

**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.)
Churchill Estates Development Ltd.
CP Development Ltd.
North Calgary Land Ltd.
Homburg Management (Canada) Inc.**

Debtors / Petitioners

-and-

**Homeco Realty Fund (52) Limited Partnership
Homeco Realty Fund (61) Limited Partnership
Homeco Realty Fund (83) Limited Partnership
Homeco Realty Fund (88) Limited Partnership
Homeco Realty Fund (89) Limited Partnership
Homeco Realty Fund (92) Limited Partnership
Homeco Realty Fund (94) Limited Partnership
Homeco Realty Fund (96) Limited Partnership
Homeco Realty Fund (105) Limited Partnership
Homeco Realty Fund (121) Limited Partnership
Homeco Realty Fund (142) Limited Partnership**

Mises-en-cause

-and-

Samson Bélair/Deloitte & Touche Inc.

Monitor

**MOTION FOR EXTENSION OF THE STAY PERIOD AND ANCILLARY RELIEF
(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., Inverness Estates Development Ltd. (“**Inverness**”) and CP Development Ltd. (collectively the “**Initial Debtors**”) as appears from the Court record;
2. Pursuant to the Initial Order, Samson Bélair/Deloitte & Touche 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 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 May 5, 2014 (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 88**”), 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 (“**Homco 190**”) and Homco Realty Fund (191) Limited Partnership (“**Homco 191**”) 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 Applicant Partnership. Finally, on July 11, 2013, this Court discontinued the stay of proceedings in respect of Homco 122 and on September 30, 2013, this Court discontinued the stay of proceedings in respect of Inverness (NCLL, Homco 96, Homco 190, Homco 191, Homco 61, Castello, HMCI, Homco 83, the Initial Debtors and the Initial Mises-en-cause (excluding Homco 122, Inverness and Castello) 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 August 29, 2014;

II. IMPLEMENTATION OF THE PLANS OF ARRANGEMENT

8. On May 30, 2013, affected creditors voted overwhelmingly in favour of the Second Joint Amended and Restated Plan of Compromise and Reorganization of HII and Shareco and the Restated Plan of Compromise of Homco 61 (the “**Homco 61 Plan**”);
9. On June 5, 2013, HII and Shareco filed a Third Amended and Restated Plan of Compromise and Reorganization (the “**HII/Shareco Plan**” and together with the Homco 61 Plan, the “**Plans**”);
10. Also on June 5, 2013, this Honourable Court sanctioned the Plans, as appears from the Court record;
11. The HII/Shareco Plan, with certain technical amendments, was successfully implemented from March 24, 2014 to March 27, 2014 and the Homco 61 Plan was successfully implemented on March 27, 2014, the whole as appears from the Court record;
12. Pursuant to and in accordance with the HII/Shareco Plan, the HII Group’s core assets were transferred to Geneva Properties N.V. (“**Geneba**”), a closed-end property investment company headquartered in Amsterdam which, as previously reported to the Court, was granted a licence by the Dutch Autoriteit Financiële Markten;
13. Also pursuant to the HII/Shareco Plan, HII, Shareco and certain other wholly owned subsidiaries of HII effected a statutory amalgamation on March 24, 2014, resulting in the amalgamated corporation 1810040 Alberta Ltd. As provided under the HII/Shareco Plan, the remaining assets of the HII Group are being liquidated under the supervision of the Monitor and the Liquidation Advisory Committee (as defined below) to the benefit of creditors;
14. After the Plan Implementation Date (all capitalized terms in this paragraph not otherwise defined herein have the meanings ascribed thereto in the Plans), holders of Proven Claims and Homco 61 Proven Claims who did not avail themselves of the Newco Common Shares Cash-Out Option (the “**Cash-Out Election**”) were notified of the shares in Geneva ascribed to them. Holders of Proven Claims and Homco 61 Proven Claims who made a Cash-Out Election were sent an initial distribution from the Cash-Out Pool. Further details of the distributions to date will appear from the Thirty Fourth Report of the Monitor;

III. OPERATIONS AND RESTRUCTURING EFFORTS

15. 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*

16. As previously disclosed to the Court, HSBC Bank Canada (“**HSBC**”) is financing two properties in Canada: Henderson Farms (Homco 121) and Points North (NCLL);
17. As regards Points North, a sales process is ongoing and any sale is subject to the approval of this Court. HSBC is kept informed of any material developments in the ongoing sale process;
18. As to Henderson Farms, as previously disclosed to the Court, Homburg Canada Inc. has raised certain issues relating to the property. Discussions as to the best course of action are ongoing and the Court will be kept apprised of any developments;
19. Highlights with respect to other properties located in North America are as follows:
 - (a) The sales processes for Homburg Springs East (Homco 52), Homburg Springs West (Homco 94) and Cristal Towers (Homco 105) are ongoing; and
 - (b) As previously reported to the Court, Homburg Holdings (U.S.) Inc. (“**HHUS**”) had entered into a Purchase and Sale Agreement for its four remaining properties, located in Colorado Springs, but the potential purchaser terminated the Agreement. HHUS and its broker are therefore continuing to market the properties to other interested parties.

B. *Litigation with Homburg Canada Inc. et al.*

20. Counsel for the HII Group in Barbados, Nova Scotia and Colorado continued to advance the legal proceedings pending in each of these jurisdictions. A hearing date has been set for June 19, 2014 for regarding a *Motion contesting jurisdiction* within the Nova Scotia proceedings. As of the date hereof, there are settlement discussions ongoing between the parties. An update of these discussions will be provided to the Court at the hearing of this Motion;

IV. *Change to the Liquidation Advisory Committee*

21. The HII/Shareco Plan provides for a Liquidation Advisory Committee “to be created under the HII/Shareco Sanction and Vesting Order, comprised of three individual members, one of whom shall be nominated by Stichting Homburg Bonds, one of whom shall be nominated by Catalyst, and one of whom shall be nominated by HII, with the powers, entitlements and duties set out therein and in the Plan”;
22. The HII/Shareco Sanction and Vesting Order and Twelfth Extension Order (the “**HII/Shareco Sanction Order**”, in the Court record, appointed James F. Miles, Marian Hogeslag and Gabriel De Alba to the Liquidation Advisory Committee;
23. Marian Hogeslag was Stichting Homburg Bonds’ (“**SHB**”) nominee. Since that Order was rendered, she resigned from Stichting Homburg Bonds and joined Geneva’s

Supervisory Board. Therefore, SHB now wishes to nominate Karel de Vries to the Liquidation Advisory Committee in her place;

24. James F. Miles was HII's nominee. Following implementation of the Plans, he remained an officer of HII. In connection therewith, HII now wishes to nominate Jan Schöningh, who is no longer an officer of HII, to the Liquidation Advisory Committee in his place;
25. As appears from the conclusions hereof, HII is requesting that the HII/Shareco Sanction Order be amended accordingly;

V. CONCLUSION

26. HII is of the view that providing the relief requested herein is appropriate in the present circumstances. Accordingly, HII respectfully requests that this Honourable Court render the orders contained in the conclusions herein;
27. As will appear from the Monitor's Thirty Fifth Report, the Monitor supports the present Motion;
28. The HII Group has acted, and continues to act, in good faith and with the utmost diligence;
29. 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 and ancillary relief* (the "**Motion**");
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 August 29, 2014;
3. **DECLARE** that paragraph 93 of the HII/Shareco Sanction and Vesting Order and Twelfth Extension Order rendered in the present file on June 5, 2013 is replaced by the following:

[93] **ORDERS** that Jan Schöningh, Karel de Vries and Gabriel De Alba (collectively, the "**Committee Members**") are hereby appointed to the Liquidation Advisory Committee;

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

MONTREAL, April 30, 2014

Osler, Hoskin & Harcourt LLP

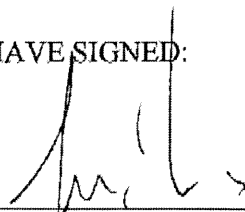
OSLER, HOSKIN & HARCOURT LLP
Attorneys for the Debtors and Mises-en-cause

AFFIDAVIT

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

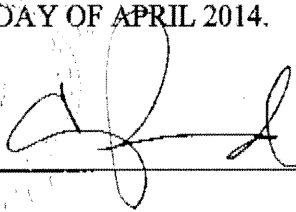
1. I am the President of 1810040 Alberta Ltd. and duly authorized representative of the Petitioners for the purpose hereof;
2. I have taken cognizance of the attached *Motion for extension of the stay period and ancillary relief*;
3. All of the facts alleged in the said motion are true.

AND I HAVE SIGNED:



James F. Miles

SOLEMNLY DECLARED BEFORE ME
IN HALIFAX, NOVA SCOTIA ON THE
30TH DAY OF APRIL 2014.



CHRISTINE C. POUND
A Notary Public in and for the
Province of Nova Scotia

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 and ancillary relief* in Court file number 500-11-041305-117;
2. On April 30, 2014 at 3:51 p.m. (Montréal time), Osler, Hoskin & Harcourt LLP received by fax the Affidavit of James F. Miles, a duly authorized representative of the Petitioners, dated the same day;
3. The copy of the Affidavit attached hereto is a true copy of the Affidavit of James F. Miles received by fax from Christine Pound from the city of Halifax, Nova Scotia from fax number 902-420-1417;
4. All of the facts alleged herein are true.

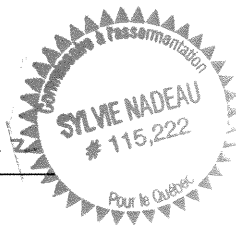
AND I HAVE SIGNED:



Julien Morissette

SOLEMNLY DECLARED BEFORE ME
IN MONTRÉAL, QUÉBEC
ON THE 30TH DAY OF APRIL 2014.


COMMISSIONER OF OATHS
FOR THE PROVINCE OF QUÉBEC



NOTICE OF PRESENTATION

- TO :** **McCARTHY TÉTRAULT LLP** **Attorneys for the Monitor**
1000 De La Gauchetière Street West, Suite 2500
Montréal QC H3B 0A2
Me Mason Poplaw
Me Jocelyn Perreault
Me Alain Tardif
email : mpoplaw@mccarthy.ca
jperreault@mccarthy.ca
atardif@mccarthy.ca
- TO :** **BENNETT JONES LLP** **Attorneys for Penn West**
4500 Bankers Hall East
855 2nd Street West
Calgary AB T2P 4K7
Me Kenneth T. Lenz
email : lenzk@bennettjones.com
- TO :** **BENNETT JONES LLP** **Attorneys for Statoil Canada Limited**
4500 Bankers Hall East
855 2nd Street West
Calgary AB T2P 4K7
Me Chris Simard
email : simardc@bennettjones.com
- TO :** **LANGLOIS KRONSTRÖM DESJARDINS LLP** **Attorneys for Statoil Canada Limited**
1002 Sherbrooke Street West, 28th Floor
Montréal QC H3A 3L6
Me Gerry Apostolatos
Me Dimitri Maniatis
Me Stefan Chripounoff
email : gerry.apostolatos@lkd.ca
dimitri.maniatis@lkd.ca
stefan.chripounoff@lkd.ca
- TO :** **HOMBURG CANADA INC.**
600-1741 Brunswick Street
Halifax NS B3J 3X8
Me Michael J. O'Hara
General Counsel
email: mohara@homburg.com

TO : ARCAN RESOURCES LTD.
Suite 2200, 500 – 4th Avenue S.W.
Calgary, Alberta T2P 2V6
Mr. Graeme Ryder,
Vice-President, Finance and CFO
email : gryder@arcanres.com

TO : BORDEN LADNER GERVAIS LLP
1000 De La Gauchetière Street West, Suite 900
Montréal QC H3B 5H4

**Attorneys for BOS Solutions
Ltd., Canadian Tabular
Services Inc., Premier
Petroleum Corp, Moe Hannah
McNeill LLP**

Me Matti Lemmens
Me Mathieu Lévesque
email : mlemmens@blg.com
malevesque@blg.com

TO : FIELD LAW
400 – 604 1st SW
Calgary AB T2P 1M7

**Attorneys for Keywest
Projects Ltd., MHI Fund
Management Inc., STP Group
Canada Ltd. (formely
Neotechnology Consultants
Ltd.), Logan Completion
Systems Inc., CE Franklin
Ltd.**

Me Douglas S. Nishimura
email : dnishimura@fieldlaw.com

TO : DAVIES WARD PHILLIPS & VINEBERG LLP
1501 McGill College Avenue, 26th floor
Montréal QC H3A 3N9

**Attorneys for HSBC Bank
Canada**

Me Denis Ferland
Me Christian Lachance
email : dferland@dwpv.com
clachance@dwpv.com

TO : DAVIES WARD PHILLIPS & VINEBERG LLP
1501 McGill College Avenue, 26th floor
Montréal QC H3A 3N9

Attorneys for Cominar REIT

Me Louis-Martin O'Neill
email : lmoneill@dwpv.com

TO : **DICKINSON WRIGHT LLP**
222 Bay St., 18th Floor, PO Box 124
Toronto ON M5K 1H1
Me David P. Preger
email : dpreger@dickinsonwright.com

**Attorneys for Romspen
Investment Corporation**

joint appearance with De
Granpré

TO: **DE GRANPRÉ JOLI-CŒUR LLP**
2000 McGill College Avenue, Suite 1600
Montréal QC H3A 3H3
Me Anne Lefebvre
email: a.lefebvre@djclegal.com

**Attorneys for Romspen
Investment Corporation**

joint appearance with Dickinson
Wright

TO : **FASKEN MARTINEAU DUMOULIN LLP**
Tour de la Bourse
800 Place Victoria, PO Box 242, Suite 3700
Montréal QC H4Z 1E9

**Attorneys for Canmarc REIT
(formerly Homburg Canada
REIT), Homburg Canada
REIT Limited Partnership
and Homburg Canada REIT
GP Inc. and, in their capacity
a trustees of Canmarc REIT
(formerly Homburg Canada
REIT), Karen A. Prentice,
Frank W. Matheson, James F.
Miles, Wayne Heuff, John
Levitt and Gérard A. Limoges**

Me Luc Morin
Me Robert Paré
Me Edmond Lamek
Me Alain Riendeau
email : lmorin@fasken.com
rpare@fasken.com
elamek@fasken.com
ariendeau@fasken.com

TO : **FISHMAN FLANZ MELAND PAQUIN LLP**
1250 René-Lévesque Boulevard West, Suite 4100
Montréal QC H3B 4W8
Me Mark E. Meland
email : mmeland@ffmp.ca

**Attorneys for Cadillac
Fairview Corporation Limited**

TO : **FISHMAN FLANZ MELAND PAQUIN LLP**
1250 René-Lévesque Boulevard West, Suite 4100
Montréal QC H3B 4W8
Me Ronald M. Auclair
email : rauclair@ffmp.ca

**Attorneys for Stichting
Homburg Capital Securities**

TO : **STIKEMAN ELLIOTT**
1155 René-Lévesque Boulevard West
Montréal QC H3B 3V2

**Attorneys for Stichting
Homburg Bonds**

Me Guy P. Martel
Me Joseph Reynaud
Me Warren Katz
Me Charles Nadeau
Me Claire Zikovsky
Me Danny Duy Vu
Me Nathalie Nouvet

email : gmartel@stikeman.com
jreynaud@stikeman.com
wkatz@stikeman.com
cnadeau@stikeman.com
czikovsky@stikeman.com
ddvu@stikeman.com
nnouvet@stikeman.com

TO : **DENTONS CANADA LLP**
1 Place Ville Marie, Suite 3900
Montréal QC H3B 4M7

**Attorneys for Tucker
Wireline Services Canada Inc.**

Me Louis Dumont
Me Jordan Deering
Me Martin Poulin

email : louis.dumont@dentons.com
jordan.deering@dentons.com
martin.poulin@dentons.com

TO : **HEENAN BLAIKIE LLP**
215 – 9th Avenue S.W., Suite 1900
Calgary AB T2P 1K3

**Attorneys for Surge Energy
Inc.**

Me Caireen E. Hanert
Me Nicholas Plourde

email : chanert@heenan.ca
nplourde@heenan.ca

TO : **NORTON ROSE CANADA LLP**
3700 Canterra Tower, 400 – 3rd Avenue S.W.
Calgary AB T2P 4H2

**Attorneys for bcIMC Realty
Corporation**

Me Judson Virtue

email : jud.virtue@nortonrose.com

TO : **CATALYST CAPITAL GROUP INC.**
Royal Trust Tower
77 King Street West, Suite 4320
POBox 212
Toronto ON M5K 1J3

Gabriel de Alba
Zach Michaud
email: gdealba@catcapital.com
zmichaud@catcapital.com

TO : **McMILLAN LLP**
Brookfield Place
181 Bay Street, Suite 4400
Toronto ON M5J 2T3

Me Andrew J.F. Kent
Me Stephen Eddy
email : andrew.kent@mcmillan.ca
stephen.eddy@mcmillan.ca

**Attorneys for Catalyst Capital
Group Inc.**

TO : **McMILLAN LLP**
1000 Sherbrooke Street West, Suite 2700
Montréal QC H3A 3G4

Me Nicholas Scheib
Me Marc-André Morin
Me Charles Chevette
Me Rachel April Giguère
email : nicholas.scheib@mcmillan.ca
marc-andre.morin@mcmillan.ca
charles.chevette@mcmillan.ca
rachel.aprilgiguere@mcmillan.ca

**Attorneys for Catalyst Capital
Group Inc.**

TO : **McMILLAN LLP**
1000 Sherbrooke Street West, Suite 2700
Montréal QC H3A 3G4

Me Éric Vallières
email : eric.vallieres@mcmillan.ca

**Attorneys for DEGI Homburg
Harris Limited Partnership**

TO : NORTON ROSE CANADA LLP
1 Place Ville Marie, Suite 2500
Montréal QC H3B 1R1

**Attorneys for Taberna
Europe CDO I PLC, Taberna
Europe CDO II PLC,
Taberna Preferred Funding
VIII, Ltd and Taberna
Preferred Funding VI, Ltd.**

Me Sylvain Rigaud
Me Arnold Cohen
Me Chrystal Ashby
email : sylvain.rigaud@nortonrose.com
arnold.cohen@nortonrose.com
chrystal.ashby@nortonrose.com

TO : WALSH WILKINS CREIGHTON LLP
2800 – 801 6th Avenue S.W.
Calgary, Alberta T2P 4A3

**Attorneys for Lafarge Canada
Inc.**

Me Gary Befus
email : gbefus@walshlaw.ca

TO : STONES CARBERT WAITE WELLS LLP
2000 Encor Place
645 – 7th Avenue S.W.
Calgary AB T2P 4G8

**Attorneys for NORR
Architects Planners**

Me Kelly Patrick Colborne
email : colborne@scwlawyers.com

TO : KUGLER KANDESTIN LLP
1 Place Ville Marie, Suite 2101
Montréal QC H3B 2C6

**Attorneys for Avison Young
Real Estate Alberta Inc.**

Me Gordon Levine
email : glevine@kugler-kandestin.com

TO : WELLS FARGO BANK, N.A.
Corporate Trust Services
9062 Old Annapolis Road
MAC: N2702-011
Columbia, Maryland 21045

Wells Fargo Bank N.A.

William Fay
**Default & Restructuring Account
Manager**
email : bill.fay@wellsfargo.com

- TO :** **NOVA SCOTIA SECURITIES COMMISSION** **Nova Scotia Securities Commission**
CIBC Building
1809 Barrington Street, Suite 501
Halifax NS B3J 3K8
Me Stephanie Atkinson
Enforcement Counsel
email : atkinssj@gov.ns.ca
- TO :** **DEPARTMENT OF JUSTICE CANADA**
Tax Litigation Directorate
Québec Regional Office
Guy-Favreau Complex, East Tower, 9th Floor
200 René-Lévesque Boulevard West
Montréal QC H2Z 1X4
Me Kim Sheppard
email : kim.sheppard@justice.gc.ca
- TO :** **THE LAW FIRM OF W. DONALD GOODFELLOW, Q.C.** **Attorneys for Centron Construction Corp.**
999 – 8th Street S.W., Suite 715
Calgary AB T2R 1J5
Me W. Donald Goodfellow
Me Philip R. Biggar
email : wdonald@goodfellowqc.com
pbiggar@goodfellowqc.com
- TO :** **DAVIS LLP** **Attorneys for Valbonne Real Estate B.V.**
1501 McGill College Avenue, Suite 1400
Montréal QC H3A 3M8
Me Mélanie Martel
Me Jean-Yves Fortin
Me Brigitte Lenis
email : mmartel@davis.ca
jyfortin@davis.ca
blenis@davis.ca
- TO :** **IRVING MITCHELL KALICHMAN LLP** **Attorneys for Lafarge Canada Inc. and Kai Construction Corp.**
Place Alexis Nihon – Tour 2
3500 De Maisonneuve Blvd. W, Suite 1400
Montréal QC H3Z 3C1
Me Peter Kalichman
Me Karim Renno
email : pkalichman@imk.ca
krenno@imk.ca

TO : **McLENNAN ROSS LLP**
1000 First Canadian Centre
350-7th Avenue SW
Calgary, AB T2P 3N9
Me James P. Flanagan
email : jflanagan@mross.com

**Attorneys for C&T
Reinforcing Steel**

TAKE NOTICE that the *Motion for extension of the stay period and ancillary relief* will be presented for hearing and allowance in the Superior Court, Commercial Division, at the Montréal Courthouse, 1 Notre-Dame Street East, Montréal, on May 5, 2014, at 9:15 a.m., or so soon thereafter as counsel may be heard, and in a room to be announced.

PLEASE ACT ACCORDINGLY.

MONTREAL, April 30, 2014

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 :

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Debtors/Petitioners

-and-
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PARTNERSHIP ET AL.

Mises-en-cause

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SAMSON BÉLAIR/DELOITTE & TOUCHE INC.

Monitor

MOTION FOR EXTENSION OF THE STAY PERIOD
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Companies' Creditors Arrangement Act, R.S.C. 1985, c.
C-36), AFFIDAVIT, ATTESTATION OF
AUTHENTICITY, NOTICE OF PRESENTATION

ORIGINAL

Mtre. Martin Desrosiers
Mtre. Sandra Abitan

Osler, Hoskin & Harcourt LLP

1000 De La Gauchetière Street West, Suite 2100

Montréal, Québec H3B 4W5

Tel: 514.904.8100 Fax: 514.904.8101

Code : BO 0323

o/f: 1131787