

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.)
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

APPLICATION FOR EXTENSION OF THE STAY PERIOD

(Sections 11 and 11.02 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36)

**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
PETITIONER RESPECTFULLY SUBMITS 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 in respect of Homburg Invest Inc. (“**HII**”), Homburg Shareco Inc. (“**Shareco**”), Churchill Estates Development Ltd., Inverness Estates Development Ltd. 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. (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 April 15, 2021 (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 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 (105) Limited Partnership, Homco Realty Fund (121) Limited Partnership, Homco Realty Fund (122) Limited Partnership, Homco Realty Fund (142) Limited Partnership and Homco Realty Fund (199) Limited Partnership;
5. On May 31, 2012, this Court issued an order amending the Initial Order to add North Calgary Land Ltd. as a Petitioner and Homco Realty Fund (96) Limited Partnership 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. as a mise-en-cause. On March 14, 2013, the Initial Order was further amended to add Homburg Management (Canada) Inc. 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 as an Applicant Partnership;
7. By subsequent orders of the Court, the Stay of Proceeding was discontinued for certain entities such that only 1810040 Alberta Ltd. (formerly HII and Shareco prior to their amalgamation) and Homco 61 (jointly referred to as the “**HII Group**”) remain subject to the Stay Proceedings as of the date hereof;
8. In light of recent developments, the HII Group respectfully requests that this Honourable Court extend the Stay Period until July 15, 2021;

II. UPCOMING FINAL DISTRIBUTION UNDER THE PLANS OF ARRANGEMENT

9. 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;
10. Since November 25, 2020, when this Honourable Court issued the last order extending the Stay Period (the “**Last Extension Order**”), the Monitor has not proceeded with any additional distributions to the Affected Creditors nor the Homco 61 Affected Creditors;
11. As will appear from the Fifty-Sixth Report of the Monitor to be served and filed on or about the date hereof (the “**Monitor’s Fifty-Sixth Report**”), the Monitor intends to proceed with the final distribution under the Plans of all amounts held in the Asset Realization Cash Pool during the extension period sought herein (the “**Final Distribution**”). The Monitor’s Fifty-Sixth Report contains detailed information for the Affected Creditors regarding the Final Distribution;

III. WINDING-UP EFFORTS

12. Since the Last Extension Order, the HII Group has completed the disposition of its last remaining non-core property and continued to deal with remaining issues relating to the administration of the estates, with a view to finalizing and eventually terminating these CCAA proceedings. Highlights of the most significant activities of the HII Group and the Monitor are provided below;

A. *Completed disposition of the remaining non-core property*

13. Since the Last Extension Order, the HII Group continued its efforts to realize on the substantial potential equity in the last remaining European non-core property;

14. As previously disclosed to the Court and in light of changes in market conditions, HII determined that the property held by Homco Realty Fund (123) Limited Partnership (“**Homco 123**”) in the Netherlands could potentially generate material value for the Affected Creditors under the HII/Shareco Plan;

15. The HII Group, with the assistance of its real estate broker JLL and in consultation with the Monitor, solicited formal offers for the property starting in December 2019. The process took some time considering the industrial destination of the property and the presence of a long-term tenant, which gave rise to significant technical, financial, insurance and environmental diligence from potential purchasers;

16. The process was also delayed due to the circumstances surrounding the global COVID-19 pandemic, which impeded site visits and negotiations;

17. On or about May 14, 2020, as a result of the extensive solicitation process conducted by the HII Group with the assistance of its real estate broker JLL and in consultation with the Monitor, a prospective purchaser executed a letter of intent for the purchase of the property;

18. Since the Last Extension Order, the prospective purchaser completed its due diligence and the parties successfully negotiated the final purchase documentation;

19. Consequently, the sale of the Homco 123 property closed on or about December 15, 2020. As appears from the Monitor’s Fifty-Sixth Report, the sale generated equity for the Affected Creditors in the approximate amount of 2.9 million Euros (approximately \$4.3 million at the current exchange rate);

B. *Structure wind-up*

20. The HII Group continues to address all post-plan implementation matters, including the bankruptcies and dissolution of the various entities included in the HII Group, as appropriate, the whole with the support and assistance of the Monitor and Canadian and Dutch counsel, and with the approval of the Liquidation Advisory Committee, as required under the Plans and the Sanction Orders.

21. On December 18, 2020, Homco Realty Fund (116) Limited Partnership, Homco Realty Fund (119) Limited Partnership and their respective general partners were assigned in

bankruptcy. On March 4, 2021, Homco 123 and its general partner were also assigned in bankruptcy. The HII Group is currently considering whether any steps will need to be taken for the remaining Canadian entities. Furthermore, efforts are continuing in Europe in respect of certain dissolutions;

IV. CONCLUSION

22. HII is of the view that providing the relief requested herein is appropriate in the present circumstances in order for the HII Group to finalize matters relating to the CCAA proceedings, including to properly wind-down the few remaining entities and cooperate with the Monitor in view of the Final Distribution. Accordingly, HII respectfully requests that this Honourable Court grant the extension of the Stay Period sought in the present Application;
23. The present Application is supported by the Monitor as will appear from the Monitor's Fifty-Sixth Report;
24. The HII Group has acted, and continues to act, in good faith and with due diligence;
25. The present Application is well founded in fact and law.

WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:

1. **GRANT** the present *Application 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 July 15, 2021;

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

MONTRÉAL, April 12, 2021.

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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 Petitioner for the purpose hereof;
2. I have taken cognizance of the attached *Application for extension of the stay period*;
3. All of the facts alleged in the said application are true.

AND I HAVE SIGNED:



James F. Miles

SOLEMNLY DECLARED BEFORE ME
IN HALIFAX, NOVA SCOTIA ON THE
12th DAY OF APRIL 2021.



SHERI-LEE BAKER
A Commissioner of the
Supreme Court of Nova Scotia

NOTICE OF PRESENTATION

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TAKE NOTICE that the *Application for extension of the stay period* will be presented for hearing and allowance in the Superior Court (Commercial Division), at the Montréal Courthouse, in virtual room 16.01 on **April 15, 2021**, at **9:00 a.m.**

TAKE NOTICE that any party wishing to contest the *Application for extension of the stay period* must so inform the undersigned attorneys no later than **April 14, 2021**, at **1:00 p.m.** and, by that date and time, provide the undersigned attorneys a written summary of the grounds of contestation. If no notice of contestation is received by that date and time, the Court may proceed in writing only.

HOW TO CONNECT TO THE VIRTUAL ROOM

The coordinates for you to join the virtual room 16.01 are as follows:

By Teams: by clicking on the link available for room 16.01 at:

https://coursuperieureduquebec.ca/fileadmin/cour-superieure/Audiences_virtuelles/Montreal_Codes_Teams_CS_Chambres_commerciale_civile_et_de_la_famille.pdf

You must fill in your name and click on «Join now» (« *Rejoindre maintenant* »).
To facilitate the process, we invite you to fill in your name as follows:

Lawyers: Me First name, Last name (Name of the party you represent)

Trustees: First name, Last name (Trustee)

Superintendent: First name, Last name (Superintendent)

Parties not represented by a lawyer: First name, Last name (specify: Plaintiff, Defendant, Petitioner, Respondent, Creditor, Opponent or Other)

For individuals attending a public hearing: the mention can be limited to: (public)

By telephone:

Canada, Québec (Charges may apply): +1 581-319-2194

Canada (Toll-free number): 1-833-450-1741

Conference ID: 374 552 698#

By VTC videoconference: teams@teams.justice.gouv.qc.ca (Videoconference ID: 1191960764)

In person: To attend the hearing in person, you must seek and obtain prior permission of the Honourable Justice Gouin. The Montréal Courthouse is located at 1 Notre Dame Street East, Montréal, Québec, H2Y 1B6.

OBLIGATIONS

Cooperation

TAKE NOTICE that the parties are duty-bound to cooperate and, in particular, to keep one another informed at all times of the facts and particulars conducive to a fair debate and make sure that relevant evidence is preserved (s. 20, *Code of Civil Procedure*).

Dispute prevention and resolution processes

TAKE NOTICE that the parties must consider private prevention and resolution processes before referring their dispute to the courts, which are namely negotiation, mediation or arbitration, for which the parties call on a third party (*Code of Civil Procedure*, art. 2).

DO GOVERN YOURSELF ACCORDINGLY

MONTREAL, April 12, 2021.

Osler, Hoskin & Harcourt LLP

OSLER, HOSKIN & HARCOURT LLP

Attorneys for the Debtor and Mise-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. (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.

Monitor

**APPLICATION 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, NOTICE OF PRESENTATION**

ORIGINAL

Code : BO 0323

o/f: 1131787

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