

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

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)

No.: 500-11-041305-117

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

**1810040 Alberta Ltd. (formerly known as
Homburg Invest Inc. and Homburg Shareco Inc.)
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 (88) Limited Partnership
Homco Realty Fund (94) Limited Partnership
Homco Realty Fund (96) Limited Partnership
Homco Realty Fund (142) Limited Partnership**

Mises-en-cause

-and-

**Deloitte Restructuring Inc. (formerly known as
Samson Bélair/Deloitte & Touche Inc.)**

Monitor

APPLICATION FOR EXTENSION OF THE STAY PERIOD

(Sections 11 and 11.02 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36)

**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. ("**HI**"), Homburg Shareco Inc. ("**Shareco**"), Churchill Estates Development Ltd. ("**Churchill**"), Inverness Estates Development Ltd. ("**Inverness**") and CP Development Ltd. ("**CP**") (collectively the "**Initial Debtors**") as appears from the Court record;
2. Pursuant to the Initial Order, Samson Bélair/Deloitte & Touche Inc. (now known as

Deloitte Restructuring 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 Honourable 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 November 30, 2016 (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 Realty Fund (88) Limited Partnership, Homco Realty Fund (89) Limited Partnership (“**Homco 89**”), 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 (“**Homco 142**”) 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 and Homco Realty Fund (191) Limited Partnership 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 an Applicant Partnership. By subsequent Order of the Court, the stay of proceeding was discontinued in respect of Homco 122, Inverness, Homco 83, Churchill, CP, Homco 105 and Homco 121. (NCLL, Homco 96, Homco 61, HMCI, the Initial Debtors and the Initial Mises-en-cause (excluding Homco 122, Inverness, Castello, Homco 83, Churchill, CP, Homco 105, Homco 121 and Homco 89) 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 February 28, 2017;

II. DISTRIBUTIONS UNDER THE PLANS OF ARRANGEMENT

8. As appears from the Court record, the Plan of Compromise and Reorganization of HII and Shareco, as amended and restated from time to time (the “**HII/Shareco Plan**”) and the restated Plan of Compromise of Homco 61 (collectively the “**Plans**”) have been approved and sanctioned by this Honourable Court and implemented. Unless otherwise

defined herein, all capitalized terms are as defined in the HII/Shareco Plan;

9. Since the last extension of the Stay Period, the Monitor has not proceeded with any additional distributions to the Affected Creditors nor the Homco 61 Affected Creditors, other than distributions to creditors who had not received their entitlement to past distributions due to missing or erroneous coordinates. As will appear from the Forty-Fifth Report of the Monitor to be served and filed on or about the date hereof (the “**Monitor’s Forty-Fifth Report**”), the current intention of the Monitor is that the next distribution of the Asset Realization Cash Pool be the final distributions under the terms of the Plans;

III. OPERATIONS AND RESTRUCTURING EFFORTS

10. Since the last extension of the Stay Period, the HII Group has continued to make progress in connection with the disposition of the remaining non-core properties, with a view of finalizing the process in the near future. Highlights of the most significant activities of the HII Group are provided below;

A. *Dispositions of non-core properties*

11. As previously disclosed to the Court, HSBC Bank Canada (“**HSBC**”) is the secured lender for one remaining property in Canada, being Points North (NCLL);
12. As regards Points North, on or about July 29, 2015, the Monitor accepted a conditional purchase offer for Points North, with the approval of the Liquidation Advisory Committee created under the HII/Shareco Plan (the “**LAC**”). The offer was subject to an extended due diligence period, which was extended with LAC approval. As will more fully appear from the Monitor’s Forty-Fifth Report, the HII Group and Monitor do not expect that the a transaction will close at the contemplated purchase price. The offeror has indicated it may revise its offer to a lower price, which would be insufficient to generate any equity for HII or the Affected Creditors. HII is cooperating with the Monitor, the LAC and HSBC in their review of possible options. Further material developments will be reported to the Court in due course;
13. As previously disclosed to the Court, HII determined that the property held by Homco Realty Fund (123) Limited Partnership in the Netherlands could generate value for the Affected Creditors under the HII/Shareco Plan. This property was put up for sale and the HII Group is cooperating with the Monitor in an attempt to accelerate the sales process with a goal of closing a sale in early 2017;
14. In addition, the LAC very recently approved the sale of the property held in the Netherlands by Homco Realty Fund (116) Limited Partnership. The transaction is expected to close in December 2016 and is expected to generate equity of at least 200,000 Euros for HII and thus Affected Creditors.

B. *Other Matters*

15. As will be further detailed in the Monitor’s Forty-Fifth Report, in the past months the Monitor learned that, since 2007, Norton Rose Fulbright Canada LLP has been holding

approximately \$110,000 in trust in connection with construction of the Churchill project. The HII Group has provided some information to the Monitor to the effect that these funds pertained to common area construction work that would have since been completed, such that the funds should be returned to Churchill. The HII Group understands that the Monitor is in contact with the relevant condominium corporation and intends to file an application for the release of the funds in due course.

16. The HII Group continues to address all post-plan implementation matters, including the bankruptcies or dissolution of the various entities included in the HII Group, as appropriate, the whole with the support and assistance of the Monitor and Canadian and Dutch counsel, and with the approval of the LAC, as required under the Plans and the Sanction Orders. Notably, during the last extension of the Stay Period, Homco Realty Fund (114) Limited Partnership, Homco Realty Fund (120) Limited Partnership, Homco 121, mise-en-cause Homco 142 and their respective general partners, as well as the general partner of Homco 105, filed assignments in bankruptcy. As well, several other HII Group Entities with no outstanding liabilities, including former mise-en-cause Homco 89, were dissolved;

IV. CONCLUSION

17. HII is of the view that providing the relief requested herein is appropriate in the present circumstances in order for the HII Group to finalize its affairs, including the disposition of the few remaining non-core properties and proper wind-down of remaining entities. HII is hopeful that all outstanding matters will be wrapped up prior to the expiry of the extension of the Stay Period sought herein. Accordingly, HII respectfully requests that this Honourable Court grant the extension of the Stay Period sought in the present Application;
18. As will appear from the Monitor's Forty-Fifth Report, the Monitor supports the present Application;
19. The HII Group has acted, and continues to act, in good faith and with due diligence;
20. The present Application is well founded in fact and law.

WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:

1. **GRANT** the present *Application for extension of the stay period*;
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 February 28, 2017;
3. **PRAY ACT** of the end of the Stay Period applicable to Homco Realty Fund (89) Limited Partnership and Homco Realty Fund (142) Limited Partnership;

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

MONTRÉAL, November 24, 2016.

Osler, Hoskin & Harcourt LLP

OSLER, HOSKIN & HARCOURT LLP

Attorneys for the Debtors and Mises-en-cause

AFFIDAVIT

I the undersigned, James F. Miles, domiciled and residing at 29 Coventry Lane, Dartmouth, Nova Scotia, B2V 2K2, solemnly declare the following:

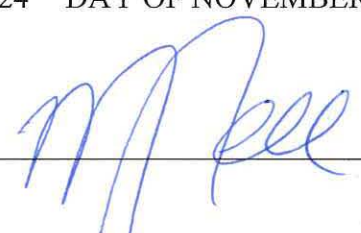
1. I am the President of 1810040 Alberta Ltd. and duly authorized representative of the Petitioners for the purpose hereof;
2. I have taken cognizance of the attached *Application for extension of the stay period*;
3. All of the facts alleged in the said application are true.

AND I HAVE SIGNED:



James F. Miles

SOLEMNLY DECLARED BEFORE ME
IN HALIFAX, NOVA SCOTIA ON THE
24TH DAY OF NOVEMBER 2016.



MATTHEW G. NEWELL
A Barrister of the Supreme
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NOTICE OF PRESENTATION

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TAKE NOTICE that the *Application for extension of the stay period* will be presented for hearing and allowance in the Superior Court, Commercial Division, at the Montréal Courthouse, 1 Notre-Dame Street East, Montréal, on November 28, 2016, at 9:00 a.m., or so soon thereafter as counsel may be heard, and in a room to be determined.

PLEASE ACT ACCORDINGLY.

MONTREAL, November 24, 2016

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 :**

1810040 ALBERTA LTD. ET AL.

Debtors/Petitioners

-and-

**HOMCO REALTY FUND (52) LIMITED
PARTNERSHIP ET AL.**

Mises-en-cause

-and-

DELOITTE RESTRUCTURING INC.

Monitor

**APPLICATION FOR EXTENSION OF THE STAY
PERIOD (Sections 11 and 11.02 of the *Companies'*
Creditors Arrangement Act, R.S.C. 1985, c. C-36),
AFFIDAVIT, NOTICE OF PRESENTATION**

ORIGINAL

Code : BO 0323

o/f: 1131787

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