

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
COURT. No.: 500-11-041305-117

SUPERIOR COURT
Commercial Division

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

HOMBURG INVEST INC.

– and –

HOMBURG SHARECO INC.

– and –

CHURCHILL ESTATES DEVELOPMENT LTD.

– and –

CP DEVELOPMENT LTD.

– and –

NORTH CALGARY LAND LTD.

– and –

HOMBURG MANAGEMENT (CANADA) INC.

Debtors/Petitioners

– and –

THE ENTITIES LISTED IN APPENDIX A

Mises-en-cause

– and –

SAMSON BÉLAÏR/DELOITTE & TOUCHE INC.

Monitor

**TWENTY-EIGHTH REPORT TO THE COURT
SUBMITTED BY SAMSON BÉLAÏR/DELOITTE & TOUCHE INC.
IN ITS CAPACITY AS MONITOR**
(Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended)

INTRODUCTION

1. On September 9, 2011, Homburg Invest Inc. (“**HII**”), Homburg Shareco Inc. (“**Shareco**”), Churchill Estates Development Ltd., Inverness Estates Development Ltd. (“**Inverness**”) and CP Development Ltd. (and, later, North Calgary Land Ltd. and Homburg Management (Canada) Inc., following amendments to the Initial Order) (collectively, the “**Debtors**”) filed and obtained protection from their respective creditors under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) pursuant to an Order rendered by the Superior Court of Quebec (as amended and extended from time to time, the “**Initial Order**”). On September 30, 2013 the Court discontinued the Stay in respect of Inverness, which has since filed an assignment in bankruptcy.
2. Pursuant to the Initial Order (as amended), the Stay extends to the entities listed in Appendix A hereto which are related to the Debtors (collectively, the “**Applicant Partnerships**” and, together with the Debtors, the “**HII Parties**”), including in particular, for the purpose of this report, Homco Realty Fund (88) Limited Partnership (“**Homco 88**”). On July 11, 2013 the Court discontinued the Stay in respect of Homco 122, which has since been dissolved.
3. Samson Bélair/Deloitte & Touche Inc. was appointed as monitor (the “**Monitor**”) under the CCAA.
4. Pursuant to the Initial Order, an initial stay of proceedings (the “**Stay**”) was granted until October 7, 2011 in favor of the HII Parties, which Stay has been extended from time to time by order of the Court. On September 30, 2013, the Court last extended the Stay up until December 2, 2013.
5. Since the Initial Order, the Monitor has filed reports with the Court and served same to the Service List from time to time. The Monitor filed twenty-seven such Monitor’s reports (as well as some supplemental reports) prior to this twenty-eighth Monitor’s report (the “**Twenty-Eighth Report**”). Copies of all of the Monitor’s reports are available on the Monitor’s website at www.deloitte.com/ca/homburg-invest. The Monitor has also established a toll free number that is referenced on the Monitor’s website so that parties may contact the Monitor if they have questions with respect to the HII Parties’ restructuring under the CCAA.

PURPOSE OF THE TWENTY-EIGHTH REPORT

6. This Twenty-Eighth Report is intended to provide an update and information regarding the sale of the Kai property held by Homco 88 (the “**Kai Property**”) and to support the proposed transaction in relation thereto (the “**Kai Transaction**”).
7. This Twenty-Eighth Report is structured as follows:
 - I- The Kai Transaction
 - II- Conclusions and Recommendations.

TERMS OF REFERENCE

8. In preparing this Twenty-Eighth Report, the Monitor has relied upon unaudited financial information, the HII Parties’ records, the amended motion for an Initial Order dated September 9, 2011, and all subsequent motions filed with the Court (collectively, the “**Debtors’ Motions**”) and exhibits in support of same, its discussions with management of the HII Parties (“**Management**”) and the HII Parties’ and the Monitor’s legal advisors. While the Monitor has analyzed the information, some in draft form, submitted in the limited time available, the Monitor has not performed an audit or otherwise verified such information. Forward looking financial information included in this Twenty-Eighth Report is based on assumptions of Management regarding future

events, and actual results achieved will vary from this information and such variations may be material.

9. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars. Capitalized terms not otherwise defined in this Twenty-Eighth Report are as defined in the previous reports of the Monitor and the Debtors' Motions.

I. THE KAI PROPERTY AND THE KAI TRANSACTION

10. As mentioned in the Fifteenth Report, the Kai Property, which is the sole material asset of Homco 88, is a section of development land located in the beltline community of Calgary immediately south of the central business district. This zone is mainly for mixed-use development. The Kai Property presently consists of a constructed underground parkade structure. Shortly after the initiation of the CCAA proceedings, all or substantially construction work on the Kai Property ceased.
11. As mentioned in several reports, HSBC financed the development of the Kai Property and holds security thereon. Counsel for the Monitor has delivered an opinion confirming that said security is valid. As of the date hereof, according to the HII Parties' records, the outstanding indebtedness towards HSBC totals approximately \$6M. Out of this amount, an amount of \$5.7M is in connection with a loan secured by the land mortgage on the Kai Property, and the remaining balance of approximately \$280K pertains mainly to a line of credit of Homco 88. The Monitor is currently reviewing whether this last portion is also secured by the land mortgage. The indebtedness secured by the land mortgage on the Kai Property will be repaid in full as part of the Kai Transaction. All of Homco 88's obligations towards HSBC are guaranteed by HII, and HII has granted a security over its movable assets to secure such obligations as guarantor. Thus, any amount that would not be secured by the land mortgage on the Kai Property would form part of the HSBC Secured Claim, an Unaffected Claim under the HII/Shareco Plan.
12. As mentioned in the Fifteenth Report, after analyzing the recommendations provided in a report prepared by a real estate firm and after consulting with various real estate professionals, the HII Parties, along with the Monitor, determined that the best course of action for the HII Parties was to begin a sale process with respect to the Kai Property.
13. As mentioned in the Seventeenth Report, at the meetings of the Series 7 Mortgage Bondholders, the bondholders were asked to ratify the sale process initiated by HII in connection with the Kai Property. Given the absence of value for Homco 88's unsecured creditors, it was also provided that all fees, costs and expenses related to Homco 88, as and from September 1, 2012 (including a maximum amount of \$100K to cover professional fees of HII's counsel and the Monitor and its counsel in relation to the sale process) could be advanced by HII (the "**H88 Advances**") and shall be secured by a charge in the amount of \$385K over the Kai Property (the "**Homco 88 Funding Charge**"). The Series 7 Mortgage Bondholders voted overwhelmingly in favour of the resolution.
14. As mentioned in the Eighteenth Report, subsequent to the order rendered on November 8, 2012 whereby the Court granted the Homco 88 Funding Charge, Homco 88, the Monitor and CBRE finalized a listing agreement. The asking price was set at \$39.8M.
15. On May 17, 2013, Homco 88, with the approval of the Monitor and of Stichting Homburg Bonds in its role as representative of the Series 7 Mortgage Bondholders, entered, with Statesman Group, subject to the approval of the Court, into a conditional purchase and sale agreement ("**Conditional Agreement**"), for an amount of \$30.2 million (subject to customary closing adjustments), on an "as

is, where is” basis, subject to certain conditions precedent, including Statesman Group’s satisfaction with its due diligence review and inspection of the Kai property.

16. The Conditional Agreement provided for a due diligence period of up to 78 days (the “**Due Diligence Period**”). As mentioned in the Twenty-Seventh Report, the Due Diligence Period was extended from time to time to allow Statesman Group additional time to complete its due diligence investigations, which took longer than expected in part due to the recent flooding of the City of Calgary.
17. Statesman Group and HII (88) GP Inc., in its capacity as general partner of Homco 88, entered into an Amendment and Waiver Agreement (the “**Amendment Agreement**”) dated as of October 31, 2013, pursuant to which (i) Statesman Group agreed to waive all conditions precedent in its favour set out in the Offer and (ii) the parties agreed to reduce the purchase price to \$30.0M.
18. The Monitor is of the view that the terms of the Kai Transaction are reasonable and favourable for the HII Group and its stakeholders given, *inter alia*:
 - i. It is congruent with the HII Group’s restructuring plan, i.e. to dispose of non-core assets to the benefit of its stakeholders;
 - ii. The \$30.0M purchase price falls within the range of valuations of the Kai Property obtained by the Monitor; and
 - iii. The Kai Transaction will satisfy Homco 88’s secured debt towards HSBC, reimburse the H88 Advances and allow for a substantial distribution to holders of Series 7 Bonds, resulting in a reduction of their unsecured claim against HII.
19. The conclusion of the Kai Transaction is also supported by Stichting Homburg Bonds, acting for the holders of Series 7 Mortgage Bonds.
20. As indicated in Homco 88’s motion for authorization of the Kai Transaction, some parties have registered liens against the Kai Property. In the course of the CCAA proceedings, one of such lien claimants, Kai Construction Corporation, filed with a Statement of Claim alleging, *inter alia*, that it should rank in priority to the holders of Series 7 Mortgage Bonds. The order sought by Homco 88’s motion will not affect any of the parties’ rights in this regards, as such rights over the Kai Property, if any, will be vested on the sale proceeds.

II. CONCLUSIONS AND RECOMMENDATIONS

21. It is the Monitor’s view that the HII Parties have acted in good faith and with due diligence in accordance with the Initial Order.
22. It is the Monitor’s opinion that, for the reasons further elaborated in this Twenty-Eighth Report, The Kai Transaction should be approved and the vesting order should be granted by the Court.

The Monitor respectfully submits this Twenty-Eighth Report to the Court.

DATED AT MONTREAL, this 8th day of November, 2013.



Pierre Laporte, CPA, CA, CIRP
President

SAMSON BÉLAIR/DELOITTE & TOUCHE INC.
In its capacity as Court-Appointed Monitor

APPENDIX A

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THE ENTITIES Mis-en-Cause

HOMCO REALTY FUND (52) LIMITED PARTNERSHIP
HOMCO REALTY FUND (61) LIMITED PARTNERSHIP
HOMCO REALTY FUND (83) LIMITED PARTNERSHIP
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 REALTY FUND (96) LIMITED PARTNERSHIP
HOMCO REALTY FUND (105) LIMITED PARTNERSHIP
HOMCO REALTY FUND (121) LIMITED PARTNERSHIP
HOMCO REALTY FUND (142) LIMITED PARTNERSHIP
HOMCO REALTY FUND (190) LIMITED PARTNERSHIP
HOMCO REALTY FUND (191) LIMITED PARTNERSHIP
HOMCO REALTY FUND (199) LIMITED PARTNERSHIP
CASTELLO DEVELOPMENT LTD.