

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

No.: 500-11-041305-117

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)

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

**Homburg Invest Inc.
Homburg Shareco Inc.
Churchill Estates Development Ltd.
CP Development Ltd.
North Calgary Land Ltd.
Homburg Management (Canada) Inc.**

Debtors / Petitioners

-and-

**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.**

Mises-en-cause

-and-

Samson Bélair/Deloitte & Touche Inc.

Monitor

**MOTION FOR EXTENSION OF THE STAY PERIOD
(Section 11.02 of the *Companies' Creditors Arrangement Act*, R.S.C., 1985)**

**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
PETITIONERS RESPECTFULLY SUBMIT 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 (the “**CCAA**”) in respect of Homburg Invest Inc. (“**HII**”), Homburg Shareco Inc. (“**Shareco**”), Churchill Estates Development Ltd., Inverness Estates Development Ltd. (“**Inverness**”) 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. (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 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 February 7, 2014 (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 52**”), Homco Realty Fund (88) Limited Partnership (“**Homco 88**”), Homco Realty Fund (89) Limited Partnership, Homco Realty Fund (92) Limited Partnership, Homco Realty Fund (94) Limited Partnership (“**Homco 94**”), Homco Realty Fund (105) Limited Partnership (“**Homco 105**”), Homco Realty Fund (121) Limited Partnership (“**Homco 121**”), Homco Realty Fund (122) Limited Partnership (“**Homco 122**”), Homco Realty Fund (142) Limited Partnership and Homco Realty Fund (199) Limited Partnership (collectively the “**Initial Mises-en-cause**”);
5. On May 31, 2012, this Court issued an order amending the Initial Order to add North Calgary Land Ltd. (“**NCLL**”) as a Petitioner and Homco Realty Fund (96) Limited Partnership (“**Homco 96**”) 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 (“**Homco 190**”) and Homco Realty Fund (191) Limited Partnership (“**Homco 191**”) 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. (“**Castello**”) as a mise-en-cause. On March 14, 2013, the Initial Order was further amended to add Homburg Management (Canada) Inc. (“**HMCI**”) 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 (“**Homco 83**”) as Applicant Partnership. Finally, on July 11, 2013, this Court discontinued the stay of proceedings in respect of Homco 122 and on September 30, 2013, this Court discontinued the stay of proceedings in respect of Inverness (NCLL, Homco 96, Homco 190, Homco 191, Homco 61, Castello, HMCI, Homco 83, the Initial Debtors and the Initial Mises-en-cause (excluding Homco 122 and Inverness) are collectively referred to as the “**HII Group**”);

7. The HII Group respectfully requests that this Honourable Court render the orders sought herein to extend the Stay Period until March 11, 2014;

II. IMPLEMENTATION OF THE PLANS OF ARRANGEMENT

8. On May 30, 2013, affected creditors voted overwhelmingly in favour of the Second Joint Amended and Restated Plan of Compromise and Reorganization of HII and Shareco and the Restated Plan of Compromise of Homco 61 (the “**Homco 61 Plan**”);
9. On June 5, HII and Shareco filed a Third Amended and Restated Plan of Compromise and Reorganization (the “**HII/Shareco Plan**” and together with the Homco 61 Plan, the “**Plans**”);
10. On June 5, 2013, this Honourable Court sanctioned the Plans, as appears from the Court record. The HII Group, the Monitor and their advisors have been working diligently in order to allow for the implementation of the transactions which will occur on Plan Implementation Date (as defined in the Plans);
11. As detailed below, the HII Group, the Monitor and their respective advisors are working to finalize and execute all arrangements and consents required to implement the Plans, the whole with a view to proceeding to implementation of the Plans as soon as possible;

A. *Geneba licence application*

12. As previously reported to the Court, the entity identified as Newco in the Plans was incorporated as Geneba Properties N.V. (“**Geneba**”) under the laws of the Netherlands in July 2013. Dutch counsel for HII and Geneba have been in regular discussions with, and have submitted numerous documents to, the Dutch Autoriteit Financiële Markten (“**AFM**”) regarding the application for a licence as a property investment company;
13. As also previously disclosed to the Court, in light of the enactment on July 22, 2013 of the European Alternative Investment Fund Managers Directive and of the three Level 2 Regulations supplementing it, the HII Group and Geneba had to amend certain documents already filed and file some additional documents;
14. There has been regular and continuous communication between the HII Group, the Monitor, Geneba and the AFM to advance the issuance of the required licence;
15. Since the Order granting seventeenth extension of the stay period and access to Restricted Cash was granted on January 17, 2014, HII, the Monitor, Geneba and their respective advisors have been in regular communication with the AFM and have also had exchanges with De Nederlandsche Bank (Dutch Central Bank);
16. By letter dated January 28, 2014, the AFM requested, once again, certain information and clarifications. Also on January 28, 2013, the current and prospective managing directors of Geneba met with the AFM to discuss the implementation of Geneba’s risk management function;

17. On February 3, 2014, counsel for Geneba provided answers to all queries and addressed all matters raised in the AFM's letter of January 28, 2014, including:
 - (a) A new version of the policies and procedures reflecting the requested amendments;
 - (b) CVs of the persons in charge of risk management within Geneba;
 - (c) A detailed "risk management plan implementation and working schedule";
 - (d) A document indicating the segregation of tasks within Geneba;
 - (e) The "compliance scan" and the the implementation thereof;
 - (f) Information prepared by Heidrick & Struggles on the remuneration of the CEO;
 - (g) An amended "depository services agreement".
18. As of the date hereof, all outstanding questions have been answered and all supporting documents provided;
19. In light of their exchanges with representatives of the AFM, HII, the Monitor and Geneba remain hopeful that a licence will be granted by the AFM during the extension of the stay period sought herein;

III. OPERATIONS AND RESTRUCTURING EFFORTS

20. Since the last extension of the Stay Period, the HII Group has continued to make significant progress. Highlights of the most significant activities of the HII Group are provided below. The HII Group refers the stakeholders and the Court to the Thirty Second Report of the Monitor to be filed in support of the present motion (the "**Monitor's Thirty Second Report**") for a complete description of these activities;
 - A. *Dispositions of non-core properties***
21. As previously disclosed to the Court, HSBC Bank Canada ("**HSBC**") is currently financing three properties in Canada: Henderson Farms (Homco 121), Kai Mortensen Towers (Homco 88), Cristal Towers (Homco 105), and Points North (NCLL);
22. As regards Points North and Cristal Towers, sales processes are ongoing and any sale is subject to the approval of this Court. HSBC is kept informed of any material developments in the ongoing sale processes;
23. As to Henderson Farms, as previously disclosed to the Court, Homburg Canada Inc. has raised certain issues relating to the property. Discussions as to the best course of action are ongoing and the Court will be kept apprised of any developments;
24. Highlights with respect to other properties located in North America are as follows:

- (a) The sales processes for Homburg Springs East (Homco 52) and Homburg Springs West (Homco 94) are ongoing;
 - (b) An agreement has been reached to sell the remaining condo unit held by Castello. The closing is expected to occur sometime in February 2014;
 - (c) Homburg Holdings (U.S.) Inc. (“**HHUS**”) has entered into a Purchase and Sale Agreement to sell its four remaining properties, located in Colorado Springs. The interested party is currently in the process of conducting its due diligence;
25. The process relating to sale of non-core properties in Canada and the United States, and any related issues, will not have any impact the Plan Implementation Date;
26. As will more fully appear from the Monitor’s Thirty Second Report, the HII Group is continuing to diligently review its structure as and when appropriate;

B. *Litigation with Homburg Canada Inc. et al.*

27. Counsel for the HII Group in Barbados, Nova Scotia and Colorado continued to advance the legal proceedings pending in each of the above noted jurisdictions. Hearing dates have been set for February 26 and 28, 2014 in connection with the Barbados proceedings. As of the date hereof, there are no other material developments to report to the Court;

IV. CONCLUSION

28. HII is of the view that providing the relief requested herein is appropriate in the present circumstances. Accordingly, HII respectfully requests that this Honourable Court render the orders contained in the conclusions herein;
29. As will appear from the Monitor’s Thirty Second Report, the Monitor supports the present Motion;
30. The HII Group has acted, and continues to act, in good faith and with the utmost diligence;
31. The present motion is well founded in fact and law.

WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:

1. **GRANT** the present *Motion for extension of the stay period* (the “**Motion**”);
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 March 11, 2014;

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

MONTRÉAL, February 5, 2014

Osler, Hoskin & Harcourt LLP

OSLER, HOSKIN & HARCOURT LLP

Attorneys for the Debtors and Mises-en-cause

AFFIDAVIT

I the undersigned, Jan Schöningh, domiciled and residing at 597 Roslyn Avenue, Westmount, Québec, H3Y 2V1, solemnly declare the following:

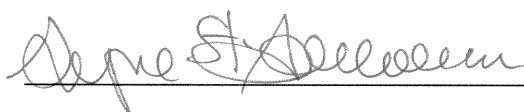
1. I am the President and Chief Executive Officer of Homburg Invest Inc. and duly authorized representative of the Petitioners for the purpose hereof;
2. I have taken cognizance of the attached *Motion for extension of the stay period*;
3. All of the facts alleged in the said motion are true.

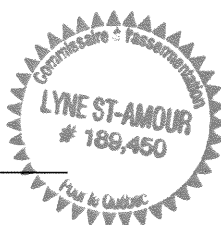
AND I HAVE SIGNED:



JAN SCHÖNINGH

SOLEMNLY DECLARED BEFORE ME
IN MONTREAL ON THE
5TH DAY OF FEBRUARY 2014.





NOTICE OF PRESENTATION

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TAKE NOTICE that the *Motion for extension of the stay period* will be presented for hearing and allowance in the Superior Court, Commercial Division, in room 15.03 of the Montréal Courthouse, 1 Notre-Dame Street East, Montréal, on February 7, 2014, at 9:15 a.m., or so soon thereafter as counsel may be heard.

PLEASE ACT ACCORDINGLY.

MONTRÉAL, February 5, 2014

Osler, Hoskin & Harcourt LLP

OSLER, HOSKIN & HARCOURT LLP

Attorneys for the Debtors and Mises-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 :**

HOMBURG INVEST INC. & AL.

Debtors/Petitioners

**-and-
HOMCO REALTY FUND (S2) LIMITED
PARTNERSHIP ET AL.**

Mises-en-cause

**-and-
SAMSON BELAIR/DELOITTE & TOUCHE INC.**

Monitor

**MOTION FOR EXTENSION OF THE STAY PERIOD (Section
11.02 of the *Companies' Creditors Arrangement Act*, R.S.C., 1985),
AFIDAVIT, NOTICE OF PRESENTATION**

ORIGINAL

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