

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
No. 500-11-049214-154
DATE: February 18, 2016

PRESIDING : THE HONOURABLE MARTIN CASTONGUAY, J.S.C.

IN THE MATTER OF THE RECEIVERSHIP OF:

LES HOTELS HRH LTÉE / HRH HOTELS LTD.,

Debtor

-and-

RESTRUCTURATION DELOITTE INC.,

Receiver/Petitioner

-and-

9303-7026 QUÉBEC INC.,

-and-

9153-1335 QUÉBEC INC.,

-and-

LAND REGISTRAR FOR THE LAND REGISTRATION DIVISION OF MONTREAL,

Mises en cause

APPROVAL AND VESTING ORDER

[1] **ON READING** the Receiver's *Motion for the Issuance of an Approval and Vesting Order* (the "**Motion**"), the affidavit and the exhibits in support thereof, as well as the Report of the Receiver (the "**Report**");

[2] **SEEING** the service of the Motion;

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- [3] **SEEING** the submissions of the Receiver's attorneys;
- [4] **SEEING** that it is appropriate to issue an order approving the transaction (the "**Transaction**") contemplated by the agreement entitled "*Offer to Purchase*" (the "**Purchase Agreement**") by and between the Receiver, as vendor, and 9153-1335 Québec Inc. (the "**Purchaser**"), as purchaser, copy of which was filed as **Exhibit R-10** to the Motion, and vesting in the Purchaser the immovable property described as follows (the "**Purchased Assets**"):

"Lot number ONE MILLION FIFTY FOUR THOUSAND FIVE HUNDRED & NINE (1 504 509) of the Cadastre of Quebec, Registration division of Montreal, with building thereupon erected bearing civic numbers 7728 to 7800 Côte de Liesse road, Montreal, Quebec"

WHEREFORE THE COURT:

- [5] **GRANTS** the Motion;

SERVICE

- [6] **ORDERS** that any prior delay for the presentation of this Motion is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
- [7] **PERMITS** service of this Order at any time and place and by any means whatsoever.

SALE APPROVAL

- [8] **ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by the Receiver is hereby authorized and approved, with such non-material alterations, changes, amendments, deletions or additions thereto as may be agreed to but only with the consent of the Receiver.

EXECUTION OF DOCUMENTATION

- [9] **AUTHORIZES** the Receiver and the Purchaser to perform all acts, sign all documents and take any necessary action to execute any agreement, contract, deed, provision, transaction or undertaking stipulated in the Purchase Agreement (**Exhibit R-11**) and any other ancillary document which could be required or useful to give full and complete effect thereto.

AUTHORIZATION

- [10] **ORDERS and DECLARES** that this Order shall constitute the only authorization required by the Receiver to proceed with the Transaction and that no shareholder or regulatory approval, if applicable, shall be required in connection therewith.

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VESTING OF PURCHASED ASSETS

- [11] **ORDERS and DECLARES** that upon the issuance of a Receiver's certificate substantially in the form appended as **Schedule "A"** hereto (the "**Certificate**"), all rights, title and interest in and to the Purchased Assets shall vest absolutely and exclusively in and with the Purchaser, free and clear of and from any and all claims, liabilities (direct, indirect, absolute or contingent), obligations, prior claims, right of retention, charges, hypothecs, deemed trusts, judgments, writs of seizure or execution, notices of sale, contractual rights relating to the Purchased Assets, encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise (collectively, the "**Encumbrances**"), including without limiting the generality of the foregoing all Encumbrances created by order of this Court and all charges, or security evidenced by registration, publication or filing pursuant to the *Civil Code of Québec* in movable / immovable property, excluding however, the permitted encumbrances and restrictive covenants listed on **Schedule "B"** hereto (the "**Permitted Encumbrances**") and, for greater certainty, **ORDERS** that all of the Encumbrances affecting or relating to the Purchased Assets, other than the Permitted Encumbrances, be cancelled and discharged as against the Purchased Assets, in each case effective as of the applicable time and date of the Certificate.
- [12] **DECLARES** that upon issuance of the Certificate, the Transaction shall be deemed to constitute and shall have the same effect as a sale under judicial authority as per the provisions of the *Code of Civil Procedure* and a forced sale as per the provisions of the *Civil Code of Quebec*.
- [13] **ORDERS and DIRECTS** the Receiver to file with the Court a copy of the Certificate, forthwith after issuance thereof.

CANCELLATION OF SECURITY REGISTRATIONS

- [14] **ORDERS** the Land Registrar of the Land Registry Office for the Registry Division of Montreal, upon presentation of the Certificate in the form appended as Schedule "A" and a certified copy of this Order accompanied by the required application for registration and upon payment of the prescribed fees, to publish this Order and (i) to make an entry on the Land Register showing the Purchaser as the owner of the Purchased Assets and (ii) to cancel any and all Encumbrances on the Purchased Assets (other than Permitted Encumbrances), including, without limitation, the registration # **15 256 069**, published at the said Land Registry Office.

NET PROCEEDS

- [15] **ORDERS** that the net proceeds from the sale of the Purchased Assets (the "**Net Proceeds**") shall be remitted to the Receiver and shall be distributed in accordance with applicable legislation.
- [16] **ORDERS** that for the purposes of determining the nature and priority of the Encumbrances, the Net Proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that upon payment of the Purchase Price (as defined in the Purchase Agreement) by the Purchaser, all Encumbrances except for the Permitted Encumbrances shall attach to the Net

Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

VALIDITY OF THE TRANSACTION

[17] **ORDERS** that notwithstanding:

- (i) the pendency of these proceedings;
- (ii) any petition for a receiving order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* ("**BIA**") and any order issued pursuant to any such petition; or
- (iii) the provisions of any federal or provincial legislation;

the vesting of the Purchased Assets contemplated in this Order, as well as the execution of the Purchase Agreement pursuant to this Order, are to be binding on any trustee in bankruptcy that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Receiver or the Purchaser.

LIMITATION OF LIABILITY

[18] **DECLARES** that, subject to other orders of this Court, nothing herein contained shall require the Receiver to occupy or to take control, or to otherwise manage all or any part of the Purchased Assets. The Receiver shall not, as a result of this Order, be deemed to be in possession of any of the Purchased Assets within the meaning of environmental legislation, the whole pursuant to the terms of the BIA;

[19] **DECLARES** that no action lies against the Receiver by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court. The entities related to the Receiver or belonging to the same group as the Receiver shall benefit from the protection arising under the present paragraph;

GENERAL

[20] **ORDERS** that the Purchaser or the Receiver shall be authorized to take all steps as may be necessary to effect the discharge of the Encumbrances.

[21] **ORDERS** that the Purchase Agreement be kept confidential and under seal until the earlier of a) the filing of the Certificate; or b) further order of this Court.


[22] **DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada;

[23] **DECLARES** that the Receiver shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative

body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and, without limitation to the foregoing, an order under Chapter 15 of the U.S. Bankruptcy Code, for which the Receiver shall be the foreign representative of the Debtor. All courts and administrative bodies of all such jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Receiver as may be deemed necessary or appropriate for that purpose;

- [24] **REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order;
- [25] **ORDERS** the provisional execution of the present Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever;

THE WHOLE WITHOUT COSTS.


MARTIN CASTONGUAY, J.S.C.

Me Luc Morin
Fasken Martineau DuMoulin LLP

Attorneys for the Receiver Restructuration Deloitte Inc.



JULIO V. BERRIOS
GREFFIER ADJOINT C.S.M.

SCHEDULE "A"

DRAFT CERTIFICATE OF THE [RECEIVER/ TRUSTEE/MONITOR]

CANADA

**PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL**

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CERTIFICATE OF THE RECEIVER

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RECITALS:

WHEREAS on August 7, 2015, the Superior Court of Quebec (the "**Court**") issued a receivership order (the "**Receivership Order**") pursuant to the *Bankruptcy and Insolvency Act* (the "**Act**") in respect of *HRH Hotels Ltd.* (the "**Debtor**");

WHEREAS pursuant to the terms of the Order, the Receiver was appointed; and

WHEREAS on February 19, 2016, the Court issued an Order (the "**Vesting Order**") thereby, *inter alia*, authorizing and approving the execution by the Petitioner of an agreement entitled "*Offer to Purchase*" (the "**Purchase Agreement**") by and between the Receiver, as vendor and *9153-1335 Québec Inc.* as purchaser (the "**Purchaser**"), copy of which was filed in the Court record, and into all the transactions contemplated therein (the "**Transaction**") with such alterations, changes, amendments, deletions or additions thereto, as may be agreed to with the consent of the **Receiver**.

WHEREAS the Vesting Order contemplates the issuance of this Certificate of the Receiver once the (a) the Purchase Agreement has been executed and delivered; and (b) the Purchase Price (as defined in the Purchase Agreement) has been paid by the Purchaser; and (c) and all the conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

THE RECEIVER CERTIFIES THE FOLLOWING:

- (a) the Purchase Agreement has been executed and delivered;
- (b) the Purchase Price (as defined in the Purchase Agreement) payable upon the closing of the Transaction and all applicable taxes have been paid; and
- (c) all conditions to the closing of the Transaction have been satisfied or waived by the parties thereto.

This Certificate was issued by the Receiver on _____ 2016.

RESTRUCTURATION DELOITTE INC. in its capacity as Receiver, and not in its personal capacity.

Name: Benoît Clouâtre

Title: Partner

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SCHEDULE "B"
PERMITTED ENCUMBRANCES

Conventional Deed of Servitude registered on December 20, 2012 under # **19 658 098** on the Property (Lot 1 054 509 of the Cadastre du Québec, Registration Division of Montreal)

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