

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
COMMERCIAL DIVISION
(In bankruptcy and insolvency)

No.: 500-11-026779-054

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 FOR OTHER RELIEF
(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 «**Extension Order**»), the whole as more fully appears from a copy of such Extension Order produced as **Exhibit MS-3**;
6. Although the Initial Order, as extended pursuant to the Extension Order, provides in paragraph 53 thereof that any interested person may apply to this Court to vary or rescind the terms of the Initial Order or to seek other relief, no person has, to date, applied to this Court to do so;

REQUIREMENT TO EXTEND THE STAY

7. Since the date of the Extension Order, Exhibit MS-3, 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**»);
8. As appears from the Interim Receiver's Second Report dated December 21, 2005, several guarantees have been given to sub-contractors in order to secure their participation in the work performed and to be performed since the CCAA filing, the whole as appears from the Interim Receiver's Second Report, produced herewith as **Exhibit MS-4**;
9. 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 herewith as **Exhibit MS-5**;
10. Pursuant to the Claims Procedure Order, Exhibit MS-5, the Claims Bar Date was 5:00 p.m. on January 20, 2006;
11. As at the present date, 109 proofs of claim have been filed with the Monitor, the whole as appears from a claims register of the Monitor produced herewith as **Exhibit MS-6** and summarized below:
 - (a) Secured Claims-Other: 4 proofs of claim with an aggregate value of \$163,770.32
 - (b) Claims secured by legal hypothecs: 44 proofs of claim with an aggregate value of \$5,614,679.26;
 - (c) Unsecured claims and/or claims against directors: 61 proofs of claim with an aggregate value of \$4,043,866.14;
12. The Petitioners, in concert with the Monitor and the Interim Receiver, are presently examining all of the proofs of claim received, including those received after the Claims Bar Date, but they are not yet in a position to make a determination as to the validity and quantification of such claims;
13. The initial DIP Facility which was made available by the Canadian Imperial Bank of Commerce (the «**DIP Lender**») in the amount of \$2,500,000 has been fully drawn and/or allocated such that the Petitioners require further interim financing to cover the period of the extension herein sought;
14. The Petitioners have been negotiating with the DIP Lender for an increased DIP Facility to fully fund the completion of the construction of Phase I of the Project;

15. 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 I of the Project;
16. 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;
17. The Petitioners have agreed to engage a third party general contractor to perform such analysis and have been advised that the time required to obtain a complete answer in respect thereof will be between four (4) and six (6) weeks;
18. During such interim period from February 1, 2005 to March 10, 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;
19. The DIP Lender has agreed to make available to the Petitioners additional interim DIP Financing in the minimum sum of \$307,500 to fund the operations of the Petitioners during the Interim Period, the whole as appears from a copy of a revised term sheet which shall be executed by the Petitioners and the DIP Lender (the **Revised Term Sheet**") produced herewith as **Exhibit MS-7**;
20. The Petitioners seek approval of the 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;
21. In order to fund the professional fees and disbursements of the Monitor and the Petitioners' legal counsel during the Interim Period, the Petitioners require an order increasing the Administration Charge, as such term is defined in the Initial Order;
22. The Petitioners are optimistic that on or before March 10, 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;
23. A preliminary outline of the consolidated plan of arrangement that the Petitioners envisage proposing to their creditors is as follows:
 - (a) Sufficient DIP Financing shall be obtained in order to permit the Petitioners to complete Phase I of the Project;
 - (b) The condominium units, parking spaces and commercial space in Phase I shall be sold as quickly as possible and the proceeds of such sales shall be paid to creditors holding security on Phase I according to their rank;
 - (c) The Petitioners shall endeavour to obtain financing to develop Phase II of the Project or, alternatively, the land under the proposed Phase II of the Project shall be sold and the net proceeds of such development and/or sale shall be divided ratably amongst Petitioners' unsecured creditors;
24. The foregoing preliminary outline of a plan also anticipates that the Petitioners shall deliver condominium units to and complete sales with those purchasers with whom they have signed offers to purchase and that all deposits previously given by such purchasers shall be applied against the sale price of such units;
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 and the Extension Order be extended until March 10, 2006;
30. The Petitioners further seek an order extending the I.R. Order until March 10, 2006;
31. The Petitioners also seek orders approving the Revised Term Sheet and increasing the DIP Charge, the DIP Security and the Administration Charge in accordance with the conclusions hereof;
32. 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 10, 2006;
- [4] ORDER that the I.R. Order dated November 3, 2005, remains in full force and effect until and including midnight on March 10, 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 Revised Term Sheet, Exhibit MS-7 and to execute the additional security contemplated therein;
- [6] DECLARE that the 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 \$3,000,000 to the sum of \$4,200,000 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 that the Administration Charge, as such term is defined in the Initial Order, shall be increased from the sum of \$250,000 to the sum of \$310,000 and that all terms, conditions and priorities attached to the Administration Charge shall continue to apply for all legal purposes as if more fully recited herein;

- [9] DECLARE the Orders to be rendered pursuant hereto executory notwithstanding any appeal;
- [10] THE WHOLE without costs, save and except in case of contestation;

MONTRÉAL, January 26, 2006

(S) GOLDSTEIN, FLANZ & FISHMAN

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 January 26, 2006,

(S) LUCIANO MINICUCCI

LUCIANO MINICUCCI

SOLEMNLY affirmed before me,
in Montreal, Province of Québec,
on January 26, 2006

(S) JACYNTHE LAVOIE (81,598)

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 27 th day of January, 2006, at 8:30 a.m. or so soon thereafter as Counsel may be heard.

AND DO YOU GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, January 26, 2006

(S) GOLDSTEIN, FLANZ & FISHMAN

GOLDSTEIN FLANZ & FISHMAN, L.L.P.
Attorneys for Petitioners