act in an adequate manner, both with respect to decisions on the debtor's assets and with respect to decisions on personnel changes at the debtor. This fact is in and by itself a substantial reason for putting a check on corporate decisions at the debtor by way of a temporary injunction.

The insolvency trustee firmly believes that the legal transaction which, as per the assertions of the creditor, represents a proper legal title giving rise to guarantorship on the part of OKD, a.s. is a legal transaction carried out for the welfare of a person close to the debtor or for the welfare of a person who together with the debtor forms a group (New World Resources N.V.) and that no adequate counter-performance was rendered.

This transaction could at the same time equally be considered a form of preferential treatment of the registered creditor. The purpose of the provisions stipulating the inoperativeness of legal transactions which give preferential treatment is to prevent a situation in which a creditor, as a consequence of such treatment, receives satisfaction to a greater degree than rightfully belonging to them in bankruptcy, at the expense of other creditors. The significance of the guarantee as a means of securing debt in this case lies in the fact that it allows the creditor to demand the discharge of the debt not only from the party which directly owes the debt, but also from the guarantor (which of course also holds true if insolvency proceedings are being conducted against the guarantor). In this manner, the circle of assets from which the creditor may satisfy its unpaid receivable is being widened by way of the guarantee.

Economic analyses have shown that the purported assumption of guarantorship led to the debtor's insolvency.

Contestation of the amount of the receivable:

In eventum, the insolvency trustee also contests the amount of the registered receivable, for the event that the existence of the receivable were to be confirmed. The insolvency trustee contests the receivable as regards the amount of CZK 9,530,032,808.71 and asserts that the actual and proper amount of the receivable is CZK 1,000. To the extent of the contested amount, the registered receivable does not exist, and the incurrence of the primary debt in such amount has not been proven.

Other relevant circumstances:

Result of the review procedure:

Notes:

Ing. Lee Louda (*signature*)
signature of the insolvency trustee:

OKD, a.s. (*stamp, signature*)
signature of the debtor:
Ing. Pavel Jilek
based upon PoA of 13 July 2016

Mgr. Petr Kula
signature of the judge: