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C A N A D A
PROVINCE OF QUEBEC
DISTRICT OF QUEBEC
DIVISION No.: 01-MONTRÉAL
COURT No.: 500-11-045750-136
ESTATE No.: 41-343482

S U P E R I O R C O U R T
Commercial Division

**IN THE MATTER OF THE
RECEIVERSHIP OF:**

**HOMCO REALTY FUND (98) LIMITED
PARTNERSHIP**, a limited partnership formed under
the laws of Nova Scotia

Insolvent person

– and –

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

Receiver

**FINAL REPORT SUBMITTED BY
DELOITTE RESTRUCTURING INC. AS RECEIVER OF CERTAIN
ASSETS OF HOMCO REALTY FUND (98) LIMITED PARTNERSHIP
AS AT DECEMBER 16, 2016
(Subsection 246(3) of the *Bankruptcy and Insolvency Act*;
and Rule 127 of the *Bankruptcy and Insolvency General Rules*)**

I. Introduction

1. Homco Realty Fund (98) Limited Partnership (“**H98**”) is a limited partnership formed under the laws of Nova Scotia, which, until recently, had its registered head office at 1959 Upper Water Street, Suite 900, Halifax, Nova Scotia, B3J 3N2, Canada. H98 was established for the sole purpose of acquiring and operating a real estate property.
2. H98’s only real estate asset was an 18,145 square meter property located in Wittenberg, Germany. The city of Wittenberg lies some 100 km south-west of Berlin and 70 km north-east of Leipzig, and has approximately 50,000 inhabitants.
3. On December 18, 2013, H98 filed an assignment in bankruptcy and Samson Bélair/Deloitte & Touche Inc., now Deloitte Restructuring Inc. (“**Deloitte**”), was appointed as trustee.

4. On January 16, 2014, following a motion by Titan Europe 2006-5 P.L.C. and Credit Suisse International (the "**Secured Creditors**"), H98's sole secured creditors, the Court rendered an order appointing Deloitte as receiver (the "**Receiver**") of certain assets of H98 pursuant to Section 243 of the *Bankruptcy and Insolvency Act* with the powers enumerated in said order (the "**Receivership Order**"), as appears from the Court record.
5. On January 16, 2014, following the Receivership Order, Deloitte, in its capacity as trustee of the estate of H98, formally renounced all rights to possession and seizure of the real property of H98 located at Teucheler Weg 2, 06886 Lutherstadt Wittenberg, in Germany (the "**Real Property**"), the rental receivables with respect of the Real Property, and cash balances held in certain bank accounts of H98 (collectively the "**Secured Property**"), the whole in favor of Deloitte in its capacity as receiver to the Secured Property, the whole pursuant to the Receivership Order.
6. On July 15, 2014, the Receiver filed with the Office of the Superintendent of Bankruptcy its first interim report, a copy of which is available on the Receiver's website.
7. On January 15, 2015, the Receiver filed with the Office of the Superintendent of Bankruptcy its second interim report, a copy of which is available on the Receiver's website.
8. On July 15, 2015, the Receiver filed with the Office of the Superintendent of Bankruptcy its third interim report, a copy of which is available on the Receiver's website.
9. On January 15, 2016, the Receiver filed with the Office of the Superintendent of Bankruptcy its fourth interim report, a copy of which is available on the Receiver's website.
10. On July 15, 2016, the Receiver filed with the Office of the Superintendent of Bankruptcy its fifth interim report, a copy of which is available on the Receiver's website.

II. Purpose of this report

11. The purpose of this final report of the Receiver (the "**Final Report**") is to advise/provide the Superintendent with a summary with respect to:
 - a) The outcome of the sale process undertaken by the Receiver;
 - b) The manner of distribution of the proceeds realized from the property of which the Receiver had taken possession or control;
 - c) The final statement of receipts and disbursements.

For the purposes of preparing this Report, the Receiver relied on unaudited financial information of H98. Although the Receiver has analyzed the information that was given to him, the Receiver has not performed an audit or any audit procedures to validate the information.

III. The sale process

12. Upon its appointment, the Receiver continued the existing management agreement with the asset manager of the real estate property, namely Garigal Asset Management GmbH ("**Garigal**" or the "**Asset Manager**"). The responsibilities of Garigal under the existing management agreement included notably all of the necessary tasks to secure the on-going operations of the Real Property in addition to exploring any options available for the Real Property (i.e., mainly leasing the vacant spaces and/or selling the property).

13. According to Garigal, it had been increasingly difficult to attract new tenants for the Real Property and there had been very little interest in the Real Property for the following reasons:
 - (a) A high level of competition in the immediate area resulting from a Kaufland-anchored center located less than two kilometers away and the opening of a brand new shopping center in the city center, in October 2012;
 - (b) In Wittenberg, the unemployment rate of 12% at the time was far worse than the German average of 7.3%. The population of Wittenberg was forecasted to decrease by 18% before 2025;
 - (c) The Property was considered old and outdated, with an unattractive internal/external layout as well as poor signage and lighting;
 - (d) The existing building/zoning legislation restricted or prevented certain modifications to the Property and commercial usage.
14. During its mandate, Garigal approached over 25 potential tenants, including furniture stores, kitchen retailers, and bike stores. The Real Property was also presented for both leasing and purchase to 4 different parties: Porta Möbel GmbH & Co. ("**Porta**"), Höffner Möbelgesellschaft, Roller and Poco. Garigal also had discussions with Brack Capital regarding the acquisition of the Property.
15. Following Garigal's process to attract new tenants or to find a buyer for the property, the only party which expressed an interest in leasing the Property was Porta, one of the largest players in German furniture businesses. Porta was first interested in leasing the vacant area and being granted a purchase option to be exercised before the end of 2014, subject to certain conditions, such as having free rent, taking up the space currently occupied by another tenant, obtaining a building permit for its contemplated use and capital expenditures by the Receiver. In September 2014, Porta withdrew its offer to lease, but remained interested in purchasing the Property.
16. On September 17, 2014, Porta confirmed its interest in acquiring the Property, under different scenarios (namely a closing by December 31, 2014, by March 31, 2015, and by December 31, 2015). The proposed purchase price in the different scenarios was lower if the date of closing was later. All of the contemplated purchasing scenarios were subject to Porta taking over rent-free the vacant area and an adjacent space occupied at the time by another tenant, by December 31, 2014.
17. As it is more thoroughly explained in the *Motion for the issuance of an order authorizing the sale of a real property and for the issuance of a vesting order* (the "**Motion for a Vesting Order**"), as appears from the Court record, under the market conditions of the time and following Garigal's marketing efforts, it was determined that accepting Porta's offer/entering into negotiation with Porta based on the offer it submitted was the alternative that would maximize the value of the Real Property and that would most benefit H98's creditors.
18. In these circumstances, in the fall of 2014, Garigal, with the consent of the special servicer acting for the Secured Creditors, namely Hatfield Philips International Limited ("**HPI**"), and the Receiver, entered into discussions with Porta (and eventually the Purchaser) in order to complete a transaction under the first two scenarios proposed by Porta, namely either a sale by December 31, 2014 or by March 31, 2015.
19. All parties involved, namely Garigal, HPI, the Receiver, and Porta, participated to discussions and negotiations and multiple versions of a draft Sale and Purchase Agreement were exchanged between the parties.

20. On December 17, 2014, the parties agreed to the terms and conditions of a final Sale and Purchase Agreement providing for a sale to the Purchaser effective on December 31, 2014 or on March 31, 2015 (the "**SPA**"), the whole subject to Court approval.
21. On December 18, 2014, Deloitte petitioned the Court seeking an Order authorizing the sale of the Real Property to Porta and a Vesting Order. The Order authorizing the sale of a real property and vesting order (the "**Vesting Order**") was granted by the Court on December 18, 2014.
22. On December 19, 2014, the SPA was signed in front of a German notary. However, given the existing timing, the need for several Canadian documents (including the Vesting Order) to be "legalized" for German purposes for the SPA to become binding upon the Receiver as seller and the German requirements for a transfer of real estate property to become effective, the parties acknowledged that the transfer of property would only become effective on March 31, 2015.
23. The sale transaction between Porta and the Receiver closed on March 31, 2015 and, as stipulated in the SPA, the transfer of the real estate property became effective at that date.

IV. The distribution of the sale proceeds

24. On February 26, 2015, the Receiver was able to obtain from the Canada Revenue Agency the Clearance Certificate for H98 for the period ended March 31, 2015, hence allowing the Receiver to distribute the sale proceeds to the Secured Creditors at the time of the closing of the transactions (as it was demanded by the Secured Creditor).
25. Therefore, at the time of the transaction, most of the proceeds from the sale of the Real Property were distributed and/or received by the Secured Creditors (approximately €15.3M out of the €17.1M of the sale proceeds). However, due to some potential liabilities created by some clauses of the SPA, the Receiver was not be able to distribute all of the funds remaining in its possession before October 1, 2016 (once those potential liabilities to the Receiver identified in the SPA no longer existed/had expired).
26. On October 3, 2016, once the potential liabilities identified by the Receiver in the SPA expired, the Receiver therefore remitted an additional amount of €1M to the Secured Creditor.
27. On December 15, 2016, once the Receiver was able to complete the final steps of its mandate and was ensured that all operational costs of H98 incurred by the Receiver as part of its mandate were paid, the Receiver was able to make a final distribution to the Secured Creditor in the amount of €127K (representing the remaining balance of the funds available from the liquidation of H98's assets net of all of the Receiver's operating costs).

V. Final statement of receipts and disbursements

28. You will find in **Appendix A** the final statement of receipts and disbursements.
29. The receipts during the Receivership period totaled €5,953K and included the collection of rental receivables related to the Real Property of €2,546K, the realization of the Real Property of €1,824K (amount net of the proportion of the sale proceeds/the amount disbursed directly to the Secured Creditors by the notary as prescribed by German laws), the realization of the cash balances (of €1,482K) held in H98's bank accounts at the time of Deloitte's appointment as Receiver, the collection of post-closing adjustments following the sale of the Real Property of €66K, and the collection of VAT (German sales taxes) refunds of €35K.

30. The disbursements during the Receivership period totaled €2,733K and mainly included the following:
- (a) Disbursements of €563K related to repairs (including various capital expenditures as well as the capital expenditures that were required as per the terms of the SPA) and maintenance of the Real Property;
 - (b) Disbursements of €549K related to the Receiver's (and the Receiver's legal counsels) fees, as authorized by the Receivership Order and HPI;
 - (c) Disbursements of €416K related to the asset manager's fees (including notably the commission payable to the asset manager in regard to the sale of the Real Property);
 - (d) The payment of utility charges (related notably to electricity, gas, and water consumptions, as well as to service charge reimbursements to tenants) in the amount of €409K;
 - (e) The reimbursement of costs/legal fees incurred by the Secured Creditors as part of H98's restructuring in the amount of €302K;
 - (f) Monthly reimbursement of VAT (German sales taxes) (including the payments of interests and penalties related to the VAT monthly declarations) to the German tax authorities in the amount of €295K;
 - (g) Disbursements of €119K related to the payment of property tax;
 - (h) Disbursements of €33K related to notary fees and other costs in regard to the closing of the sale of the Real Property;
 - (i) Disbursements of €24K related to the insurance of the Real Property;
 - (j) Disbursements of €23K related to other various operating expenses in regard to the Real Property.
31. As a result, the Receiver was able to remit an amount of €3,220K to the Secured Creditor as a partial reimbursement of its secured claim. In addition, as mentioned in the previous sections of this report, an amount of €15,281K was directly collected by the Secured Creditor at the time of the closing of the sale of the Real Property. The Secured Creditor was therefore reimbursed a total of €18,501K through the sale of the Real Property and during the receivership period. As of the time of the Receivership Order, the Secured Creditor's claim to H98 amounted to €20,289K. The Secured Creditor was therefore reimbursed approximately 91% of the amount of its secured claim as of the time of the Receivership Order.

DATED IN MONTREAL, this 16th day of
December, 2016.

DELOITTE RESTRUCTURING INC.
Receiver to the property of Homco Realty Fund (98)
Limited Partnership



Jean-Christophe Hamel, CPA, CA, CIRP, LIT

APPENDIX A

District of Quebec
 Division No. 01 - Montréal
 Court No. 500-11-045750-136
 Estate No. 41-343482

**In the matter of the receivership of
 Homco Realty Fund (98) Limited Partnership
 of the City of Montreal, in the Province of Quebec**
 Form 12
 Final Statement of Receipts and Disbursements

Final

RECEIPTS

1. Asset Realization		
Cash in bank	1,482,597.12	
Building and Land	1,823,823.92	3,306,421.04
2. Miscellaneous		
Refunds- miscellaneous	65,727.46	
Rental Income	2,545,710.34	
Miscellaneous other receipts	34,992.77	2,646,430.57
TOTAL RECEIPTS		5,952,851.61

DISBURSEMENTS

3. Premium		
Insurance	23,884.40	23,884.40
4. Federal and Provincial taxes		
Others	294,532.20	294,532.20
5. Counseling fees		
Outside consulting	415,931.68	415,931.68
6. Miscellaneous		
Payments to Secured Creditors	3,219,868.39	
Bank charges	6,542.56	
Other misc disbursements	5,984.44	
Security	10,775.29	
Utilities	408,663.15	
Municipal taxes	119,231.55	
Repairs & maintenance	563,201.05	
Legal fees/disbursements	302,300.89	
Receiver's fees and costs	548,951.79	
Fees for the realization of assets	32,984.22	5,218,503.33
TOTAL DISBURSEMENTS		5,952,851.61

Note: How much of the total disbursements was paid for services provided by persons related to the trustee? 0.00

Amount available for distribution **0.00**

7. Levy payable under section 147 of the Act **0.00**

8. Unsecured creditors **0.00**

Proved claims of 0.00

Assets not sold or realized

Debts Due - Business - Intercompany receivable	98,256.00	Unable to realize
Other - Income tax receivable	149,651.00	Unable to realize

Asset Notes

Debts Due - Business - Intercompany receivable	98,256.00	Those assets were excluded from the assets of Homco Realty Fund (98) LP for which Deloitte Restructuring Inc. (formally know Samson Bélair/Deloitte & Touche Inc.) was appointed Receiver by the Court on January 16, 2014.
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District of Quebec
Division No. 01 - Montréal
Court No. 500-11-045750-136
Estate No. 41-343482

**In the matter of the receivership of
Homco Realty Fund (98) Limited Partnership
of the City of Montreal, in the Province of Quebec**
Form 12 --- Concluded
Final Statement of Receipts and Disbursements

Final

Other - Income tax receivable	149,651.00	Those assets were excluded from the assets of Homco Realty Fund (98) LP for which Deloitte Restructuring Inc. (formally know Samson Bélair/Deloitte & Touche Inc.) was appointed Receiver by the Court on January 16, 2014.
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Notes:

1: Final statement of receipts and disbursements for the period from January 16, 2014 to the end of the file.

2: All amounts are denominated in euros.

3: Please note that in addition to the payments to the secured creditor of €3,220K, an amount of €15,281K was directly collected by the secured creditor at the time of the closing of the sale of the Real Property

Dated at the City of Montréal in the Province of Quebec, this 13th day of December 2016.

Restructuration Deloitte Inc.



1190, avenue des Canadiens-de-Montreal, Bureau 500
Montréal QC H3B 0M7
Phone: (514) 393-5427 Fax: (514) 390-4103

Taxed at the sum of \$ _____, this _____ day of _____.

Registrar