

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No: 500-11-026779-054

**SUPERIOR COURT
COMMERCIAL DIVISION
(In bankruptcy and insolvency)**

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

MINCO-DIVISION CONSTRUCTION INC.;
– and –
SLEB 1 INC.;

Petitioners

– and –

LITWIN BOYADJIAN INC., in its capacity as
Monitor of Petitioners under the *Companies’
Creditors Arrangement Act*;

Monitor

- and –

RSM RICHTER INC., in its capacity as Interim
Receiver of the Petitioners;

Interim Receiver

**MOTION TO EXTEND THE STAY TERMINATION DATE
AND OTHER MESAURES
(Section 11 of the *Companies’ Creditors Arrangement Act*,
R.S.C. 1985, c. C-36)**

**TO ONE OF THE HONORABLE JUDGES OF THE SUPERIOR COURT, SITTING IN
COMMERCIAL DIVISION (FOR BANKRUPTCY AND INSOLVENCY MATTERS),
IN AND FOR THE DISTRICT OF MONTRÉAL, PETITIONERS RESPECTFULLY
SUBMIT THAT:**

1. As appears from the Court record, Petitioners commenced proceedings, on October 27, 2005, under Part III of the *Bankruptcy and Insolvency Act* (R.S.C. 1985, c. B-3) (the “**BIA**”) and filed a Notice of Intention;
2. By Petition dated October 29, 2005, Petitioners sought to take up and continue the BIA proceedings under the *Companies’ Creditors Arrangement Act* (the «**CCAA**»);
3. On November 3, 2005, this Court rendered an Initial Order (the «**Initial Order**») under the CCAA declaring, *inter alia*, that the Petitioners were companies to which the CCAA applies, granting a stay of proceedings in respect of the Petitioners up to and including December 2, 2005 and appointing Litwin Boyadjian Inc. (the «**Monitor**») as Monitor, the whole as more fully appears from a copy of such Initial Order produced as **Exhibit MS-1**;
4. On November 3, 2005, this Court rendered an Interim Receiver Order (the «**I.R. Order**») appointing RSM Richter Inc. (the «**Interim Receiver**») as interim receiver in respect of

the Petitioners, the whole as more fully appears from a copy of the I.R. Order produced as **Exhibit MS-2**;

5. On December 2, 2005, this Court extended the Stay Termination Date (as defined in paragraph 8 of the Initial Order) to January 31, 2006 (the «**First Extension Order**»), the whole as more fully appears from a copy of such Extension Order produced as **Exhibit MS-3**;
6. On December 15, 2005, this Court rendered an order (the “**Claims Procedure Order**”) setting forth a claims process and procedure for all claims, with the exception of holders of conventional hypothecs, in order to accelerate the reception and quantification of such claims and to resolve any disputes in respect thereof in a timely fashion, the whole as appears from the Claims Procedure Order produced as **Exhibit MS-4**;
7. On January 27, 2006, this Court extended the Stay Termination Date (as defined in paragraph 8 of the Initial Order), to March 10, 2006 (the «**Second Extension Order**»), the whole as more fully appears from a copy of such Extension Order produced as **Exhibit MS-5**;
8. On February 27, 2006, this Court amended the Claims Procedure Order by extending to 5:00 p.m. on March 17, 2006 the time for the Monitor to file Notices of Disallowances, the whole as more fully appears from a copy of such Order produced as **Exhibit MS-6**;

REQUIREMENT TO EXTEND THE STAY

9. Since the date of the Second Extension Order, Exhibit MS-5, the Petitioners, together with the Monitor and the Interim Receiver, have continued their efforts to advance the construction of Phase I of the condominium project situated at the corners of St-Lawrence Blvd. and Ontario Street, known as Le Sleb (the «**Project**»);
10. To this end, the Petitioners are negotiating with the Canadian Imperial Bank of Commerce (the “**DIP Lender**”) for an increased DIP Facility to fully fund the completion of the construction of Phase 1 of the Project;
11. This increased DIP Facility is a corner stone to any successful arrangement with the Petitioners’ creditors; without such financing the Petitioners are powerless to complete the Project;
12. The DIP Lender has advised the Petitioners that, as a condition to providing additional DIP Financing, it wishes to explore the possibility of engaging a third party project manager and/or general contractor to assume overall supervision of the work necessary to complete Phase 1 of the Project;
13. Prior to the DIP Lender making a final determination as to the amount and terms of any comprehensive DIP Financing that it may wish to make available to the Petitioners, the DIP Lender requires that a general contractor and/or project manager perform a full analysis of the costs to complete in order to ascertain, with as much certainty as possible, the total required funding to complete Phase 1 of the Project;
14. On February 3, 2006, the Interim Receiver mandated SBI Group and Magil Construction to prepare an analysis (the “**SBI/Magil Analysis**”) of the cost and timeframe to complete Phase I of the Project;
15. The Petitioners are advised that the Interim Receiver and the DIP Lender met last week with SBI Group and Magil Construction to review the SBI/Magil Analysis;
16. The Petitioners did not attend this meeting and were not provided with a copy of the SBI/Magil Analysis but they were verbally informed by the Interim Receiver that SBI Group and Magil Construction have estimated at approximately \$13 million (prior to dealing with uncertainties, responsibility for work deficiencies and re-engineering values) the cost to complete Phase I of the Project, including \$1.2 million of marketing costs;

17. This estimate exceeds the initial estimates of the Petitioners' consultants/professionals in the \$6.9 million to \$8 million range and by more than two million dollars the recent estimate of the cost to complete prepared by the General Contractor recommended by the Petitioners;
18. In light of these developments, the DIP Lender apparently requires more time to finalize its review of the cost to complete Phase I of the Project and to determine if it will finance such cost to complete;
19. The Petitioners have been led to believe that such review will likely be completed by the DIP Lender within three weeks;
20. The Petitioners are anxious to receive a decision from the DIP Lender on the funding of the Project and the Petitioners seek the support of their creditors on this further short term extension that has been necessitated by factors outside of their control;
21. The Petitioners remain optimistic that on or before March 31, 2006, a final term sheet for sufficient DIP Financing to complete Phase 1 of the Project shall be concluded between the Petitioners and the DIP Lender;
22. During such interim period from March 10 to March 31, 2006 (the "**Interim Period**"), the Petitioners shall require additional interim financing to cover the costs and expenses of the restructuring of the Petitioners, to allow the operations of the Petitioners to continue and to perform necessary work on the job site;
23. The DIP Lender has agreed to make available to the Petitioners additional interim DIP Financing in the minimum sum of \$136,000 to fund the operations of the Petitioners during the Interim Period, the whole as will appear from a copy of a revised term sheet which shall be executed shortly by the Petitioners and the DIP Lender (the "**Second Revised Term Sheet**") to be produced herewith prior to the hearing as **Exhibit MS-7**;
24. The Petitioners seek approval of the Second Revised Term Sheet in accordance with its terms and an increase in the DIP Charge and the DIP Security, as such terms are defined in the Initial Order;
25. It is essential that the Petitioners be permitted to complete the construction of Phase I of the Project and to maximize realization from the sale of the condominium units, parking spaces and commercial space;
26. In a bankruptcy or foreclosure scenario, it is virtually certain that the realization for the benefit of all creditors would be far less than in the case of a successful restructuring;
27. The Monitor and the Interim Receiver agree to the extension of the stay and the other relief requested in the conclusions hereof;

CONCLUSIONS SOUGHT

28. As appears from the foregoing, additional time is required in order to permit the Petitioners to complete Phase I of the Project, to close sales of condominium units and to restructure their affairs;
29. The Petitioners respectfully request that the stay of proceedings provided under the Initial Order, the First Extension Order and the Second Extension Order be extended until March 31, 2006;
30. The Petitioners further seek an order extending the I.R. Order until March 31, 2006;
31. The present Motion is well founded in fact and in law.

WHEREFORE, MAY IT PLEASE THIS HONORABLE COURT TO:

- [1] GRANT the present Motion;

- [2] DECLARE that the delay for service of the present Motion is hereby abridged such that the present Motion is properly presentable and that any requirement for additional notice or service of the present Motion is hereby dispensed with;
- [3] ORDER that the Initial Order dated November 3, 2005, remains in full force and effect and that the Stay Termination Date (as defined in paragraph 8 of the Initial Order) be extended until and including midnight on March 31, 2006;
- [4] ORDER that the I.R. Order dated November 3, 2005, remains in full force and effect until and including midnight on March 31, 2006 or until further order of this Court;
- [5] DECLARE that the Petitioners are hereby authorized and empowered to borrow from the DIP Lender, the Canadian Imperial Bank of Commerce, under and subject to the terms and conditions of the Second Revised Term Sheet, Exhibit MS-7 and to execute the additional security contemplated therein;
- [6] DECLARE that the Second Revised Term Sheet, Exhibit MS-7, is hereby approved in accordance with its terms and that all rights, recourses and remedies of the DIP Lender under the Initial Order shall apply thereto *mutatis mutandis*;
- [7] DECLARE that the DIP Charge and the DIP Security, as such terms are defined in the Initial Order, shall be increased from the sum of \$4,200,000 to the sum of \$4,450,000 and that all terms, conditions and priorities attached to the DIP Charge and to the DIP Security shall continue to apply for all legal purposes as if more fully recited herein;
- [8] DECLARE the Orders to be rendered pursuant hereto executory notwithstanding any appeal;
- [9] THE WHOLE without costs, save and except in case of contestation;

MONTRÉAL, March 7, 2006

(sgd) Goldstein Flanz & Fishman LLP

GOLDSTEIN, FLANZ & FISHMAN LLP
Attorneys for the Petitioners Minco Division
Construction Inc. and Sleb 1 Inc.

AFFIDAVIT

I, Luciano Miniccuci, residing and domiciled at 334 des Prairies Boulevard, Laval-des-Rapides, in the District of Laval, Province of Quebec, H4N 2V7, being duly sworn, attest and depose that:

1. I am the President of both Minco Construction Division Inc. and Sleb 1 Inc.;
2. All of the facts alleged in the present Motion to Extend the Stay Termination Date and for Further Relief are true.

AND I HAVE SIGNED, in Montréal, Province of Québec, on March 7, 2006,

(sgd) Luciano Minicucci

LUCIANO MINICUCCI

SOLEMNLY affirmed before me,
in Montreal, Province of Québec,
on March 7, 2006

(sgd) Hélène Bouthillette 102,561
Commission of Oaths for all Districts
of the Province of Québec

NOTICE OF PRESENTATION

TO: LITWIN BOYADJIAN INC., in its capacity as Monitor
1 Place Ville-Marie
Suite 2720
Montreal QC H3B 4G4

RSM RICHTER INC., in its capacity as Interim Receiver
2 Place Alexis Nihon
3500 de Maisonneuve Blvd. West
22nd Floor
Montreal, QC H3Z 3C2

SERVICE LIST (see attached list)

SIRS:

TAKE NOTICE of the foregoing Motion to Extend the Stay Termination Date and for Further Relief and that same will be presented before the Honourable Justice Daniel H. Tingley, J.S.C., in Chambers in Room 16.36, of the Court House of Montreal, 10 St-Antoine East, on the 10th day of March, 2006, at 8:30 a.m. or so soon thereafter as Counsel may be heard.

AND DO YOU GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, March 7, 2006

(sgd) Goldstein, Flanz & Fishman
GOLDSTEIN FLANZ & FISHMAN, L.L.P.
Attorneys for Petitioners