

C A N A D A
DISTRICT OF NOVA SCOTIA
DIVISION No.: 51-HALIFAX
COURT No.: 36958
ESTATE No.: 51-1700828

N O V A S C O T I A
B A N K R U P T C Y C O U R T

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

**HOMCO REALTY FUND (71) 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 & TOUCHE INC.
(Neil Jones, CA, CIRP, designated responsible person)
having its place of business at 1959 Upper Water
Street, Suite 1500, Halifax, Nova Scotia, B3J 3R7

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 (71) Limited Partnership (“**H71**”) 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. H71 was established for the sole purpose of acquiring and operating a real estate asset.

Homburg Invest Inc. (“**HII**”) is the sole limited partner of H71. As limited partner, HII is entitled to the profits of H71 and, in the event of a liquidation of H71, to any liquidation proceeds after the payment of all of the partnership’s creditors, and thus has the beneficial interest of the property owned by H71.

The general partners of H71 are Homburg L.P. Management Inc. (as “holding” general partner) and HII (71) GP Inc. (as “managing” general partner). Homburg L.P. Management Inc. is indirectly owned by Homburg Canada Incorporated, whereas HII (71) GP Inc. is a wholly owned subsidiary

of HII. Pursuant to the limited partnership agreement, the “managing” general partner, HII (71) GP Inc., has full power and authority to transact the business of H71 and to deal with the assets for the use and benefit of H71.

H71's only real estate asset is an 18,145 square meter property located at Meidoornkade 22-24, Houten, in the Netherlands. The town of Houten is a commuter town approximately 9 kilometers southeast of the city of Utrecht. The property is situated in the Doornkade business park on the northwestern outskirts of Houten. The property is situated in a highly visible location on the A-27 motorway with good accessibility.

Restructuring of HII

On September 9, 2011, HII and certain related entities (the “**HII Parties**”) initiated a restructuring process by filing for and obtaining protection from its creditors under the *Companies' Creditors Arrangement Act* (“**CCAA**”) pursuant to an order rendered by the Superior Court of Quebec (as amended and extended from time to time, the “**Initial Order**”). HII, through a number of entities (collectively with HII, the “**HII Group**”), owns a diversified portfolio of real estate assets in Europe (Germany, Baltic States and the Netherlands), Canada and the United States. A number of the real estate assets have been operating with negative cash flows, and/or have a fair market value that is less than the outstanding capital balance of a loan secured by a mortgage over same property. Prior to the CCAA proceedings, and up and until June 2012, HII had been funding the operational deficit of some of said properties with negative cash flows.

In the course of the CCAA proceedings, the HII Group made a thorough analysis of its portfolio in order to identify its “bad” properties, namely the ones that, in the absence of a satisfactory agreement with the pertaining mortgage lender, should be disposed prior to emergence from the CCAA as they would not form part of the post-restructuring portfolio. Starting in June 2012, HII halted the funding of the operating deficits of some properties, including the property held directly by H71. Since then, to the extent that operational expenses could not be funded by the cash inflows of the given property, any operating deficits were to be funded by the mortgage lender of the respective property, namely, in the case of H71, ABN AMRO Bank N.V. (“**ABN**”). Furthermore, ABN has notified H71's property tenant of its security over the real estate property and the rental revenues, which implies that the tenant must now pay the rent to ABN (and not to H71). Since no satisfactory agreement was reached with ABN, a decision was made in late 2012 to file an assignment in bankruptcy for H71.

Financial Statements

For reference purposes, below is H71's income statement for the nine-month period ended September 30, 2012 as well as H71's balance sheet as of September 30, 2012:

Homco Realty Fund (71) Limited Partnership	
Income Statement (\$)	
For the nine months ended September 30, 2012 (unaudited)	
Rental revenues	<u>1,622,225</u>
Expenses	
Unrealized valuation changes	6,172,128
Mortgage interest	621,137
Income tax	111,282
Management fees	73,190
Repairs and maintenance	36,018
Property taxes	35,191
Others	<u>22,532</u>
	<u>7,071,478</u>
Net income	<u>(5,449,253)</u>

Homco Realty Fund (71) Limited Partnership	
Balance Sheet (\$)	
As at September 30, 2012 (unaudited)	
Assets	
Cash	239,347
Prepays	23,538
Due from Homburg Invest Inc.	759,792
Property Plant and equipment	<u>6,199,970</u>
	<u>7,222,647</u>
Liabilities	
Accounts payable	248,239
Income tax payable	113,661
Mortgage payable	<u>17,224,529</u>
	<u>17,586,429</u>
Partners' equity	
Partners' capital	(10,271,691)
Cumulative currency translation account	<u>(92,091)</u>
	<u>(10,363,782)</u>
	<u>7,222,647</u>

Causes of Insolvency

The entire real estate property owned by H71 is currently rented to one tenant, Euretco N.V., with a lease agreement expiring in February 2013. The tenant has already indicated its intention not to renew the lease agreement and H71 has not been able to find a replacement tenant. Moreover, H71 estimated that approximately €1.4M in capital improvements will be required in 2013 in order to attract a viable tenant and H71 does not have access to financing to fund such capital expenditures. Revenues are therefore expected to decrease significantly in March 2013, resulting in negative cash flows from operations and preventing H71 from being able to repay its debts as they become due.

In addition, the credit agreement between ABN and H71 is currently in default. The balance of the mortgage payable in H71's financial statements as of September 30, 2012 was \$17.2M. H71 has been unable to renew the current mortgage with ABN (with amended/viable terms based on the projected cash flow of the property) or to secure alternative mortgage financing.

H71 meets the definition of an "insolvent person" under the Act because, *inter alia*, the aggregate value of its assets is not, at fair valuation, sufficient, or if disposed of a fairly conducted sale under legal process, would not be sufficient to enable payment of its obligations, due and accruing due.

As at September 30, 2012, H71's internal financial statements (unaudited and prepared by HII's management) valued the real estate property held at approximately \$6.2M. The secured debt owed to ABN as at September 30, 2012 amounts to approximately \$17.2M, exceeding the reported value of the real estate property value by approximately \$11M. The fair market value of H71's real estate property has significantly deteriorated due to the economic crisis of 2007-2008 and its impact on the European economy. Further, the total value of H71's assets as at September 30, 2012 was approximately \$7.2M, namely approximately \$10.4M lower than H71's total obligations as at September 30, 2012.

Please note that HII valued the real estate property as at September 30, 2012 with internal valuation models using Argus Discounted Cash Flow software. To assist with property valuation for the purpose of HII's audited financial statements as of December 31, 2011, C&W Realty Advisors Inc. ("C&W") was engaged to perform a thorough market review and provide guidance pertaining to valuation modeling. The C&W report concluded that the Argus Discounted Cash Flow valuation model used by H71 was an adequate valuation methodology in support of establishing fair value for the December 31, 2011 financial reporting.

Bankruptcy

As (i) the estimated fair market value of H71's assets is lower than the estimated value of its liabilities, (ii) H71 is in default of its mortgage loan, (iii) it is anticipated that H71 will not be able to repay its debts as they become due beyond March 2013, and (iv) the property of H71 is not a core asset that will form part of the HII Group's restructured portfolio, the decision was made for H71 to file an assignment in bankruptcy. On December 31, 2012, H71 filed an assignment in bankruptcy and Deloitte & Touche Inc. was appointed as trustee.

B) Trustee's preliminary evaluation of assets and details of security interest

Below is a summary of the Statement of Affairs as of December 27, 2012, which includes the estimated net realization value of the assets of H71 as well as the estimated deficit following the distribution of estimated proceeds from the liquidation of the assets to secured and unsecured creditors:

Homco Realty Fund (71) Limited Partnership		
Statement of Affairs (\$)	Book value	Estimate of net
As of December 27, 2012 (unaudited)	(Note 1)	realization value
Assets		
Cash	349,925	349,925
Intercompany receivable	762,752	468,013
Prepaid expenses	12,972	-
Sales tax receivable	11,007	11,007
Property, plant and equipment	6,331,290	6,331,290
	7,467,946	7,160,235
Liabilities		
Secured creditor		6,331,290
Secured creditor (unsecured portion)		11,231,915
Unsecured creditor (Note 2)		115,099
		17,678,304
Deficit (before professional fees)		(10,518,069)

Note 1:

All amounts denominated in euro were converted using the November 30, 2012 exchange rate (1.2921).

Note 2:

Creditors will have the onus to prove their claims and only those which are proven will constitute valid claims that would receive a distribution, if funds were available.

Note 3:

The information above has been updated with the most up-to-date information available to the Trustee.

The estimated value attributed to the various assets of H71 in the Statement of Affairs and the status of each asset as it relates to ABN's security is discussed below ((details on the independent opinion obtained by the Trustee on the validity and enforceability of ABN's security are provided below):

- **Cash:** Cash balances are based on the December 17, 2012 bank account balances. The cash balances held in H71's operating bank accounts at HSBC are not secured in favor of ABN and

will thus be realized by the Trustee for distribution pursuant to the scheme of collocation of the Act.

- Intercompany receivable: The book value of the intercompany receivable was estimated based on the books and records of H71 as at December 13, 2012. The estimated net realization value of the intercompany receivable remains to be determined as it is notably subject to the eventual distribution to the creditors of HII pursuant to a plan of arrangement in the course of the CCAA proceedings. The estimated recovery in the Statement of Affairs has been based on up-to-date information available to the Trustee. The intercompany receivable is not secured in favor of ABN and will thus be realized by the Trustee for distribution pursuant to the scheme of collocation of the Act.
- Prepaid expenses: The book value of the prepaid expenses is as per H71's internal trial balance as of November 30, 2012. Prepaid expenses are not secured in favor of ABN, however, the Trustee estimated that no proceeds would be realized from the prepaid expenses in the liquidation of H71's assets.
- Sales tax receivable: The book value of the sales tax receivable is as per H71's internal trial balance as of November 30, 2012. The sales tax receivable is not secured in favor of ABN and will thus be realized by the Trustee for distribution pursuant to the scheme of collocation of the Act.
- Property, plant and equipment: The book value of the property, plant and equipment is as per H71's trial balance as of November 30, 2012. The Trustee estimated the fair market value of the property, plant and equipment to be equal to the book value as of November 30, 2012, given that HII's management valued the property as at November 30, 2012 with internal valuation models using the Argus Discounted Cash Flow software. The property, plant and equipment is secured in favor of ABN.

On January 4, 2013, a Dutch district court granted permission to ABN as secured creditor to privately sell H71's property and to use the proceeds of such sale to repay part of H71's debt towards ABN. Under Dutch law, a holder of a right of mortgage may enforce its security right by having the secured property sold in public before a public notary if and when the debtor is in payment default. However, at the request of the holder of the right of mortgage, a district court may determine that there be a private sale of the secured property, provided that the purchase agreement is submitted to the court for approval. As referred to above, the judge ruled that ABN may privately sell H71's property on the terms as set out in the purchase agreement that was submitted to the court for approval.

The purchase agreement for H71's property contains a purchase price of €4,500,000, whereas H71's property was secured in favor of ABN for the maximum amount of €25,606,500 and H71's debt towards ABN amounted to €13,519,796.13 as of October 1, 2012, according to the judgment. Depending on the manner in which the property was to be sold, H71's property was valued by Cushman & Wakefield between €2,970,000 and €3,820,000. The purchaser under the purchase agreement is Beleggingsmaatschappij De Heertjes B.V., a Dutch limited liability company. Pursuant to the judgment, the transfer of H71's property needs to occur within twelve weeks after the date of the judgment.

The firm Clifford Chance LLP has provided the Trustee with an independent legal opinion on the validity and enforceability of ABN's security. The opinion indicates that subject to usual assumptions and qualifications, the security agreement between ABN and H71 creates a valid right of mortgage in favor of ABN over the property located at Meidoornkade 22-24, Houten in the Netherlands and certain related rights (namely, rental receivables and moveable property related to the real property).

C) Conservatory and protective measures

The Trustee implemented the following conservatory and protective measures:

- Freezing of all of H71's bank accounts and requesting the funds to be transferred to the Trustee;
- Changing the beneficiary of H71's insurance policy (from HII to the Trustee); and
- Execution of an amendment to the property management agreement between HINVEST REMS B.V. (the "**Property Manager**") and the Trustee to ensure the continuation of services of the Property Manager from the date of bankruptcy until January 18, 2013, the date of the first meeting of creditors when it is anticipated that the property will be surrendered to ABN, given the lack of equity for the unsecured creditors.

D) Information relating to provable claims

As of the time of the preparation of this report, considering no proofs of claim were received to date, the Trustee is not able to determine if there will be a significant difference between the amount of claims declared by the Bankrupt and the amount of claims proven by the various creditors.

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.

F) Conflict of interest and details of fee guarantees

Conflict of interest

As stated above, on September 9, 2011, the HII Parties filed and obtained protection from its creditors under the CCAA pursuant to the Initial Order. Pursuant to said order, Samson Bélair/Deloitte & Touche Inc. was appointed monitor of HII under the CCAA. As of the time of this report, the HII Parties are still under the protection of the CCAA.

As mentioned in the previous sections of this report, HII is the sole limited partner of H71 and also the shareholder of HII (71) GP Inc., H71's managing general partner. The Trustee, however, does not believe that Samson Bélair/Deloitte & Touche Inc.'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 H71. As Court-appointed Monitor under HII's CCAA proceedings, Samson Bélair/Deloitte & Touche Inc. is an officer of the Superior Court of Quebec, appointed to monitor the business and financial affairs of HII. As Trustee of H71, Deloitte & Touche Inc. is an officer of the Nova Scotia Bankruptcy Court, appointed to administer the Bankrupt's estate in accordance with the Act.

Details of fee guarantees

In an order dated October 10, 2012, the Superior Court of Quebec (overseeing the CCAA proceedings of HII and certain related entities) extended the definition of the "Administration Charge" granted in the Initial Order such that it secures the professional fees and disbursements of Deloitte & Touche Inc., in its capacity as Trustee in the bankruptcy of H71.

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

The Trustee estimates that the proceeds that will be realized from the liquidation of all of H71's assets which are not secured in favor of ABN (totaling \$0.8M as per the Statement of Affairs) could result in a dividend ranging from 0 to 7 cents on the dollar to the unsecured creditors (who have claims totaling \$11.3M as per the Statement of Affairs). The amount of the final dividend to the unsecured creditors will depend on the value that will be realized from H71's assets, the total amount of claims that will be proven by creditors before dividend distribution, and on the administration costs of the estate.

H) Trustee's remuneration

Prior to the date of bankruptcy, Deloitte & Touche Inc. received a deposit from H71 for \$30,000 to cover anticipated costs to administer the Bankrupt's estate. These funds have been deposited in the Bankrupt's estate trust account and will be recorded in the Trustee's Final Statement of Receipts and Disbursements.

From the date of bankruptcy, December 31, 2012, to January 12, 2013, the Trustee has incurred \$20,600 (net of sale taxes) in professional fees and disbursements administering the estate. The Trustee intends to seek approval of the estate inspector(s), if any, during the first meeting of the inspector(s) of the Trustee's activities to date and to settle the Trustee's professional fees and disbursements from the assets of the estate.

Further, as noted above, in an order dated October 10, 2012, the Superior Court of Quebec (overseeing the CCAA proceedings of HII and certain related entities) extended the definition of the "Administration Charge" granted in the Initial Order, such that said charge secures the professional fees and disbursements of Deloitte & Touche Inc., in its capacity as Trustee in the bankruptcy of H71.

I) Other matters

None.

DATED AT HALIFAX, Nova Scotia, this 18th day of January, 2013.

DELOITTE & TOUCHE INC.

In its capacity as Trustee of the Estate of
Homco Realty Fund (71) Limited Partnership
and not in its personal capacity

Per:

A handwritten signature in blue ink, appearing to read "Neil Jones", is written over a faint, illegible stamp or background.

Neil Jones, CA, CIRP
Vice-President