

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT

(Commercial Division)

(sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C.
1985, c. C-36, as amended)

No.: 500-11-041305-117

**IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:**

**1810040 Alberta Ltd. (formerly known as
Homburg Invest Inc. and Homburg Shareco Inc.)
North Calgary Land Ltd.
Churchill Estates Development Ltd.
Homburg Management (Canada) Inc.**

Debtors / Petitioners

-and-

**Homco Realty Fund (52) Limited Partnership
Homco Realty Fund (61) Limited Partnership
Homco Realty Fund (88) Limited Partnership
Homco Realty Fund (89) Limited Partnership
Homco Realty Fund (94) Limited Partnership
Homco Realty Fund (96) Limited Partnership
Homco Realty Fund (121) Limited Partnership
Homco Realty Fund (142) Limited Partnership**

Mises-en-cause

-and-

**Deloitte Restructuring Inc. (formerly known as
Samson Bélair/Deloitte & Touche Inc.)**

Monitor

MOTION FOR EXTENSION OF THE STAY PERIOD

(Sections 11 and 11.02 of the *Companies' Creditors Arrangement Act*, R.S.C., 1985)

**TO THE HONOURABLE JUSTICE LOUIS J. GOUIN OR TO ONE OF THE
HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN COMMERCIAL
DIVISION IN AND FOR THE JUDICIAL DISTRICT OF MONTRÉAL, THE
PETITIONERS RESPECTFULLY SUBMIT AS FOLLOWS:**

I. INTRODUCTION

1. On September 9, 2011, the Honourable Louis J. Gouin, J.S.C. issued an order (the "**Initial Order**") pursuant to the *Companies Creditors' Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA**") in respect of Homburg Invest Inc. ("**HII**"), Homburg Shareco Inc. ("**Shareco**"), Churchill Estates Development Ltd. ("**Churchill**"), Inverness Estates Development Ltd. ("**Inverness**") and CP Development Ltd. ("**CP**") (collectively

the “**Initial Debtors**”) as appears from the Court record;

2. Pursuant to the Initial Order, Samson Bélair/Deloitte & Touche Inc. (now known as Deloitte Restructuring Inc., the “**Monitor**”) was appointed as Monitor of the Initial Debtors and a stay of proceedings (the “**Stay of Proceedings**”) was issued from the date of the Initial Order until October 7, 2011;
3. On October 7, 2011, this Honourable Court issued an order (the “**First Extension Order**”) extending the Stay of Proceedings. Since then, this Court has further extended the Stay of Proceedings, most recently until February 27, 2015 (the “**Stay Period**”), as appears from the Court record;
4. As appears from the Initial Order and the First Extension Order, the Stay of Proceedings was initially extended in favour of the following limited partnerships: Homco Realty Fund (52) Limited Partnership (“**Homco 52**”), Homco Realty Fund (88) Limited Partnership, Homco Realty Fund (89) Limited Partnership, Homco Realty Fund (92) Limited Partnership, Homco Realty Fund (94) Limited Partnership (“**Homco 94**”), Homco Realty Fund (105) Limited Partnership (“**Homco 105**”), Homco Realty Fund (121) Limited Partnership (“**Homco 121**”), Homco Realty Fund (122) Limited Partnership (“**Homco 122**”), Homco Realty Fund (142) Limited Partnership and Homco Realty Fund (199) Limited Partnership (collectively the “**Initial Mises-en-cause**”);
5. On May 31, 2012, this Court issued an order amending the Initial Order to add North Calgary Land Ltd. (“**NCLL**”) as a Petitioner and Homco Realty Fund (96) Limited Partnership (“**Homco 96**”) as an Applicant Partnership thereunder. On December 14, 2012, this Court issued a further order amending the Initial Order to add Homco Realty Fund (190) Limited Partnership and Homco Realty Fund (191) Limited Partnership as Applicant Partnerships;
6. By Order of the Court made on February 6, 2013, the Initial Order was further amended to add Homco Realty Fund (61) Limited Partnership (“**Homco 61**”) as an additional Applicant Partnership and Castello Development Ltd. (“**Castello**”) as a mise-en-cause. On March 14, 2013, the Initial Order was further amended to add Homburg Management (Canada) Inc. (“**HMCI**”) as an additional Petitioner. On April 26, 2013, this Court issued a further order amending the Initial Order to add Homco Realty Fund (83) Limited Partnership (“**Homco 83**”) as an Applicant Partnership. By subsequent Order of the Court, the stay of proceeding was discontinued in respect of Homco 122, Inverness, Homco 83, Churchill, CP and Homco 105. (NCLL, Homco 96, Homco 61, HMCI, the Initial Debtors and the Initial Mises-en-cause (excluding Homco 122, Inverness, Castello, Homco 83, Churchill, CP and Homco 105) are collectively referred to as the “**HII Group**”);
7. The HII Group respectfully requests that this Honourable Court render the orders sought herein to extend the Stay Period until February 29, 2016;

II. DISTRIBUTIONS UNDER THE PLANS OF ARRANGEMENT

8. As appears from the Court record, the Plan of Compromise and Reorganization of HII

and Shareco, as amended and restated from time to time (the “**HII/Shareco Plan**”) and the restated Plan of Compromise of Homco 61 (collectively the “**Plans**”) have been approved and sanctioned by this Honourable Court and implemented. Unless otherwise defined herein, all capitalized terms are as defined in the HII/Shareco Plan;

9. Since the last extension of the Stay Period, the Monitor proceeded with the following distributions, in accordance with the HII/Shareco Plan, on August 5, 2015:
 - (a) A second and final distribution of the Cash-Out Pool to all the Electing Creditors with Proven Claims as of March 24, 2015 (*i.e.* 12 months after the Plan Implementation Date); and
 - (b) A distribution of Newco Common Shares to most Non-Electing Creditors (including all the Bondholders);

The whole as will be more fully described in the Forty-Second Report of the Monitor to be served and filed on or about the date hereof;

III. OPERATIONS AND RESTRUCTURING EFFORTS

10. Since the last extension of the Stay Period, the HII Group has continued to make progress in connection with the disposition of the remaining non-core properties. Highlights of the most significant activities of the HII Group are provided below;

A. Dispositions of non-core properties

11. As previously disclosed to the Court, HSBC Bank Canada (“**HSBC**”) is financing two properties in Canada: Henderson Farms (Homco 121) and Points North (NCLL);
12. As regards Points North, on July 27, 2015, the Monitor accepted a purchase offer for Points North, with the approval of the Liquidation Advisory Committee created under the HII/Shareco Plan (the “**LAC**”). The offer is subject to an extended due diligence period. If the transaction closes, it is anticipated that this property will generate a recovery for the HII Group, and accordingly, its creditors. HSBC is being kept apprised of the developments in the sale process. Further material developments will be reported to the Court in due course;
13. As to Henderson Farms, as previously disclosed to the Court, the HII Group has no economic interest therein. The HII Group and the Monitor understand that HSBC is continuing to assess its options regarding this property;
14. As previously reported to the Court, offers were submitted for Homburg Springs East (Homco 52) and Homburg Springs West (Homco 94). With the approval of the LAC and, in the case of Homburg Springs East, Stichting Homburg Bonds (“**SHB**”), the offers were accepted. In accordance with the *Authorization of Sale and Vesting Order (Homburg Springs West Property)* and the *Authorization of Sale and Vesting Order (Homburg Springs East Property)*, in the Court record, the transactions closed during the last extension of the Stay Period;

15. The net proceeds resulting from the Homburg Springs East transaction were distributed to the Bond 4 Claim Holders in June 2015. The net proceeds resulting from the Homburg Springs West transaction were used to refund a portion of HII's advance to Homco 94. HII, in turn, remitted the funds to the Monitor to form part of the Asset Realization Cash Pool for an upcoming distribution to the creditors of HII, as provided for under the Plans;

B. *Other Matters*

16. The HII Group is working in collaboration with the Monitor in order to resolve the pending Disputed Claims for which reserves of cash and shares are currently held by the Monitor pursuant to the HII/Shareco Plan. Most prominently, in late April 2015 this Honourable Court heard SHB's *Amended motion for the issuance of an order authorizing the distribution of the net proceeds of the sale of assets of Homco 88 (Kai Towers)*, in the court record, which was taken under advisement after the parties filed written submissions in June 2015;
17. As will more fully appear from the Monitor's Forty-Third Report, in May 2015, the Halifax Club, a private club located in Halifax, Nova Scotia, contacted the Monitor with respect to the repayment of a debenture registered in HII's name. Despite the HII Group's best efforts, it has not been able to locate the original debenture. However, to the best of the HII Group's knowledge, the debenture has never been assigned nor pledged to a third party and remains the property of HII. The HII Group understands that, on or about the date hereof, the Monitor will file a motion with the Court regarding the proceeds of the debenture;
18. The HII Group continues to address all post-plan implementation matters, including the bankruptcies or dissolution of the various entities included in the HII Group, as appropriate, the whole with the support and assistance of the Monitor and its Canadian and Dutch counsel, and with the approval of the LAC, as required under the Plans and the Sanction Orders;

IV. CONCLUSION

19. HII is of the view that providing the relief requested herein is appropriate in the present circumstances in order for the HII Group to continue to work towards finalization of its affairs, including the disposition of the few remaining non-core properties. Accordingly, HII respectfully requests that this Honourable Court render the orders contained in the conclusions herein;
20. As will appear from the Monitor's Forty-Third Report, the Monitor supports the present Motion;
21. The HII Group has acted, and continues to act, in good faith and with due diligence;
22. The present motion is well founded in fact and law.

WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:

1. **GRANT** the present *Motion for extension of the stay period*;
2. **EXTEND** the Stay Period (as defined in the Initial Order rendered by the Court on September 9, 2011 and as extended from time to time) to and including February 29, 2016;

THE WHOLE WITHOUT COSTS, save in the event of contestation.

MONTREAL, August 26, 2015.

Osler, Hoskin & Harcourt LLP

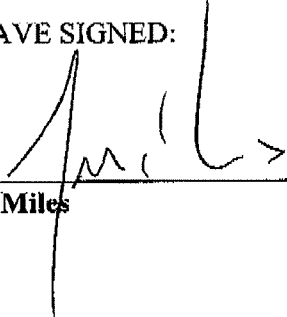
OSLER, HOSKIN & HARCOURT LLP
Attorneys for the Debtors and Mises-en-cause

AFFIDAVIT

I the undersigned, James F. Miles, domiciled and residing at 29 Coventry Lane, Dartmouth, Nova Scotia, B2V 2K2, solemnly declare the following:

1. I am the President of 1810040 Alberta Ltd. and duly authorized representative of the Petitioners for the purpose hereof;
2. I have taken cognizance of the attached *Motion for extension of the stay period*;
3. All of the facts alleged in the said motion are true.

AND I HAVE SIGNED:



James F. Miles

SOLEMNLY DECLARED BEFORE ME
IN HALIFAX, NOVA SCOTIA ON THE 26TH
DAY OF AUGUST 2015.




Sadira E. Jan

ATTESTATION OF AUTHENTICITY
(Article 82.1 of the *Code of Civil Procedure*, R.S.Q. c. C-25)

I, the undersigned, Julien Morissette, attorney, exercising my profession at Osler, Hoskin & Harcourt LLP, situated at 1000 De La Gauchetière Street West, Suite 2100, Montréal, Québec, solemnly declare the following:


1. I am one of the attorneys of the Petitioners to the present *Motion for extension of the stay period* in Court file number 500-11-041305-117;
2. On August 27, 2015 at 9:20 a.m. (Montréal time), Osler, Hoskin & Harcourt LLP received by fax the Affidavit of James F. Miles, a duly authorized representative of the Petitioners, dated August 26, 2015;
3. The copy of the Affidavit attached hereto is a true copy of the Affidavit of James F. Miles received by fax from Sadira E. Jan from the city of Halifax, Nova Scotia from fax number 902-420-1417;
4. All of the facts alleged herein are true.

AND I HAVE SIGNED:



Julien Morissette

SOLEMNLY DECLARED BEFORE ME
IN MONTRÉAL, QUÉBEC
ON THE 27TH DAY OF AUGUST 2015.



COMMISSIONER OF OATHS
FOR THE PROVINCE OF QUÉBEC



NOTICE OF PRESENTATION

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TAKE NOTICE that the *Motion for extension of the stay period* will be presented for hearing and allowance in the Superior Court, Commercial Division, in room 16.12 of the Montréal Courthouse, 1 Notre-Dame Street East, Montréal, on August 31, 2015, at 9:00 a.m., or so soon thereafter as counsel may be heard.

PLEASE ACT ACCORDINGLY.

MONTREAL, August 26, 2015

Osler, Hoskin & Harcourt LLP

OSLER, HOSKIN & HARCOURT LLP
Attorneys for the Debtors and Mises-en-cause

No: 500-11-041305-117

SUPERIOR COURT
(Commercial Division)

DISTRICT OF MONTRÉAL

IN THE MATTER OF THE PLAN OF COMPROMISE
OR ARRANGEMENT OF :

1810040 ALBERTA LTD. ET AL.

Debtors/Petitioners

-and-
HOMCO REALTY FUND (S2) LIMITED
PARTNERSHIP ET AL.

Mises-en-cause

-and-
DELOITTE RESTRUCTURING INC.

Monitor

MOTION FOR EXTENSION OF THE STAY PERIOD
(Sections 11 and 11.02 of the *Companies' Creditors*
Arrangement Act, R.S.C. 1985, c. C-36), AFFIDAVIT,
ATTESTATION OF AUTHENTICITY, NOTICE OF
PRESENTATION

ORIGINAL

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Mtre. Julien Morissette

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