

**SUPERIOR COURT
(Commercial Division)**

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-041305-117

DATE: April 15, 2021

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

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

**1810040 ALBERTA LTD. (formerly known as
HOMBURG INVEST INC. AND HOMBURG SHARECO INC.)**

Debtor / Petitioner

- and -

HOMCO REALTY FUND (61) LIMITED PARTNERSHIP

Mise en cause

- and -

**DELOITTE RESTRUCTURING INC. (formerly known as
SAMSON BÉLAIR/DELOITTE & TOUCHE INC.)**

Monitor

ORDER GRANTING THIRTY-SEVENTH EXTENSION OF THE STAY PERIOD

- [1] The Petitioner presents an *Application for extension of the stay period* (the “**Application**”) pursuant to sections 11 and 11.02 of the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”);
- [2] **CONSIDERING** the Application and the affidavit in support thereof;
- [3] **CONSIDERING** the Monitor’s Fifty-Sixth Report dated April 13, 2021 and the Monitor’s Supplemental Report thereof dated April 14, 2021 (collectively the “**Monitor’s Report**”);
- [4] **CONSIDERING** the notification of the Application;

- [5] **CONSIDERING** the representations of counsel;
- [6] **CONSIDERING** the representations of Karel de Vries, acting for Stichting Homburg Bonds (the «**Trustee**»), namely the main representative of more than 9 000 holders of bonds (the «**Bondholders**») issued in this matter, including the 4 Bondholders (defined hereinafter);
- [7] **CONSIDERING** that four of the Bondholders, namely Frank Hendriks, Ruud Noordermeer, Wim Spreij and Eltje Verloop (the «**4 Bondholders**») were allowed by the Court to make representations with respect to their wish that the Litigation Reserve (as defined and explained in the Application and in the Monitor's Report, and presently amounting to 533 635 CAD \$) be used for the purpose of filing claims against Mr. Richard Homburg («**Mr. Homburg**»), instead of being included in the Final Distribution (as defined in the Application and in the Monitor's Report);
- [8] **CONSIDERING** that the matter of potential claims against Mr. Homburg has already been revised and assessed by the Monitor in various contexts, including a forensic analysis conducted in 2013 (the «**Forensic Analysis**»), followed by a presentation thereof to the Trustee and the Bondholders, including the 4 Bondholders, the result being that claims against Mr. Homburg shall not be filed and pursued by the Bondholders, as a group, against Mr. Homburg, each bondholder being free to act on its own and at its costs;
- [9] **CONSIDERING** that the Trustee confirmed to the Court that it does not share the 4 Bondholders' view with respect to the use of the Litigation Reserve and that it is of the opinion that the funds in the Litigation Reserve shall be released in order to form part of the Final Distribution for the benefit and advantage, *inter alia*, of all the Bondholders;
- [10] **CONSIDERING** that the Liquidation Advisory Committee referred to in the Application and in the Monitor's Report, and as confirmed by the Monitor, is of the same opinion as the Trustee;
- [11] **CONSIDERING** that, notwithstanding any and all additional explanations provided to the 4 Bondholders since 2013, including explanations provided by the Monitor as recently as on April 7, 2021, the 4 Bondholders, which hold between 0,00% and 0,18 % of the issued series of bonds, keep refusing to accept the conclusions of the Forensic Analysis and of any other assessment performed by the Monitor further to other issues which have been raised from time to time, and still wish that the Litigation Reserve be used to file claims against Mr. Homburg which, in the opinion of the Court, and as explained the those of the 4 Bondholders present at the hearing, is not acceptable in the circumstances as it would prejudice the rights of all the other Bondholders to receive their share of the Litigation Reserve;
- [12] **CONSIDERING** that there is no doubt for the Court that the Litigation Reserve has to be included in the Final Distribution, the whole as requested and explained in the Application and in the Monitor's Report;

[13] **CONSIDERING** the provisions of the CCAA and that it is therefore appropriate to grant the Application;

FOR THESE REASONS, THE COURT:

1. **GRANTS** the Application;
2. **EXTENDS** 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 July 15, 2021;
3. **ORDERS** that Appendix D to the Monitor's Report be kept confidential, under seal and shall not be accessible to the public;

THE WHOLE, WITHOUT COSTS.

**Louis Joseph
Gouin**  Signature numérique
de Louis Joseph Gouin
Date : 2021.04.15
12:45:12 -04'00'

LOUIS J. GOUIN, J.S.C.

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Me Julien Morissette
Me Cristina Cosneau
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Me Jocelyn Perreault
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