

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
No. : 500-11-046281-149

“Commercial Division”

SUPERIOR COURT

IN THE MATTER OF THE *COMPANIES’
CREDITORS ARRANGEMENT ACT*, R.S.C.
(1985) ch. C-36, as amended of:

LES APPARTEMENTS CLUB SOMMET INC.,

-and-

CASPERDINY IFB REALTY INC.,

Debtors/Petitioners

-and-

RICHTER ADVISORY GROUP INC.,

Monitor

-and-

COMPUTERSHARE TRUST COMPANY OF
CANADA,

-and-

TIMBERCREEK SENIOR MORTGAGE
INVESTMENT CORPORATION,

-and-

CASPERDINY IFB CAPITAL INC.,

-and-

IFB BETEILIGUNGEN AG i.L.,

-and-

THE SYNDICATE OF LE PARC CO-
OWNERSHIP,

Mises en cause

MOTION SEEKING THE EXTENSION OF THE INITIAL ORDER
(Companies’ Creditors Arrangement Act, R.S.C. (1985), ch. C-36,
Section 11.02 (hereinafter *“CCAA”*))

**TO THE HONOURABLE MARTIN CASTONGUAY, S.C.J., OF THE SUPERIOR
COURT SITTING IN COMMERCIAL CHAMBER IN AND FOR THE DISTRICT OF
MONTREAL, THE DEBTORS/PETITIONERS RESPECTFULLY SUBMIT:**

A. **INTRODUCTION**

1. On March 3, 2014, as appears from the Court record herein, *Casperdiny IFB Realty Inc.* (hereinafter "**Casperdiny**") and *Les Appartements Club Sommet Inc.* (hereinafter "**Sommet**") and together with Casperdiny, the "**Debtors**") filed a notice of their intention to submit a proposal to their creditors in accordance with the *Bankruptcy and Insolvency Act*, R.S.C. (1985) ch. B-3, (hereinafter the "**NOI**");
2. On March 21, 2014, as appears from the Court record herein, this Honourable Court issued an order (hereinafter the "**Initial Order**"):
 - a) Authorizing the continuation of the NOI proceedings under the CCAA;
 - b) Issuing an initial order pursuant to the CCAA in favour of the Debtors;
 - c) Granting the Administration Charge (as this term is defined in the Initial Order);
 - d) Approving the Interim Financing Facility (as this term is defined in the Initial Order), and authorizing the Debtors to borrow from the *Mise en cause IFB Beteiligungen AG i.L.* (hereinafter "**IFB**") in accordance with same; and
 - e) Granting the first ranking Interim Lender's Charge in favour of IFB (as this term is defined in the Initial Order);
3. On April 15, the Initial Order was extended in its effects by this Honourable Court until May 29, 2014, as appears from the Court record herein;
4. On May 29, 2014, the Initial Order was further extended in its effects by this Honourable Court until July 3, 2014, as appears from the Court record herein (hereinafter the "**Second Extension Order**");
5. Pursuant to the present Motion, the Debtors will seek from this Honourable Court that the Initial Order be extended in its effects until **July 18, 2014** (hereinafter the "**Additional Period**");
6. The Debtors respectfully submit to this Honorable Court that it should issue an order taking the form of the draft order filed herewith as **EXHIBIT R-1** (hereinafter the "**Draft Order**");
7. The Debtors are simultaneously filing the present Motion in two (2) distinct Court files, one for each of the Debtors, but will request that the hearing of these Motions be held jointly;

B. THE PARTIES

8. Together, the Debtors own, operate and manage a sixteen (16) storey, 291-unit apartment building located in downtown Montreal, on De La Montagne (hereinafter the "**Property**"), as appears from the Court record herein;
9. The Property is currently operated as a luxury-rental apartment building offering all-inclusive services to its tenants, including a concierge, doorman, cable/internet services, electricity, fitness facility and indoor and outdoor pool areas;
10. The Mises en cause *Computershare Trust Company of Canada* (hereinafter "**Computershare**"), *Syndicate of le Parc Co-Ownership* (hereinafter the "**Syndicate**") and *Casperdiny IFB Capital Inc.* (hereinafter "**Capital**") are the only creditors having registered security interest against the assets of the Debtors (hereinafter collectively the "**Secured Creditors**") as appears from the Court record herein;
11. The Mise en cause *Computershare* acts as fondé de pouvoir of the Mise en cause *Timbercreek Senior Mortgage Investment Corporation* (hereinafter "**Timbercreek**") in the context of the Timbercreek's hypothec and financing, in accordance with section 2692 of the *Civil Code of Quebec*, as appears from the Court record herein;
12. Timbercreek is the principal secured lender of the Debtors, as appears from the Court record herein;
13. The Mise en cause IFB, in its capacity of Interim Financing Lender, has agreed to advance up to **\$2,177,502** to the Debtor Casperdiny through the Interim Financing Facility (as defined in the Initial Order) which is secured by the Interim Lender's Charge (as defined in the Initial Order), as appears from the Court record herein;
14. The Monitor *Richter Advisory Group Inc.* (hereinafter "**Richter**") was first appointed Trustee to the Debtors' NOI and then appointed Monitor to the Debtors' restructuring process under the CCAA pursuant to the Initial Order, as appears from the Court record herein;

C. THE RESTRUCTURING EFFORTS SINCE THE INITIAL ORDER

15. As appears from the Court record herein, the preliminary restructuring plan of the Debtors is centered around two main (2) components:
 - a) The implementation of a lease up program aimed at maximizing the occupational rate of the Property and, ultimately, increasing the value of the Property (hereinafter the "**Lease Up Program**"); and
 - b) The implementation of the solicitation process aimed at attracting offers in respect to the Property (hereinafter the "**Solicitation Process**");

I. THE LEASE UP PROGRAM

16. As at the issuance of the Initial Order, the occupational rate of the Property was at fifty-eight percent (**58%**), as appears from the Court record herein;
17. The Debtors have established a conservative plan aimed at increasing the occupational rate to seventy five (**75%**) by August 2014, as appears from the Court record herein;
18. Since the issuance of the Initial Order, the bulk of the Debtors' management's efforts were focused on the Solicitation Process as it was assumed that any eventual purchaser would want to implement its own lease-up measures;

II. THE SOLICITATION PROCESS

19. Since the issuance of the Initial Order, the Debtors have worked with *CBRE Capital Markets - National Apartment Group* (hereinafter "**CBRE**") to establish the best approach for the Solicitation Process to be implemented in respect to the Property;
20. On April 10, 2014, CBRE submitted to the Debtors and the Monitor a "*Proposal for Marketing Representation*", as appears from the Court record herein (hereinafter the "**CBRE Proposal**");
21. As appears from the CBRE Proposal, CBRE suggested that the Solicitation Process be conducted over a period of approximately four (**4**) months, with a bid deadline set for between May 26 and May 30, 2014 and a closing deadline set for August 20, 2014;
22. CBRE has extensive experience in the marketing and the selling of comparable real estate and Debtors believes that the CBRE Proposal is the optimal method to conduct the Solicitation Process, generate interest in the Property and to maximize the realization value of the Property, as appears from the CBRE Proposal;
23. On or about April 28, 2014, CBRE sent to potential bidders the following documents (hereinafter the "**Solicitation Documents**"):
 - a) A teaser outlining the investment opportunity in respect to the Property;
 - b) A document entitled "*Terms and Conditions*" outlining the terms and conditions by which any potential bidder must abide in submitting its bid within the Solicitation Process (hereinafter the "**Terms and Conditions**");
 - c) A document entitled "*Confidentiality Agreement*" outlining the terms and conditions pursuant to which the documents and information in respect to the Property were given to the potential bidders (hereinafter the "**Confidentiality Agreement**");

as appears from the Court record herein;

24. Within the Solicitation Process:

- a) Thirty five (**35**) potential bidders were approached;
- b) Ten (**10**) potential bidders executed the Terms and Conditions and the Confidentiality Agreement, which gave them access to:
 - I) A virtual data room providing for sensitive and economical information in respect to the Property;
 - II) A Confidential Information Memorandum;

as appears from the Court record herein;

25. As appears from the Solicitation Documents:

- a) The deadline for potential bidders to submit their bid was set for **5:00 on May 26, 2014** (hereinafter the ***“Bid Deadline”***);
- b) The deadline for the closing of the contemplated transaction could not be later than September 30, 2014 (hereinafter the ***“Closing Deadline”***)

26. After reviewing and analyzing the bids submitted within the Solicitation Process, the Debtors with the assistance of CBRE and Richter, decided to accept one of them, subject to this Honourable Court’s approval, as appears from a duly executed copy of this accepted bid filed herewith under seal, as **EXHIBIT R-2** (hereinafter the ***“Retained Bid”***);

27. The contemplated transaction pursuant to the Retained Bid may be summarized as follows (hereinafter the ***“Contemplated Transaction”***):

- a) The bidder (hereinafter the ***“Retained Bidder”***) undertakes to complete its due diligence within a period of thirty (**30**) days from the issuance of the Second Extension Order;
- b) The Retained Bidder offers to pay an amount of money in exchange for the transfer of the Property free and clear of any liens, hypothecs or charge pursuant to a vesting order from this Honourable Court;
- c) The closing date is scheduled for August 1, 2014 (hereinafter the ***“Anticipated Closing Date”***);
- d) The Contemplated Transaction is subject to the issuance of a vesting order from this Honourable Court;

28. On June 26 2014, the Retained Bidder informed the Debtors that it was not satisfied of its due diligence process and that therefore he would not complete the Anticipated Transaction, as appears from a copy of the email sent by the Retained Bidder to the Debtors filed herewith under seal as **EXHIBIT R-3** (hereinafter the ***“Retained Bidder’s Notice”***);

D. THE EXTENSION OF THE INITIAL ORDER AND THE TIMBERCREEK TRANSACTION

29. Within the Solicitation Process, Timbercreek submitted a bid for the Property, as appears from a copy of same filed herewith under seal as **EXHIBIT R-4** (hereinafter the "*Timbercreek Bid*");
30. The Timbercreek Bid is essentially a credit bid allowing for Timbercreek to acquire the Property for a purchase price that corresponds to its secured claim while also paying an amount sufficient to cover for any other prior claims (hereinafter the "*Timbercreek Contemplated Transaction*");
31. Definitive Agreements in respect to the Timbercreek Contemplated Transaction will be finalized between the parties within the Additional Period and the Debtors intend to petition this Honourable Court as soon as such documents are in final form to obtain leave to complete the Contemplated Transaction in accordance with Section 36 of the Act;
32. Timbercreek has informed the Debtors that it does not wish for IFB to continue to fund the monthly interest payments (the "*Monthly Interest Payments*") payable to Timbercreek as per the "*Interim Financing Facility Agreement*" entered into between the Debtor Casperdiny and the Mise en cause IFB (hereinafter the "*Interim Financing*"), and therefore acknowledges that the Interim Financing is therefore terminated;
33. As appears from the cash flow projections for the Debtors for the period comprised between May 17, 2014 and August 1, 2014 filed in support of the Monitor's Report filed in support of the Motion seeking the Second Extension Order, the Debtors are in a position to continue their operations on a going concern basis during the Additional Period;

E. CONCLUSIONS SOUGHT

34. The Debtors have acted, are acting, in good faith and with due diligence in the conduct of the Lease Up Program and the Solicitation Process, both of which are at the core of their restructuring process under the CCAA;
35. During the Additional Period, the Debtors anticipate to:
- a) Finalize the Definitive Agreements and transactional documents to effectuate the Timbercreek Contemplated Transaction;
 - b) Seek leave from this Honourable to complete the Timbercreek Contemplated Transaction;
 - c) Complete the Timbercreek Contemplated Transaction;
36. The extension sought hereto will not prejudice any of the Secured Creditors. To the contrary, it will likely allow for the Debtors with the assistance of the Monitor to

complete the Timbercreek Contemplated Transaction, maximizing the realization value of the Property, for the benefit of the Debtors' creditors and stakeholders;

37. The Debtors respectfully submit to this Honourable Court that the orders sought pursuant hereto are wholly appropriate;
38. Timbercreek supports the issuance of the orders sought pursuant hereto;
39. The Monitor supports the issuance of the orders sought pursuant hereto;
40. The Secured Creditors were duly served with the present Motion;
41. The Debtors respectfully submit that the present Motion should be granted in accordance with the Draft Order;
42. The present Motion is well founded both in fact and in law.

WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:

- [1] **GRANT** the present "*Motion seeking the extension of the Initial Order*" (hereinafter the "*Motion*");
- [2] **ISSUE** an order substantially in the form of the draft order filed in support of the present Motion as **EXHIBIT R-1**;
- [3] **THE WHOLE** without costs, save and except if contested and then, with costs against any contesting parties solidarily.

Montréal, July 2, 2014



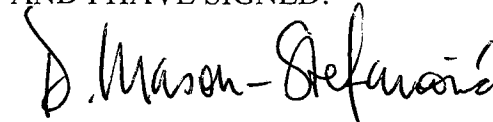
FASKEN MARTINEAU DuMOULIN LLP
Attorneys for Debtors

AFFIDAVIT

I, the undersigned, Diana Mason-Stefanovic, duly authorized director, having my professional address at 555 Richmond Street, West Suite 504, Toronto, province of Ontario, MV5 3B1, do solemnly declare the following:

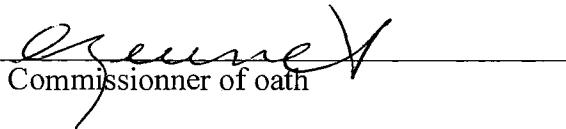
1. I am a duly authorized representative of the Debtors *Casperdiny IFB Realty Inc.* and *Les Appartements Club Sommet Inc.* in the present case;
2. All the facts alleged in the present Motion are true.

AND I HAVE SIGNED:



DIANA MASON-STEFANOVIC

Solemnly affirmed before me, in Toronto,
on July 2, 2014



Commissioner of oath



NOTICE OF PRESENTATION

TO: Benoît Gingues
Eric Barbieri
RICHTER ADVISORY GROUP INC.
1981 McGill College
Montréal, Québec, H3A 0G6

Monitor

TO: Me Alexander Bayus
Me Denis St-Onge
Gowling Lafleur Henderson S.E.N.C.R.L
1, Place Ville-Marie
37th floor
Montréal QC H3B 3P4

**Attorneys for Timbercreek Senior
Mortgage Investment Corporation**

TO: IFB BETEILIGUNGEN AG i.L.,
Grünerstrasse 19
40239, Düsseldorf, Germany

TO: Me Jean G. Robert
Lette & Associés S.E.N.C.R.L.
2800-630, Blvd René-Lévesque West
Montréal QC H3B 1S6

**Attorneys for the Syndicate of le
Parc Co-Ownership**

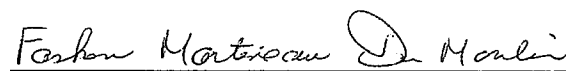
**TO: COMPUTERSHARE TRUST
COMPANY OF CANADA
c/o Stikeman Elliott S.E.N.C.R.L.,
S.R.L.**
40 - 1155 René-Lévesque Blvd. West
Montreal, Quebec H3B 3V2

TO: CASPERDINY IFB CAPITAL INC.
555 Richmond Street West, Suite 504,
Toronto, Ontario, M5V 3B1

TAKE NOTICE that the present *Motion seeking the extension of the Initial Order* will be presented for adjudication before Justice Martin Castonguay of the Superior Court, Commercial Division, sitting in and for the district of Montréal on **Thursday, July 3, 2014 at 9:30 a.m.** or so soon thereafter as counsel may be heard, in **Room 16.06** of the Montréal Courthouse, located at 1 Notre-Dame Street East, Montreal, Québec, H2Y 1B6.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, July 2, 2014



FASKEN MARTINEAU DuMOULIN LLP
Attorneys for Debtors

C A N A D A

"Commercial Division"

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT

No. : 500-11-046282-147

**IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, R.S.C.
(1985) ch. C-36, as amended of:**

CASPERDINY IFB REALTY INC.,

-and-

LES APPARTEMENTS CLUB SOMMET INC.,

Debtors

-and-

RICHTER ADVISORY GROUP INC.,

Proposed Monitor

-and-

**COMPUTERSHARE TRUST COMPANY OF
CANADA,**

**TIMBERCREEK SENIOR MORTGAGE
INVESTMENT CORPORATION,**

CASPERDINY IFB CAPITAL INC.,

IFB BETEILIGUNGEN AG i.L.,

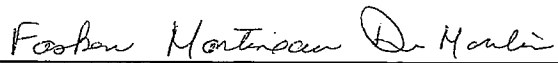
**THE SYNDICATE OF LE PARC CO-
OWNERSHIP,**

Mises en cause

LIST OF EXHIBITS

- EXHIBIT R-1:** Draft Order.
- EXHIBIT R-2:** Under seal - Retained Bid
- EXHIBIT R-3:** Under seal Retained Bidder's Notice.
- EXHIBIT R-4:** Under seal Timbercreek Bid.

Montréal, July 2, 2014



FASKEN MARTINEAU DuMOULIN LLP
Attorneys for Debtors

N° : 500-11-046281-149

PROVINCE OF QUÉBEC
SUPERIOR COURT(Commercial Division)
DISTRICT OF MONTREAL

**IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, R.S.C.
(1985) ch. C-36, as amended of:**

**LES APPARTEMENTS CLUB SOMMET
INC.. et al**

Petitioners

-and-

**RICHTER ADVISORY GROUP INC.,
Proposed Monitor**

-and-

**COMPUTERSHARE TRUST COMPANY OF
CANADA et al**

Mises en cause

10640/261644.00023

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**Motion seeking the extension of the Initial
Order, Affidavit, List of Exhibits and
Exhibits R-1 to R-4
(under seal : R-2, R-3, R-4)**

ORIGINAL

Fasken Martineau DuMoulin LLP
Stock Exchange Tower
Suite 3700, P.O. Box 242
800 Place Victoria
Montréal, Quebec H4Z 1E9

Luc Morin

Tel. +1 514 397 5121
Fax. +1 514 397 7600

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

No. 500-11-046281-149

DATE: July 3, 2014

PRESIDING : THE HONOURABLE MARTIN CASTONGUAY, J.C.S.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. (1985), ch. C 36, as amended of:

CASPERDINY IFB REALTY INC.

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-and-

TIMBERCREEK SENIOR MORTGAGE INVESTMENT CORPORATION

-and-

CASPERDINY IFB CAPITAL INC.

-and-

IFB BETEILLIGUNGEN AG i.L.

-and-

THE SYNDICATE OF LE PARC CO-OWNERSHIP

Mises en cause

ORDER

- [1] **ON READING** the "*Motion seeking the extension of the Initial Order*" (hereinafter the "*Motion*"), the affidavit and the exhibits in support thereof, as well as the report of *Richter Advisory Group Inc.*, dated July 2, 2014;
- [2] **CONSIDERING** the service of the Motion on all interested parties;
- [3] **CONSIDERING** the provisions of the *Companies' Creditors Arrangement Act*, R.S.C. (1985) ch. C-36 (hereinafter the "*CCAA*");
- [4] **CONSIDERING** the initial order issued by this Honourable Court on March 21, 2014 (hereinafter the "*Initial Order*");

FOR THESE REASONS, THE COURT:

- [5] **GRANTS** the Motion;
- [6] **DECLARES** that sufficient prior notice of the presentation of the Motion has been given by the Debtors to interested parties;
- [7] **EXTENDS** the Initial Order in its effects until **July 18, 2014**;
- [8] **ORDERS** that **EXHIBITS R-2, R-3 and R-4** be filed and kept under seal until the issuance of an order from the Honourable Court lifting the seal;
- [9] **ORDERS** the provisional execution of this Order notwithstanding appeal and without the requirement to provide any security or provision for costs.
- [10] **WITHOUT COSTS.**

Martin Castonguay, j.c.s.

R-2 – UNDER SEAL

R-3 – UNDER SEAL

R-4 – UNDER SEAL