

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No.: 500-11-026779-054

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

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

**MINCO-DIVISION CONSTRUCTION INC.**,  
a legal person duly constituted under Part 1A of the  
*Companies Act* (Québec), having its head office and  
principal place of business at 715 Victoria Square,  
Suite 500, in the City and District of Montréal,  
Province of Québec H2Y 2H7 (“**Minco**”);

– and –

**SLEB 1 INC.**, a legal person duly constituted under  
Part 1A of the *Companies Act* (Québec), having its  
head office and principal place of business at  
715 Victoria Square, Suite 500, in the City and  
District of Montréal, Province of Québec H2Y 2H7  
 (“**Sleb**”);

Petitioners

– and –

**LITWIN BOYADJIAN INC.**, in its capacity as  
Trustee under the Notice of Intention filed by Minco  
and Sleb, and as proposed Monitor under this  
Petition, a legal person duly constituted under the  
*Canada Business Corporations Act*, having its  
principal place of business at 1 Place Ville Marie,  
Suite 2720, in the City and District of Montréal,  
Province of Québec H3B 4G4;

Monitor

– and –

**RSM RICHTER INC.**, a legal person duly  
constituted under the *Canada Business  
Corporations Act*, having its principal place of  
business at 2 Place Alexis Nihon, Suite 1000, in the  
City and District of Montréal, Province of Québec  
H3Z 3C1;

Interim Receiver

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**MOTION TO APPOINT AN INTERIM RECEIVER  
(Section 11 of the *Companies’ Creditors Arrangement Act*  
and Article 47.1 *Bankruptcy and Insolvency Act*)**

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**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. These proceedings were commenced because of threatened proceedings from various creditors;
2. As appears from the Court record, Petitioners filed on October 31, 2005 a Petition To Take Up and Continue Under the *Companies’ Creditors’ Arrangement Act* Proceedings Commenced Under Part III of the *Bankruptcy and Insolvency Act* and for the Issuance of an Initial Order under the *Companies’ Creditors Arrangement Act* (the “**CCAA Petition**”);
3. The present Motion is made by Petitioners in the context of the present proceedings under the *Companies’ Creditors Arrangement Act* (R.S.C. 1985, c. C-36) (the “**CCAA**”) and subject to the issuance of an Initial Order in favour of Petitioners under such statute;
4. Any defined terms which are used in this Motion and not specifically defined shall have the meanings ascribed thereto in the CCAA Petition;
5. As appears from the Court record, Canadian Imperial Bank of Commerce (“**CIBC**”) holds a first ranking conventional hypothec against Phase 1 of the real estate project being developed by Petitioners on a 40,635 square feet parcel of land located in the heart of Montreal, at the North-East corner of Saint-Laurent Boulevard and de Maisonneuve Boulevard, formerly known and designated as Lots 2 913 000 and 2 913 001 of the Cadastre of the Province of Québec, Land Registration Division of Montréal (the “**Immovable Property**”);
6. As a condition to CIBC agreeing to provide interim financing to Petitioners, to complete Phase 1 (the “**CIBC DIP Financing**”), CIBC requires that an Interim Receiver of its own choosing be appointed, *inter alia*, to control disbursements made from time to time by Petitioners and to monitor for the benefit of CIBC the operations of Petitioners;
7. Petitioners wish to accommodate CIBC in the firm belief that it would be in the best interests of all stakeholders to proceed with the CIBC DIP Financing in order to finish Phase I of the Project and to complete and close the sales of condominium units and parking spaces to existing and future purchasers;
8. CIBC has indicated to Petitioners that it wishes RSM Richter Inc., acting through its director, Mr. Yves Vincent, to be appointed as Interim Receiver for the purposes more fully described in the conclusions hereof;
9. Petitioners respectfully submit that the present Motion for the appointment of an Interim Receiver should be granted as per its conclusions;
10. Petitioners require the interim relief requested in the present Motion in order to reorganize and restructure their affairs under the CCAA for the benefit of all of their stakeholders;
11. Considering the urgency of the situation, including Petitioners’ precarious financial situation, Petitioners respectfully submit that the service of a notice of presentation of the present Motion is not necessary and would not serve the interest of their creditors and/or of justice in general;
12. This Court has jurisdiction to hear the present Motion *ex parte*;

**WHEREFORE, MAY PLEASE THIS HONORABLE COURT TO:**

***SERVICE***

- [1] ORDER that the time for service of this Motion is hereby abridged so that the Motion is properly presentable today and hereby dispenses with further service thereof.

***APPOINTMENT***

- [2] ORDER that RSM Richter Inc. is hereby appointed Interim Receiver, without security, in respect of the Petitioners, with the powers hereinafter set forth. For the purposes hereof, “**Property**” means the Petitioners’ current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all cash and amounts held by third parties.

***INTERIM RECEIVER’S POWERS***

- [3] THIS COURT ORDERS that the Interim Receiver is hereby empowered and authorized, but not obligated, to act at once to do any of the following where the Interim Receiver considers it necessary or desirable:
- (a) once the DIP Facility has been repaid to the DIP Lender from the net proceeds and receipts arising out of or from the Project including, without limitation, all deposits, tax refunds or other receipts (the “**Net Proceeds**”), to hold jointly with the Monitor, in a trust account opened in the names of both the Monitor and the Interim Receiver, the Net Proceeds;
  - (b) to control and authorize any and all disbursements by the Petitioners after the date of this Order save in respect of charges secured by the Administration Charge, the amount and details of which charges will be reported by the Monitor to the Interim Receiver twice a month;
  - (c) to inquire and analyze the extent to which the Property is appropriately safeguarded and controlled;
  - (d) to inquire, investigate, review and analyze the affairs and the Property of the Petitioners including, without limitation transactions relating to the development and construction of Phase 1 and any payments, transfers and conveyances to third parties or related persons;
  - (e) to analyze and review all relevant data concerning the state of the accounts payable of the Petitioners, the status of contracts existing or required for the completion of Phase 1, the status of existing agreements with purchasers for the purchase of units and marketing efforts for those units for which there are no sale agreements and to communicate with the relevant third parties in regard thereof;
  - (f) to approve jointly with the Monitor the entering into by the Petitioners of any new contracts, agreements and settlements with third parties, and the Petitioners are ordered not to enter into any contracts, agreements and settlements without the approval of the Interim Receiver;
  - (g) to inquire into and analyze the funding requirements to bring Phase 1 to an appropriate state of completion and any available avenues for such funding and to make any appropriate recommendations in such regard;
  - (h) to engage consultants, appraisers, agents, experts, auditors, accountants, counsel, as the Interim Receiver deems appropriate and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;

- (i) to report to, meet with and discuss with such secured and unsecured creditors of the Petitioners and their advisors, as the Interim Receiver deems appropriate, on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable; and
- (j) to take any steps reasonably incidental to the exercise of these powers including the right of the Interim Receiver to seek from the Court any additional powers.

***DUTY TO PROVIDE ACCESS AND COOPERATION  
TO THE INTERIM RECEIVER***

- [4] ORDER that (i) the Petitioners, (ii) all of its current and former directors, officers, employees, agents and shareholders, any other persons acting on its instructions or behalf including, without limitation, any accountants or legal counsel, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “Persons” and each being a “Person”) shall forthwith advise the Interim Receiver of any Property in such Person’s possession or control and shall grant immediate and continued access to the Property to the Interim Receiver.
- [5] ORDER that all Persons shall grant immediate and continued access to the Interim Receiver all of the Petitioners’ books, documents, securities, contracts, orders, corporate and accounting records and all computer records, computer programs, computer tapes, computer disks, data storage media and programs containing any such information, and any other papers, records and information of any kind of the Petitioners relating thereto in their possession or control (the foregoing, collectively, the “Records”), and shall provide to the Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim Receiver access to and use of accounting, computer, software and physical facilities relating thereto.
- [6] ORDER that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Interim Receiver for the purpose of allowing the Interim Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Interim Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Interim Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Interim Receiver with all such assistance in gaining immediate access to the information in the Records as the Interim Receiver may in its discretion require including, without limiting the generality of the foregoing, providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

***NO PROCEEDINGS AGAINST THE INTERIM RECEIVER***

- [7] ORDER that no proceeding, enforcement process or extra-judicial proceeding in any court or other tribunal (each, a “Proceeding”) shall be commenced or continued against the Interim Receiver except with the written consent of the Interim Receiver or with leave of this Court.

***LIMITATION ON THE INTERIM RECEIVER’S LIABILITY***

- [8] ORDER that the Interim Receiver shall incur no liability or obligation as a result of its appointment or the fulfillment of its duties in carrying out the provisions of this Order, save and except for any gross negligence or willful misconduct on its part.

**GENERAL**

- [9] ORDER that the Interim Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
- [10] ORDER that nothing in this Order shall prevent the Interim Receiver from acting as a trustee in bankruptcy of the Petitioners.
- [11] HEREBY REQUEST the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada to give effect to this Order and to assist the Interim Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Interim Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.
- [12] ORDER that the Interim Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

MONTREAL, November 2, 2005

**GOLDSTEIN, FLANZ & FISHMAN SENCRL/LLP**

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**GOLDSTEIN, FLANZ & FISHMAN LLP**  
Attorneys for Petitioners

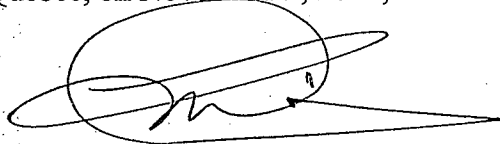
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GOLDSTEIN, FLANZ & FISHMAN SENCRL/LLP  
P.P. *MEM*.....

**AFFIDAVIT**

I, Luciano Minicucci, 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:

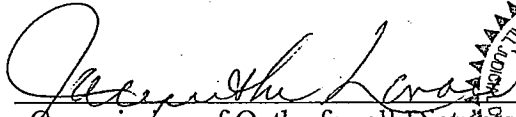
1. I am the President of both Minco and Sleb;
2. All of the facts alleged in the present Motion to Appoint an Interim Receiver are true.

AND I HAVE SIGNED, in Montréal, Province of Québec, on November 2, 2005,

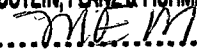


**LUCIANO MINICUCCI**

SOLEMNLY affirmed before me,  
in Montreal, Province of Québec,  
on November 2, 2005

  
Commissioner of Oaths for all Districts  
of the Province of Québec



**COPIE CONFORME - TRUE COPY**  
**GOLDSTEIN, FLANZ & FISHMAN SENCRL/LLP**  
P.P. 

**GOLDSTEIN, FLANZ & FISHMAN SENCRL/LLP**