

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

Court No: 500-11-041305-117

Date: October 7, 2011

Present: THE HONOURABLE LOUIS J. GOUIN, J.S.C.

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

**HOMBURG INVEST INC.
HOMBURG SHARECO INC.
CHURCHILL ESTATES DEVELOPMENT LTD.
INVERNESS ESTATES DEVELOPMENT LTD.
CP DEVELOPMENT LTD.**

Debtors

-and-

**HOMCO REALTY FUND (52) LIMITED PARTNERSHIP
HOMCO REALTY FUND (53) LIMITED PARTNERSHIP
HOMCO REALTY FUND (88) LIMITED PARTNERSHIP
HOMCO REALTY FUND (89) LIMITED PARTNERSHIP
HOMCO REALTY FUND (92) LIMITED PARTNERSHIP
HOMCO REALTY FUND (105) LIMITED PARTNERSHIP
HOMCO REALTY FUND (121) LIMITED PARTNERSHIP
HOMCO REALTY FUND (122) LIMITED PARTNERSHIP
HOMCO REALTY FUND (142) LIMITED PARTNERSHIP
HOMCO REALTY FUND (199) LIMITED PARTNERSHIP**

Mis-en-cause

-and-

SAMSON BÉLAIR/DELOITTE & TOUCHE INC.

Monitor

-and-

**STICHTING HOMBURG BONDS
STICHTING HOMBURG CAPITAL SECURITIES**

Trustees

FIRST EXTENSION ORDER

[1] The Court is seized with the following two motions :

- (a) a Motion to Extend the Stay Period and to Amend the Initial Order and for Other Orders dated October 4, 2011 (the "**Motion to Extend**"), pursuant to Sections 9 and 11 of the *Companies' Creditors Arrangement Act R.S.C. 1985 c. C-36* (the "**CCAA**") and presented by the Debtors; and
- (b) an Amended Motion for Amendments to the Initial Order" (the "**Motion to Amend**") pursuant to Sections 11, 11.02, 11.51 and 36 of the CCAA, presented by the Trustees,

(collectively, the "**Motions**");

- [2] **CONSIDERING** the initial order issued by the Court in this matter on September 9, 2011 (the "**Initial Order**");
- [3] **CONSIDERING** the Motions, the exhibits and affidavits in support thereof, and the representations of counsels to the various parties present at the court hearing;
- [4] **CONSIDERING** the Monitor's Second Report dated October 5, 2011 (the "**Report**") and the testimony of Pierre Laporte, the representative of the Monitor, explaining further certain issues raised in the Report, including his stressing on the urgency of the situation and that all parties must team up so as to achieve a successful restructuring;
- [5] **CONSIDERING** the Court's warning in the Initial Order to the effect that "the parties should join their common interests and efforts to maximize the chances of achieving a successful restructuring and their present focus, at this point in time, should not be to fight over proxy issues and related corporate issues, including the election of directors of one of the Petitioners, therefore distracting the Petitioners from the real issue, namely, protecting and restructuring their businesses";
- [6] **CONSIDERING** the ongoing financial distressed position of the Debtors as reported by the Monitor :
- "Finally, HII [Homburg Invest Inc.] and its affiliates are facing a significant liquidity crisis. They obviously will not be able to meet their financial obligations as they become due without selling valuable assets and accordingly decreasing the value of the business and future chances for a successful restructuring." (Report, page 25, paragraph 143 iv)
- [7] **CONSIDERING** that "time is of the essence" and that the coming weeks are crucial for the parties to get their act together, so as to find a collective solution beneficial to all stakeholders;
- [8] **CONSIDERING** that the Court is prepared, again, to count on the goodwill of all parties involved to focus on the real issues;

FOR THESE REASONS, THE COURT:

- [9] **GRANTS** the Motion to Extend;

- [10] **DISMISSES** the Motion to Amend with the exception of paragraphs 25.1 to 25.10 and related conclusions, which shall be debated at a further court hearing to be fixed in the very near future;
- [11] **DECLARES** that the Motion to Extend was duly served, that the notices of presentation thereof are sufficient and dispenses the Debtors from any additional notice requirements;
- [12] **EXTENDS** the Stay Period (as defined in the initial order granted by this Court in this matter on September 9, 2011 (the “**Initial Order**”)) to December 9, 2011, the whole subject to the terms of the Initial Order, as amended;
- [13] **ORDERS** that the Initial Order is amended as follows :

(a) Paragraph 9 of the Initial Order is replaced by the following:

DECLARES that Petitioners are debtor companies to which CCAA applies and **DECLARES** that, although not a Petitioner, Homburg Realty Fund (92) Limited Partnership (“**Partnership (92)**”), Homburg Realty Fund (199) Limited Partnership (“**Partnership (199)**”), Homburg Realty Fund (52) Limited Partnership (“**Partnership (52)**”), Homburg Realty Fund (94) Limited Partnership (“**Partnership (94)**”), Homburg Realty Fund (88) Limited Partnership (“**Partnership (88)**”), Homburg Realty Fund (89) Limited Partnership (“**Partnership (89)**”), Homburg Realty Fund (105) Limited Partnership (“**Partnership (105)**”), Homburg Realty Fund (121) Limited Partnership (“**Partnership (121)**”) and Homburg Realty Fund (122) Limited Partnership (“**Partnership (122)**”) and Homburg Realty Fund (142) Limited Partnership (“**Partnership (142)**”) and together with Partnership (92), Partnership (199), Partnership (52), Partnership (94), Partnership (88), Partnership (89), Partnership (105), Partnership (121) and Partnership (122) (collectively the “**Applicant Partnerships**”) shall enjoy the protections and authorizations provided by this Order.

(b) Annex I of the Initial Order is amended to read as follows:

ANNEX I: MIS-EN-CAUSE ENTITIES

Homburg Realty Fund (199) Limited Partnership
[...]
Homburg Realty Fund (52) Limited Partnership
Homburg Realty Fund (94) Limited Partnership
Homburg Realty Fund (88) Limited Partnership
Homburg Realty Fund (89) Limited Partnership
Homburg Realty Fund (92) Limited Partnership
Homburg Realty Fund (105) Limited Partnership
Homburg Realty Fund (121) Limited Partnership

Homburg Realty Fund (122) Limited Partnership

Homburg Realty Fund (142) Limited Partnership

(c) The words "of the Petitioners" are added after the word "Property" in paragraphs 26, 42 and 44 of the Initial Order; and

(d) The following conclusion is added to the Initial Order:

DECLARES that Exhibits P-16 and P-A to P-E contain sensitive and confidential information and shall be sealed in the Court file in these proceedings, and segregated from, and not form part of, the public record. On notice to the Debtors, the Monitor and their respective legal counsel (as provided in the Initial Order), any interested party can apply to the Court for authorization to receive a copy of said exhibits;

[14] **ORDERS** that, until further order of this Court, none of the Applicant Partnerships shall :

(a) other than in accordance with existing agreements and / or in the ordinary course of business, sell, dispose of, convey, transfer, release, discharge, assign, hypothecate, pledge or grant any security on any of their property, assets and undertakings involving an amount of consideration (in any transaction or series of related transactions) in excess of \$500,000 or \$1,000,000 in the aggregate, without prior leave of this Court; and

(b) enter into any new material transaction or incur any new debt or obligation, except in the ordinary course of business or as otherwise provided for in the Initial Order or any subsequent order:

[15] **ORDERS** the provisional execution of the present order notwithstanding appeal;

[16] **THE WHOLE WITHOUT COSTS.**



LOUIS J. GOUIN, J.S.C.

Me Sandra Abitan
OSLER, HOSKIN & HARCOURT LLP
Counsel for the Debtors and Mis-en-cause

Me Mason Poplaw
MCCARTHY TÉTRAULT LLP
Counsel for the Monitor

Me Guy Martel
STIKEMAN ELLIOTT LLP
Counsel for the Trustees