

C A N A D A
DISTRICT OF NOVA SCOTIA
DIVISION No.: 51-HALIFAX
COURT No.: 36959
ESTATE No.: 51-1700837

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 (72) 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 (72) Limited Partnership (“**H72**”) is a limited partnership formed under the laws of Nova Scotia having its registered head office at 1959 Upper Water Street, Suite 900, Halifax, Nova Scotia, B3J 3N2. H72 was established for the sole purpose of acquiring and operating a real estate asset.

Homburg Invest Inc. (“**HII**”) is the sole limited partner of H72. As limited partner, HII is entitled to the profits of H72 and, in the event of a liquidation of H72, 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 H72.

The general partners of H72 are Homburg L.P. Management Inc. (as “holding” general partner) and HII (72) GP Inc. (as “managing” general partner). Homburg L.P. Management Inc. is indirectly owned by Homburg Canada Incorporated, whereas HII (72) GP Inc. is a wholly owned subsidiary

of HII. Pursuant to the limited partnership agreement, the “managing” general partner, HII (72) GP Inc., has full power and authority to transact the business of H72 and to deal with the assets for the use and benefit of H72.

H72's only real estate asset is a 6,785 square meter property located at Industrestraat 6, 8, 10, 16, 18, 20 and 22, 3281 LB Numansdorp, in the Netherlands. Numansdorp is a village in the Municipality Cromstrijen in the Province of Zuid Holland. The population of Cromstrijen is approximately 13,000. The property is located in the Middelsluis Zuid business park in northern Numansdorp and is easily accessed via the A-29 motorway.

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 H72. 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 H72, ABN AMRO Bank N.V. (“**ABN**”). Furthermore, ABN has notified H72's tenants of its security over the real estate property and the rental revenues, which implies that the tenants can now only pay the rent to ABN (and not to H72). Since no satisfactory agreement was reached with ABN, a decision was made in late 2012 to file an assignment in bankruptcy for H72.

Financial Statements

For reference purposes, below is H72's income statement for the nine-month period ended September 30, 2012 as well as H72's balance sheet as of September 30, 2012:

Homco Realty Fund (72) Limited Partnership	
Income Statement (\$)	
For the nine months ended September 30, 2012 (unaudited)	
Revenues	
Rentals	51,879
Other revenue	18,819
	<u>70,698</u>
Expenses	
Mortgage interest	160,825
Bad debts	75,109
Management fees	30,588
Professional fees	17,900
Property taxes	8,811
Fuel and electricity	7,685
Repairs and maintenance	7,566
Insurance	5,637
Others	1,394
Income tax (recoverable)	<u>(21,546)</u>
	<u>293,969</u>
Net income	<u>(223,271)</u>

Homco Realty Fund (72) Limited Partnership	
Balance Sheet (\$)	
As at September 30, 2012 (unaudited)	
Assets	
Income tax receivable	57,297
Prepays	7,681
Property Plant and equipment	2,163,662
	<u>2,228,640</u>
Liabilities	
Bank Indebtedness	16,111
Accounts payable	100,298
Due to Homburg Invest Inc.	598,429
Deferred rental income	3,606
Mortgage payable	4,356,428
	<u>5,074,872</u>
Partners' equity	
Partners' capital	(3,151,230)
Cumulative currency translation account	304,998
	<u>(2,846,232)</u>
	<u>2,228,640</u>

Causes of Insolvency

Approximately eighty-five percent of the leasable space in the real estate property is currently vacant (or does not generate rental revenues) and H72 has not been able to find replacement tenants. Moreover, H72 estimated that approximately €300K in capital improvements will be required in order to attract a viable tenant and H72 does not have access to financing to fund such capital expenditures. Revenues were therefore expected to remain significantly lower than operational expenses in fiscal year 2013, resulting in negative cash flows from operations and preventing H72 from being able to repay its debts as they become due.

In addition, the credit agreement between ABN and H72 is currently in default. The balance of the mortgage payable in H72's financial statements as of September 30, 2012 was \$4.4M. H72 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.

H72 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, H72's internal financial statements (unaudited and prepared by HII's management) valued the real estate property held at approximately \$2.2M. The secured debt owed

to ABN as at September 30, 2012 amounts to approximately \$4.4M, exceeding the reported value of the real estate property value by approximately \$2.2M. The fair market value of H72'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 H72's assets as at September 30, 2012 was approximately \$2.2M, namely approximately \$2.9M lower than H72'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 H72 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 H72's assets is lower than the estimated value of its liabilities, (ii) H72 is in default of its mortgage loan, (iii) it is anticipated that H72 will not be able to repay its debts as they become due beyond March 2013, and (iv) the property of H72 is not a core asset that will form part of the HII Group's restructured portfolio, the decision was made for H72 to file an assignment in bankruptcy. On December 31, 2012, H72 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 H72 as well as the estimated deficit following the distribution of estimated proceeds from the liquidation of the assets to the secured and unsecured creditors:

Homco Realty Fund (72) Limited Partnership		
Statement of Affairs (\$)		
As of December 27, 2012 (unaudited)	Book value (Note 1)	Estimate of net realization value
Assets		
Cash	55,457	55,457
Accounts receivable	310	310
Prepaid expenses	4,273	-
Income tax receivable	58,510	58,510
Property, plant and equipment	2,209,491	2,209,491
	2,328,041	2,323,768
Liabilities		
Secured creditor		2,209,801
Secured creditor (unsecured portion)		2,278,131
Unsecured creditor - intercompany		691,978
Unsecured creditor (Note 2)		7,934
		5,187,844
Deficit (before professional fees)		(2,864,076)

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 H72 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 legal 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 H72'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.
- **Accounts receivable:** The book value of the accounts receivable is as per H72's internal trial balance as of November 30, 2012. According to the information available to the Trustee, accounts receivable is comprised of rental receivables that are secured in favor of ABN.

- Prepaid expenses: The book value of the prepaid expenses is as per H72's internal trial balance as of November 30, 2012. Prepaid expenses are not secured in favor of ABN, however, it is anticipated that no proceeds would be realized from the prepaid expenses in the liquidation of H72's assets.
- Income tax receivable: The book value of the income tax receivable is as per H72's internal trial balance as of November 30, 2012. The income 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 H72'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.

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 H72 creates a valid right of mortgage in favor of ABN over the property located at Industrestraat 6, 8, 10, 16, 18, 20 and 22, 3281 LB Numansdorp, in the Netherlands and certain related rights (namely, rental receivables and movable property related to the real property).

C) Conservatory and protective measures

The Trustee implemented the following conservatory and protective measures:

- Freezing of all of H72's bank accounts and requesting the funds to be transferred to the Trustee;
- Changing the beneficiary of H72'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, 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 H72 and also the shareholder of HII (72) GP Inc., H72'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 H72. 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 H72, 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 H72.

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 H72's assets which are not secured in favor of ABN (totaling \$0.1M as per the Statement of Affairs) could result in a dividend ranging from 0 to 4 cents on the dollar to the unsecured creditors (who have claims totaling \$3.0M 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 H72'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 H72 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 \$19,912 (net of sale taxes) in professional fees and disbursements administering the estate. The Trustee intends to seek approval of estate inspector(s), if any, during the first meeting of the inspector(s) of the Trustee's activities to date, 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 H72.

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 (72) Limited Partnership
and not in its personal capacity

Per:



Neil Jones, CA, CIRP
Vice-President