

CANADA
PROVINCE OF QUEBEC
DISTRICT OF QUEBEC
DIVISION No.: 01-MONTREAL
COURT No.: 500-11-049204-155
ESTATE No.: 41-343819

SUPERIOR COURT
Commercial Division

**IN THE MATTER OF THE
BANKRUPTCY OF:**

**HOMCO REALTY FUND (68) LIMITED
PARTNERSHIP**, a limited partnership formed under the
laws of Nova Scotia, having its head office at 1959 Upper
Water Street, Suite 900, Halifax, Nova Scotia, B3J 3N2

Bankrupt

– and –

DELOITTE RESTRUCTURING INC.
(**Jean-Christophe Hamel**, CPA, CA, CIRP, person in
charge), having a place of business at 1190 avenue des
Canadiens-de-Montréal, suite 500, Montréal, Quebec,
H3B 0M7

Trustee

TRUSTEE'S PRELIMINARY REPORT TO CREDITORS

The *Bankruptcy and Insolvency Act*, a federal act in Canada (the “**Act**”), provides for a first meeting of creditors to discuss the creditors’ collective interest in the administration of the Bankrupt’s estate.

A) Background

Homco Realty Fund (68) Limited Partnership (“**H68**”) is a limited partnership formed under the laws of Nova Scotia and having its registered head office at 1959 Upper Water Street, Suite 900, Halifax, Nova Scotia, B3J 3N2. H68 was established for the sole purpose of holding shares of Valbonne Real Estate B.V. (“**Valbonne**”), a limited liability company incorporated under the laws of the Netherlands. Valbonne’s sole activity consisted of owning and operating a real estate asset located in Nürnberg in Germany, known as the “**Quelle premises**”.

Prior to December 31, 2010, Homburg Invest Inc. (“**HII**”) was the sole limited partner of H68. On December 31, 2010, HII sold its limited partnership interests in H68 to In Effectu B.V. (“**In Effectu**”). In Effectu is therefore now the sole limited partner of H68. As limited partner, In Effectu would be entitled to the profits of H68 and, in the event of a liquidation of H68, to any liquidation proceeds after the payment of all of the limited partnership's creditors, and thus has the ultimate beneficial interest of the property owned by H68.

The sole general partner of H68 is Homburg L.P. Management Inc. (“**HLPM**”). Following a transaction that occurred in 2012, with the approval of the *Companies' Creditors Arrangement Act* (“**CCAA**”) Court, as part of HII's CCAA proceedings, HLPM is indirectly controlled by HII. HLPM, as general partner, has full power and authority to manage the business and assets of H68.

In November 2009, the sole tenant of the Quelle premises went bankrupt. On November 9, 2011, Valbonne went bankrupt and Fort Advocaten N.V. was appointed as bankruptcy trustee (the “**Valbonne Trustee**”).

Historical information/facts in relation to the intercompany transactions/H68's assets and liabilities

On December 22, 2005, Valbonne borrowed €10M (the “**Loan**”) from Credit Suisse First Boston International pursuant to a term loan facility agreement. In early January 2006, Valbonne advanced €20M (out of the proceeds of the Loan) to H68. In turn, H68 used this amount of €20M to make an advance to HII.

On December 22, 2010, H68 and Valbonne entered in a loan agreement pursuant to which the qualification of payment made by Valbonne to H68 in January 2006 was established as a loan-bearing interest at a rate of 6.81 % per annum and with a maturity date on December 22, 2019. This loan agreement also states that an additional amount of €2,487,633 had been lent from H68 to Valbonne from December 2005 to December 21, 2009.

HII's CCAA proceedings

On September 9, 2011, HII and certain related entities (the “**HII Parties**”) initiated a restructuring process by filing for and obtaining protection from their creditors under the CCAA pursuant to an order rendered by the Superior Court of Québec (as amended and extended from time to time, the “**Initial Order**”).

Pursuant to the Initial Order, Deloitte Restructuring Inc. (formerly Samson Bélair/Deloitte & Touche Inc.) (“**Deloitte**”) was appointed as the monitor to the CCAA proceedings (the “**Monitor**”).

On April 30, 2012, the CCAA Court rendered an order providing *inter alia* for the procedures in connection with the filing and treatment of the proofs of claim against HII (the “**Claims Process Order**”).

On or about July 13, 2012, in conformity with the Claims Process Order, H68 (through its general partner HLPM, and at the request of the Valbonne Trustee) filed a proof of claim against HII, in an aggregate amount of \$40,717,935.34. In parallel, the Valbonne Trustee, on behalf of Valbonne, also filed a proof of claim against HII, in an aggregate amount of \$62,567,226.30 (€45,917,529.95).

A notice of revision or disallowance of H68's claim against HII was sent by the Monitor on May 30, 2015, revising H68's claim to an amount of \$27,252,000 (€20,000,000), while disallowing an amount of \$13,365,935.34 representing the interest portion of H68's claim. Furthermore, the Monitor disallowed Valbonne's claim in its entirety.

On or about June 7, 2013, the Valbonne Trustee, acting to the rights of H68, filed a Motion in Appeal of Notice of Revision or Disallowance of H68's claim and, on behalf of Valbonne, also filed a Motion in Appeal of Notice of Revision or Disallowance of Valbonne's claim (collectively, the "**Motions in Appeal**").

On a separate note, it is relevant to mention that HII's plan of arrangement under the CCAA provided namely for an option for the creditors to elect to receive cash funded by a plan sponsor (Catalyst), instead of shares of a newly formed Dutch company to which HII's core assets were transferred. HLPM, in its capacity as general partner and pursuant to the instructions of the Valbonne Trustee, did elect for the option to receive cash instead of shares.

Settlement agreement between Valbonne, HII, HLPM (as general partner of H68), and HII's Monitor

On or about January 28, 2015, a memorandum of understanding was reached between HII, HLPM (in its capacity as general partner of H68), Valbonne (acting through the Valbonne Trustee), and Deloitte (in its capacity as Monitor in HII's CCAA proceedings) (the "**Memorandum of Understanding**"), which provides namely for: (a) a settlement of the Motions in Appeal pursuant to which H68's claim against HII is set at \$27,252,000 (as per the Monitor's Notice of Revision or Disallowance) and Valbonne's claim against HII at \$0 (also as per the Monitor's Notice of Revision or Disallowance); (b) an acknowledgment of the claim of Valbonne against H68 in the amount of (i) €20,000,000 representing the principal loan made on or about January 13, 2006, (ii) €2,487,633 in connection with various transactions made between December 2005 and December 2009, and (iii) accrued interest on the above balances amounting to €7,787,114 as at September 30, 2010 plus (iv) accrued interest on these amounts from September 30, 2010 to the date of H68's bankruptcy; and (c) an agreement on the petition into bankruptcy of H68 at the request of Valbonne.

Bankruptcy

On July 1, 2015, and as provided by the Memorandum of Understanding, Valbonne filed a petition for a bankruptcy order against H68 alleging its claim against H68 and the fact that H68 has no asset other than its claim in HII's CCAA proceedings and its shares in Valbonne, which is itself bankrupt under Dutch laws. An order was rendered on August 20, 2015 declaring H68 bankrupt and appointing Deloitte as trustee in the bankruptcy of H68 (the "**Trustee**").

B) Trustee's preliminary evaluation of assets

Below is a Summary of the Assets and Liabilities of H68 as at August 20, 2015 which includes the estimated net realization value of the only asset of H68 (i.e. its claim against HII) as well as the estimated deficit following the distribution of estimated proceeds from the liquidation of the assets to unsecured creditor or creditors:

Homco Realty Fund (68) Limited Partnership		
Summary of Assets and Liabilities (CAD)		
As of August 20, 2015 (unaudited)	Book value (August 20, 2015)	Net realization value
Assets		
Claim against Homburg Invest Inc. (Note 1)	27,252,000	7,070,441
	<u>27,252,000</u>	<u>7,070,441</u>
Liabilities		
Unsecured creditor(s) (Note 2)		61,800,213
		<u>61,800,213</u>
Deficit		<u><u>(54,729,772)</u></u>

Note 1:

The book value is the amount of the "Proven Claim" of H68 against HII, which has been finally settled. The net realization value represents the amount of distributions that H68 is entitled under HII's plan of arrangement. Note that future distribution(s) are expected under HII's plan of arrangement, which will increase such net realization value.

Note 2:

This represents the amount of Valbonne's claim, H68's sole known creditor, that has been acknowledged by HLP as H68's general partner. This amount is in fact EUR 42,190,205 which has been converted using the conversion rate of 1.4648, applicable as at August 20, 2015. Creditor(s) have the onus to prove their claims and only those claims that are proven as part of the bankruptcy proceedings will constitute valid claims and will entitle to a distribution as part of said proceedings.

C) Conservatory and protective measures

The Trustee implemented the following conservatory and protective measure:

- Taking possession of the distribution/dividend already paid by the Monitor in favor of H68 as part of HII's CCAA proceedings.

D) Information relating to provable claims

As of the time of this report, no proofs of claim were received by the Trustee.

E) Legal proceedings, transfer at undervalue, and preference payments

The Trustee has not initiated any legal proceedings and has not identified any transfer at undervalue or preference payments to date. H68 has no bank account under its name and has not made any operations since the end of 2011, other than filing the proof of claim in HII's CCAA proceedings.

F) Conflict of interest and details of fee guarantees

Conflict of interest

As stated above, on September 9, 2011, HII and certain related entities filed and obtained protection from their creditors under the CCAA pursuant to the Initial Order. Pursuant to said order, Deloitte was appointed monitor of HII and of certain related entities under the CCAA. As of the time of this report, HII along with some of the related entities included in the Initial Order are still under the protection of the CCAA.

As mentioned above, H68 has a "Proven Claim" against HII in an amount of \$27,252,000, which entitles it to distributions under HII's plan of arrangement pursuant to the CCAA. This claim has been the object of a final settlement as part of HII's CCAA proceedings. In addition, the Memorandum of Understanding was agreed upon by the parties to arrive at a final settlement with regards to Valbonne's claims against H68 and HII. The Trustee does not believe that Deloitte's role as court-appointed monitor in the CCAA proceedings of HII puts it in a position of conflict of interest to act as Trustee in bankruptcy of H68. As court-appointed monitor under HII's CCAA proceedings, Deloitte is an officer of the CCAA Court, appointed to monitor the business and financial affairs of HII. As Trustee of H68, Deloitte is an officer of the Superior Court of Québec, appointed to administer the Bankrupt's estate in accordance with the CCAA.

G) Projected distribution and Trustee's comments on anticipated asset realization

The Trustee estimates that the proceeds which will be realized from the liquidation of H68's assets (totaling \$7.1M as per the Summary of the Assets and Liabilities of H68) could result in a dividend of approximately 11 cents on the dollar to the sole known unsecured creditor, Valbonne (which has a claim totaling approximately \$61.8M as per the Memorandum of Understanding and the Summary of Assets and Liabilities of H68). The amount of the final dividend to the unsecured creditor or creditors will depend on the final realizable value of H68's assets (i.e. its entitlement to the distributions under HII's plan of arrangement in light of HII's Proven Claim against HII), the total amount of claims that will be proven by creditor or creditors before dividend distribution, and on the costs of administration of the estate.

H) Trustee's remuneration

In the Memorandum of Understanding, HII undertook to fund the costs of administration of the bankruptcy, including the costs of the Trustee and the legal costs, up to an amount of \$50,000. Any excess costs will be paid in accordance with the scheme of collocation of the *Bankruptcy and Insolvency Act*.

I) Other matters

None.

DATED AT MONTRÉAL, Quebec, this 10th day of September, 2015.

DELOITTE RESTRUCTURING INC.

In its capacity as Trustee of the estate of
Homco Realty Fund (68) Limited Partnership

Per:



Jean-Christophe Hamel, CPA, CA, CIRP
Vice-President