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**COURT** COURT OF QUEEN'S BENCH OF ALBERTA

**JUDICIAL CENTRE** CALGARY

**DOCUMENT** EIGHTEENTH REPORT OF THE MONITOR

**IN THE MATTER OF THE COMPANIES CREDITORS'  
ARRANGEMENT ACT, R.S.C. 1985 c. C-36 AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF LUTHERAN CHURCH – CANADA, THE  
ALBERTA – BRITISH COLUMBIA DISTRICT, LUTHERAN  
CHURCH – CANADA, THE ALBERTA – BRITISH COLUMBIA  
DISTRICT INVESTMENTS LTD., ENCHARIS COMMUNITY  
HOUSING AND SERVICES AND ENCHARIS MANAGEMENT  
AND SUPPORT SERVICES**

**DATED APRIL 25, 2016**

**ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT**

**Counsel**

**Cassels Brock & Blackwell LLP  
10<sup>th</sup> Floor Bankers Hall West  
Calgary, Alberta T2P 5C5  
Attention: Jeffrey Oliver**

**Telephone/ Facsimile: 403-351-2921/ 403-648-1151  
Email: joliver@casselsbrock.com**

**Monitor**

**Deloitte Restructuring Inc.  
700 Bankers Court, 850 – 2<sup>nd</sup> Street SW  
Calgary, AB T2P 0R8  
Attention: Jeff Keeble & Vanessa Allen**

**Telephone/Facsimile: 403-298-5955/ 403-718-3681  
Email: jkeeble@deloitte.ca & vanallen@deloitte.ca**

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# Introduction and Notice to Reader

## Introduction

1. On January 23, 2015 (the “Filing Date”), Lutheran Church – Canada, the Alberta – British Columbia District (the “District”), Encharis Community Housing and Services (“ECHS”), Encharis Management and Support Services (“EMSS”) and Lutheran Church – Canada, the Alberta – British Columbia District Investments Ltd. (“DIL”, collectively the “Applicants” or the “District Group”) obtained an Initial Order (the “Initial Order”) from the Court of Queen’s Bench of Alberta (the “Court”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”). Deloitte Restructuring Inc. (“Deloitte”) was appointed as Monitor (the “Monitor”) in the CCAA proceedings.
2. For clarity, the District includes the Church Extension Fund (“CEF”), which was originally created to allow District members to loan their money and earn interest in faith-based developments. CEF was operated under the purview of the District’s Department of Stewardship and Financial Ministries and was not created as a separate legal entity. As such, depositors to CEF are creditors of the District (the “District Depositors”). Depositors to DIL will be referred to as the “DIL Depositors”. The District Depositors and the DIL Depositors will collectively be referred to as the “Depositors”.
3. The Initial Order provided for an initial stay of proceedings (the “Stay”) until February 20, 2015. The Court has now granted six extensions of the Stay. The most recent Order was granted at an application on January 20, 2016 and extended the Stay until April 29, 2016.
4. Prior to the Initial Order being granted, Deloitte prepared a Pre-Filing Report of the Proposed Monitor dated January 22, 2015 (the “Pre-Filing Report”). The Monitor subsequently filed the following reports:
  - 4.1. the First Report of the Monitor dated February 17, 2015;
  - 4.2. the Second Report of the Monitor dated March 23, 2015 (the “Second Report”);
  - 4.3. the Third Report of the Monitor dated June 16, 2015;
  - 4.4. the Fourth Report of the Monitor dated June 24, 2015 (the “Fourth Report”);
  - 4.5. the Fifth Report of the Monitor dated August 24, 2015 (the “Fifth Report”);
  - 4.6. the Sixth Report of the Monitor dated September 9, 2015;
  - 4.7. the Seventh Report of the Monitor dated October 20, 2015;
  - 4.8. the Eighth Report of the Monitor dated October 30, 2015;
  - 4.9. the Ninth Report of the Monitor dated November 26, 2015;

- 4.10. the Tenth Report of the Monitor dated December 22, 2015;
  - 4.11. the Eleventh Report of the Monitor dated January 11, 2016;
  - 4.12. the Twelfth Report of the Monitor dated January 27, 2016 (the “Twelfth Report”);
  - 4.13. the Thirteenth Report of the Monitor dated February 4, 2016 (the “Thirteenth Report”);
  - 4.14. The Fourteenth Report of the Monitor dated February 18, 2016 (the “Fourteenth Report”);
  - 4.15. The Fifteenth Report of the Monitor dated February 25, 2016 (the “Fifteenth Report”);
  - 4.16. The Sixteenth Report of the Monitor dated March 14, 2016 (the “Sixteenth Report”); and
  - 4.17. The Seventeenth Report of the Monitor dated March 18, 2016 (the “Seventeenth Report”, together with the Pre-Filing Report, the reports listed in 4.1 to 4.17 will collectively be referred to as the “Reports”).
5. The Monitor also filed a confidential supplement to the Second Report dated March 25, 2015, a confidential supplement to the Fourth Report dated June 25, 2015, a confidential supplement to the Fifth Report dated August 26, 2015, a confidential supplement to the Fifteenth Report dated February 26, 2016 and a Confidential Supplement to the Seventeenth Report dated March 18, 2016 (collectively the “Supplements”). The Supplements have been sealed by the Court.
  6. In addition to the Reports and the Supplements, the Monitor prepared a First Report to the Creditors of ECHS and EMSS dated November 10, 2015 (the “Encharis Report”) a First Report to the Creditors of DIL dated December 8, 2015 (the “DIL Report”) and a First Report to the Creditors of the District dated March 28, 2016 (the “District Report”). All of the Encharis Report, the DIL Report and the District Report were prepared for the purpose of providing creditors of the corresponding entities with specific information related to the respective plans of compromise and arrangement for ECHS (the “ECHS Plan”), EMSS, DIL (the “DIL Plan”) and the District (the “District Plan”), all as subsequently amended (collectively the “Applicant Plans”).
  7. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Reports and in the Supplements.
  8. Information on the CCAA proceedings can be accessed on Deloitte’s website at [www.insolvencies.deloitte.ca](http://www.insolvencies.deloitte.ca) under the link entitled “Lutheran Church – Canada, the Alberta – British Columbia District et. al.”.

## Notice to Reader

9. In preparing this report, the Monitor has relied on unaudited financial information, the books and records of the Applicants and discussions with the Applicant’s employees, the Applicant’s Chief Restructuring Officer (the “CRO”), interested parties and stakeholders. The Monitor has not performed an independent review or audit of the information provided.

10. The Monitor assumes no responsibility or liability for any loss or damage occasioned by any party as a result of the circulation, publication, reproduction, or use of this report.
11. All amounts included herein are in Canadian dollars unless otherwise stated.

# Court Applications

12. At a hearing on March 21, 2016, the Court granted Orders including the following relief:
  - 12.1. Authorizing and directing the District to present the District Plan to the District's creditors for approval;
  - 12.2. Authorizing the District to further vary, amend, modify or supplement the District Plan by way of a supplementary or further amended and restated plan or plans of compromise and arrangement (the Order granted in respect of the relief listed in 12.1 and 12.2 will be referred to as the "District Meeting Order").
  - 12.3. Sealing the Supplement to the Seventeenth Report.
13. This report represents the Eighteenth Report of the Monitor (the "Eighteenth Report"). The Eighteenth Report is being prepared to provide the Court with additional information in advance of a hearing scheduled for April 27, 2016 (the "April 27 Hearing") at which the District will be making an application for the following relief:
  - 13.1. An extension of the Stay until June 30, 2016 (the "Extension");
  - 13.2. An amendment to the Order granted on January 20, 2016 (the "Village Vesting Order") in conjunction with the Order sanctioning the ECHS Plan, which transferred various condominiums within the Prince of Peace Village (the "Village Condos") to the respective residents who held leasehold interests in the respective Village Condos (the "Life Residents"); and
  - 13.3. Authorization to transfer up to \$7.5 million to Great-West Life Assurance Company ("GWL") or, for DIL Depositors who hold registered retirement income funds ("RRIF(s)") or locked-in income funds ("LIF(s)"), to an alternate service provider of their choosing. These funds are to be distributed on a pro-rata basis to those DIL Depositors whose claims were admitted in the claims process set out in the Order granted by the Court on February 20, 2015 (the "Second DIL Distribution") as further described herein.

# Monitor's Activities

14. The Monitor has and will continue to make regular updates on the Monitor's Website to ensure that creditors and interested parties have access to all available information in these proceedings.
15. The Monitor's Activities since the date of the Eleventh Report (when the Stay was last extended) have included the following:
  - 15.1. Preparing various reports to the Court including the Twelfth, Thirteenth, Fourteenth; Fifteenth, Sixteenth and Seventeenth Reports and the Supplements to the Fifteenth Report and the Seventeenth Report and attending all corresponding Court applications;
  - 15.2. Attending various meetings and calls with Management, the District's joint restructuring committee, the CRO and the Applicant's legal counsel to advance the restructuring efforts;
  - 15.3. Attending numerous meetings with the creditors' committees established for the District and DIL and their respective legal counsel;
  - 15.4. Responding to creditor inquiries regarding the DIL Plan, chairing and reporting on the meeting of creditors to consider the DIL Plan and working with legal counsel to advance the Court application to sanction the DIL Plan;
  - 15.5. Reviewing drafts of the District Plan, communicating with the District and various stakeholder groups regarding the District Plan, serving creditors with notice of a meeting of the creditors of the District to consider the District Plan (the "District Meeting") and responding to creditor inquiries regarding the District Plan;
  - 15.6. Preparing the District Report as well as other information for those creditors affected by the District Plan;
  - 15.7. Attending various information meetings related to the District Plan;
  - 15.8. Monitoring the District Group's cash flow projections and the District Group's business and financial affairs; and
  - 15.9. Continuing to review various matters that may impact the restructuring.

# The Applicant Plans

16. The following is a summary of the status of each of the Applicant's Plans:

## ECHS

17. The ECHS Plan has been sanctioned by the Court and the following steps have been taken to implement the ECHS Plan:

17.1. The trade creditors of ECHS have been paid in full;

17.2. The Life Residents within the Prince of Peace Village are having their leasehold interests in their respective Village Condos converted to fee simple interests. The Monitor understands that, to date, 42 of 59 Life Residents have initiated the conversion of their respective leasehold interests to fee simple and have paid the corresponding fee required pursuant to the ECHS Plan; and

17.3. As reported above, at the April 27 Hearing, the District is seeking an amendment to the Village Vesting Order. This is to correct the legal descriptions for the Village Condos, from what was reflected in the Village Vesting Order. The Monitor is supportive of the requested amendment to the Village Vesting Order in order to facilitate the implementation of the ECHS Plan as contemplated.

18. Certain provisions of the ECHS Plan are dependent on whether or not the District Plan becomes effective and, as such, will not be implemented until such time as the Court has had an opportunity to consider and make a determination on the sanction of the District Plan.

## EMSS

19. The EMSS Plan has also been sanctioned by the Court and the trade creditors of EMSS have been paid in full. As with ECHS, selected provisions of the EMSS Plan are dependent on whether or not the District Plan becomes effective and, as such, will not be implemented until such time as the Court has had an opportunity to consider and make a determination on the sanction of the District Plan.

## DIL

20. The DIL Plan has been approved by the required majority of DIL Depositors and the application by DIL to sanction the DIL Plan has been heard. The Court is to make a determination on the sanction of the DIL Plan at the same time as they make a determination on the sanction of the District Plan.



## District

21. The District Meeting Order has been granted and the District Meeting is scheduled for May 14, 2016.

# The Stay

22. As previously reported, at the April 27 Hearing, the District Group will be making an application requesting the Extension.
23. Based on the Monitor's Dealings with Management and the Monitor's review of the District Group's operations and restructuring efforts to date, we can advise as follows:
  - 23.1. The District Group appears to be acting in good faith and with due diligence in advancing the Applicant's Plans;
  - 23.2. The District Group is cooperating with the Monitor and is making efforts to advance the CCAA proceedings with the status of the Applicant's Plans being as detailed herein; and
  - 23.3. The Monitor is of the view that the creditors of the District Group will not be materially prejudiced by the Extension.

# The Second DIL Distribution

24. Pursuant to the Order granted on August 28, 2015 and amended on November 5, 2015, DIL was authorized to distribute up to \$15.0 million to the DIL Depositors (the “First DIL Distribution”). For those DIL Depositors who held registered retirement savings plans (“RRSP(s)”), tax free savings accounts (“TFSA(s)”) or locked-in retirement accounts (“LIRA(s)”) with DIL, their pro-rata share of the First DIL Distribution was transferred into accounts that had been established with GWL. For those DIL Depositors who held RRIFs or LIFs, their pro-rata share of the First DIL Distribution was transferred, upon their request, to an alternate registered account of their choosing. The First DIL Distribution has been completed with the exception of approximately \$987,000 (the “First Distribution Balance”) due to DIL Depositors who hold RRIFs and LIFs, where transfers had not yet been requested as at April 16, 2016. The Monitor sent a follow up letter, dated April 6, 2016, to approximately 98 DIL Depositors who had not yet requested the transfer of their pro-rata share of the First DIL Distribution.
25. As reported above, the sanction of the DIL Plan will only be determined at such time as the sanction of the District Plan is determined. Should the District Plan be approved by the required majority of Eligible Affected Creditors at the District Meeting, the Monitor anticipates that the sanction of both the District and DIL Plans will be decided by the Court in mid-June 2016.
26. Due to the delay in the sanction of the DIL Plan, DIL is making an application for the Second DIL Distribution. In that regard, the Monitor notes as follows:
  - 26.1. The Second DIL Distribution will be for up to \$7.5 million. It is anticipated that an initial payment of \$3.0 million will be payable to DIL Depositors pursuant to the Second DIL Distribution, however, DIL wishes to seek Court approval to distribute up to \$7.5 million in the event that additional funds become available to DIL prior to the sanction of the DIL Plan, which could then be distributed upon receipt.
  - 26.2. As was the case with the First DIL Distribution, funds to be released pursuant to the Second DIL Distribution will be transferred into registered accounts established with GWL for DIL Depositors who hold RRSPs, TFSAs and LIRAs. These DIL Depositors already have accounts established with GWL into which their pro-rata share of the First DIL Distribution was transferred. Funds released pursuant to the Second DIL Distribution will be transferred into alternate registered accounts for those DIL Depositors who hold RRIFs and LIFs. As the First DIL Distribution needed to be transferred to alternate registered accounts outside of GWL, the Monitor understands that DIL is of the view that it will be simpler to effect future transfers for DIL Depositors who hold RRIFs and LIFs to those alternate registered accounts as opposed to establishing further accounts for them with GWL.

27. As at April 16, 2016, DIL held cash in their operating account of approximately \$586,000 (net of the First Distribution Balance). In addition, DIL held approximately \$2.0 million in trust from the pay-out of loans and mortgages. DIL's legal counsel, Bishop & McKenzie LLP ("Bishop"), also holds approximately \$1.7 million in trust from the pay-out of loans, mortgage and payments received from the Life Residents pursuant to the ECHS Plan. Following the release of the initial \$3.0 million payment pursuant to the Second DIL Distribution, DIL would continue to hold approximately \$1.3 million, which is anticipated to be more than sufficient to satisfy, DIL's operating expenses and the following two holdbacks which are set out in the DIL Plan:

27.1. To satisfy reasonable fees and expenses of the Monitor, the Monitor's legal counsel, the CRO, the Applicant's legal counsel and legal counsel for the District's creditor's committee (the "District Committee"); and

27.2. For DIL Depositors, who elect or are deemed to elect to participate in the Representative Action (as defined in the DIL Plan), an amount sufficient to fund the out-of-pocket costs associated with the Representative Action and to indemnify any DIL Depositor, who may be appointed as a representative plaintiff in the Representative Action for any cost award (collectively, the "DIL Holdbacks").

28. The creditors' committee for DIL (the "DIL Committee") is supportive of the Second DIL Distribution. The Monitor will consult with the DIL Committee each time funds are being released pursuant to the Second DIL Distribution to ensure that sufficient funds are retained by DIL to satisfy the DIL Holdbacks.

29. DIL is anticipated to receive additional funds from the realization of the remaining assets held by DIL, including a mortgage on a member congregation, funds payable by selected Life Residents pursuant to the ECHS Plan and funds payable pursuant to two settlements between the District Committee and the DIL Committee, which were approved by the Court on January 4, 2016.

# Information Regarding the Prior Involvement of Bishop with the District

30. The Monitor wishes to advise the Court of the following information that has come to its attention related to the involvement of Bishop and Mr. Francis Taman with the District prior to the CCAA Proceedings. Bishop is the law firm that currently acts as legal counsel for the District Group and Mr. Taman is a partner at Bishop. The Monitor understands that Mr. Taman and Bishop have provided this information based upon their best recollections and without the benefit of a review of their files.

30.1. The Monitor was previously advised that, prior to the CCAA proceedings, Bishop had acted as legal counsel for ECHS and EMSS but that Prowse Chowne LLP (“Prowse Chowne”) had acted as legal counsel for the District. The Monitor now understands that, although Prowse Chowne did act as legal counsel for the District, Bishop may have represented the District with respect to selected transactions primarily related to the Village Condos and possibly with respect to the construction of the Manor seniors’ care facility, both of which are located within the development known as Prince of Peace (the “PoP Development”). Bishop has advised that they became involved in these selected transactions in cases where it was thought to be more expedient, due to the fact that they are located in Calgary and Prowse Chowne is located in Edmonton.

30.2. In particular, Mr. Taman has advised that he personally was a member of a committee established by the Prince of Peace Church and School that was involved in the development of the Prince of Peace Village, the complex within which are located the Village Condos. Later, as a representative of the Prince of Peace congregation, Mr. Taman was part of a further committee, which involved the Prince of Peace Church and School, legal counsel and District staff. Both committees provided input into the build-out of the Prince of Peace Village, including approving expenditures. It is unclear whether Mr. Taman would have been considered to be acting as a volunteer related to his involvement in these committees, which ended in 2003 and, if so, whether he would have been acting as a volunteer for the Prince of Peace Church and School or for the District.

30.3. The Monitor notes that, if Mr. Taman was considered as acting as a volunteer for the District, he may have coverage pursuant to the District’s Directors’ and Officers’ liability insurance (the

“D&O Insurance”). Should that be the case, Mr. Taman may be considered to be both a Released Representative (defined in the District Plan to include the Monitor, the Monitor’s legal counsel, the Applicant’s legal counsel, the CRO, the legal counsel for the District Committee and the District Committee members) and a Partially Released Party (defined in the District Plan to include the District, the other Applicants, the past and present directors, officers, volunteers and employees of the District, parties covered under the D&O Insurance and any past or present independent contractors of the District, who were employed three days or more a week on a regular basis). The Monitor further notes that the releases granted pursuant to the District Plan are very limited and that Mr. Taman would not be released from any claims that may be advanced against him in the Representative Action by virtue of being either a Released Representative or a Partially Released Party. As such, although the Monitor was not previously aware that Mr. Taman may be considered to be a Partially Released Party, the Monitor does not believe that this will result in any prejudice to the District Depositors.

- 30.4. Bishop acted and continues to act as legal counsel for the Prince of Peace Church and School, although, the Monitor understands that Bishop has not been formally consulted by the Prince of Peace Church and School for a number of years. The Prince of Peace congregation was responsible for the original build-out of the PoP Development and have asserted a claim by way of a trust or other mechanism against the lands and building that house the Prince of Peace Church and School. The Prince of Peace Church and School have been unable to provide any records related to their activities in building-out of the Prince of Peace development. Mr. Taman has advised that he has recused himself from advising the Prince of Peace Church and School on any matters related to the CCAA proceedings. The Monitor was not previously aware that Bishop was formally retained as legal counsel for the Prince of Peach Church and School.

# Conclusion

31. Based on the Monitor's dealings with Management and the Monitor's review of the District Group's operations and restructuring efforts to date, we can advise that:

31.1. The District Group appears to be acting in good faith and with due diligence in advancing the Applicant's Plans;

31.2. The District Group is cooperating with the Monitor. The ECHS Plan and the EMSS Plan have been sanctioned by the Court. The DIL Plan has been approved by the required majority of DIL Depositors with the DIL Sanction Application to be determined at the same time as the District Sanction Application. The District Plan has been filed and the District Meeting is being held on May 14, 2016. As such, the District Group is making progress in advancing the CCAA proceedings and the Monitor is of the view that the Extension is reasonable in the circumstances.

31.3. The Monitor is of the view that the creditors of the District Group will not be materially prejudiced by the Extension.

32. The Monitor supports the following additional relief requested by the District Group for the reasons outlined herein:

32.1. The amendment to the Village Vesting Order; and

32.2. The Second DIL Distribution.

**DELOITTE RESTRUCTURING INC.,**

In its capacity as Court-appointed Monitor of The Lutheran Church – Canada, The Alberta – British Columbia District, Encharis Community Housing and Services, Encharis Management and Support Services and The Lutheran Church – Canada, The Alberta – British Columbia District Investments Ltd. and not in its personal or corporate capacity



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Jeff Keeble CA, CIRP, CBV  
Senior Vice-President