



<b>COURT FILE NUMBER</b>	<b>25-1890619 and 25-1890623</b>
<b>COURT</b>	<b>COURT OF QUEEN'S BENCH OF ALBERTA</b>
<b>JUDICIAL CENTRE</b>	<b>CALGARY</b>
<b>DOCUMENT</b>	<b>TRUSTEE'S UPDATE REPORT TO PREFERRED SHAREHOLDERS</b>

**DATED JULY 29, 2015**

**Trustee**

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

**Telephone/Facsimile: 403-503-1458 / 403-718-3681**

**Email: [jkeeble@deloitte.ca](mailto:jkeeble@deloitte.ca)**

# Table of contents

Introduction.....	1
Background.....	1
Notice to Reader.....	1
Asset Realizations.....	3
Owned properties .....	3
Mortgages receivable .....	4
Creditor and Shareholder Claims.....	6
Ongoing Litigation .....	7
Other matters .....	9
Receipts and Disbursements and Funds on Hand .....	10
Next Steps.....	11

## APPENDICES

Appendix 1	Statement of Receipts and Disbursements for Trimor Mortgage Investment Corporation for the period from July 15, 2014 to July 21, 2015
Appendix 2	Statement of Receipts and Disbursements for Trimor Equity Corporation for the period from July 15, 2014 to July 21, 2015

# Introduction

## Background

1. Trimor Mortgage Investment Corporation (“TMIC”) and Trimor Equity Corporation (“TEC”, collectively the “Companies”) were assigned into bankruptcy by the directors pursuant to the *Bankruptcy and Insolvency Act* on July 15, 2014 (the “Date of Bankruptcy”), and Deloitte Restructuring Inc. (“Deloitte”) was appointed as the Trustee (the “Trustee”) of the bankrupt estates (the “Estates”). At the TMIC first meeting of creditors (“FMO”) held on August 7, 2014, there were five inspectors appointed which included Kevin Kelly, Cliff Swan, Don Friesen, Jim Irvine and Elizabeth Bouillet (the “Inspectors”). The Inspectors have provided ongoing direction and instructions to the Trustee in its administration of the estates. Five meetings of the Inspectors have been held to date.
2. The Trustee filed its preliminary report to the creditors at the FMO along with two additional Court reports in the bankruptcy of the Companies. The first report of the Trustee was dated September 24, 2014 (the “First Report”) and provided details on the R. Fox Claims (as defined in the First Report) and sought to have the R. Fox Claims treated in the same manner as the Shareholders.
3. The second report of the Trustee was dated November 7, 2014 (the “Second Report”) and provided a general update on the bankruptcy proceedings and sought to have the Court’s approval of the Trustee’s action to date, including the sale of the Calgary Property *nunc pro tunc*, and the approval of the settlement terms of the Brooks Mortgage. The Trustee also prepared and filed a confidential supplement to the Second Report (the “Confidential Second Report”) to disclose confidential terms and amounts related to the settlement of the Brooks Mortgage. The Court issued an order on November 12, 2014 (the “Sale Approval Order”) that approved the Calgary Property sale *nunc pro tunc* and also approved the terms of the settlement of the Brooks Mortgage.
4. The purpose of this report (this “Report” or the “Update Report”) is to provide an update to the creditors and preferred shareholders (the “Shareholders”) of the Companies since the Second Report.
5. Information on the bankruptcy proceedings, and the First Report and Second Report, can be accessed on the website of Deloitte located at [www.insolvencies.deloitte.ca](http://www.insolvencies.deloitte.ca).

## Notice to Reader

6. In preparing this Update Report, the Trustee has relied on unaudited financial information, the books and records of the Companies and discussions with interested parties and stakeholders. The Trustee has not performed an independent review or audit of the information provided.

7. The Trustee 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.
8. Terms not defined in this Report are defined in the First Report and the Second Report.
9. All amounts are in Canadian dollars, unless otherwise indicated.

# Asset Realizations

## Owned properties

### Calgary Property

10. As outlined in the Second Report, the owned property located at 1213 – 1st Street SW, Calgary, Alberta (the “Calgary Property”) was sold with the approval of the Inspectors and the Court for \$2.45 million on October 1, 2014. A first mortgage of approximately \$752,000 was paid out of the proceeds along with real estate commissions of approximately \$103,000, property taxes of approximately \$28,000 and a lien settlement with Westcor Construction Ltd. As part of the transaction, a portion of the purchase price, specifically \$1,250,000, was established as a vendor take-back mortgage (the “Calgary VTB”), due to be paid by the Calgary Property purchaser within six months of the closing of the sale. Interest of 6% per annum was charged on the Calgary VTB and interest was payable on a monthly basis beginning on November 15, 2014.
11. The terms of the Calgary VTB were amended, with the approval of the Inspectors, and on April 15, 2015, the Trustee received a \$750,000 pay down on the Calgary VTB and extended the term to July 15, 2015 when the final adjusted principal amount of \$510,000 was due. The Calgary VTB was repaid in full on July 15, 2015 and total interest of \$45,000 was collected over the term of the mortgage.

### Bearspaw Property

12. As outlined in the Second Report, the owned property located at 261049 Glendale Road, Bearspaw, Alberta includes approximately 64 acres of land with an accompanying house (the “Bearspaw Property”). The Bearspaw Property was listed by the Trustee with Royal LePage Foothills (“Royal LePage”) in December 2014, with the approval of the Inspectors, for an initial list price of \$2.8 million (plus GST). There has been very little interest in the Bearspaw Property since it was listed and the price was reduced, with approval of the Inspectors, to \$2.5 million in March 2015. There have been no offers received for the Bearspaw Property and the listing with Royal LePage was allowed to expire on June 5, 2015. After consultation with the Inspectors, the Trustee has now relisted the Bearspaw Property with a new realtor, Engel & Volkers Calgary (“Engel”). Engel is going to actively market the property at the initial list price of \$2.5 million.
13. An outstanding mortgage of \$1.0 million remains on the Bearspaw Property with an interest rate of 6% per annum with interest paid quarterly (the “Bearspaw Mortgage”). Since the Date of Bankruptcy, a total of approximately \$60,000 of interest has been paid to keep the Bearspaw Mortgage current and rent of

\$3,000 per month has been collected by the Trustee from the tenant who has continued to rent the Bears paw Property since the Date of Bankruptcy.

## **Mortgages receivable**

### **Lake Newell 1<sup>st</sup> mortgage**

14. As outlined in the Second Report, at the Date of Bankruptcy, TMIC held a first mortgage of approximately \$3.2 million (the “Brooks Mortgage”) that is secured by 26 serviced recreational sites near Lake Newell in Brooks, Alberta (the “Brooks Property”). The Trustee understands that the Brooks Mortgage has been in default since August 2012 and that BMG Financial Services Corp. (“BMG”) had been taking steps to realize on this investment through a foreclosure application process prior to the Date of Bankruptcy.
15. As previously reported, the Trustee and the borrower agreed on terms to settle the Brooks Mortgage and these terms were approved by Court in the Sale Approval Order. Following the Sale Approval Order, the Trustee continued to work with the borrower to extend the deadlines to attempt to close on the mortgage settlement, but unfortunately the purchaser was unable to fund the settlement.
16. The Trustee is now continuing with the sale of the Brooks Property through the foreclosure process. The listing is in process with Cushman & Wakefield and there is no timeframe for when the Brooks Property will be sold in this difficult recreational property market.

### **Calgary 2<sup>nd</sup> and 3<sup>rd</sup> mortgages**

17. TMIC held a second mortgage on a house and a third mortgage on secondary lands, both of which are located in Calgary (the “Calgary Mortgages”), as security on a loan amount of approximately \$101,000 at the Date of Bankruptcy. The holder of the first mortgage holder foreclosed on and sold the properties secured by the Calgary Mortgages and no funds were available to TMIC and there no other avenues available to collect any funds from the borrower.

### **Venture syndicated 2<sup>nd</sup> mortgage**

18. TMIC held a 2<sup>nd</sup> mortgage of approximately \$322,000 as at the Date of Bankruptcy as part of a syndicated construction loan totaling \$1,945,000 on a 12-unit commercial condominium warehouse project located near Calgary (the “Venture Mortgage”). Following the sale of several of the condominiums in August 2014, the Trustee received approximately \$172,000 from the loan administrator as a partial repayment of this loan and an additional \$133,000 in May 2015. The Trustee is uncertain when or if any further payments will be received from the remaining Venture Mortgage with a principal balance of approximately \$17,000 and accrued interest of \$153,000 to June 1, 2015, but the Trustee did receive a low offer that was recently rejected.

### **Saskatchewan syndicated 1<sup>st</sup> mortgage**

19. TMIC held a 1<sup>st</sup> mortgage of approximately \$67,000, as part of a syndicated loan totaling approximately \$4.3 million, on a resort / lake land development in Saskatchewan (the "Saskatchewan Mortgage"). The Trustee is continuing to review options for realizing on TMIC's position on the Saskatchewan Mortgage and understands that the administrator will be seeking funds to cover the potential future legal action being taken on the Saskatchewan Mortgage.
20. The Trustee is not aware of any remaining owned properties or mortgages receivable for the Companies.

# Creditor and Shareholder Claims

21. The Trustee has received claims in the Estates of both TMIC and TEC.
22. The Trustee has received the following claims to date in the Estate of TMIC:
  - 22.1 Two claims for pre-bankruptcy legal fees totalling approximately \$44,500;
  - 22.2 Four claims filed by Robert Fox et al (the "Fox Group") totalling approximately \$272,000 (the "Fox TMIC Claims"), which have been disallowed by the Trustee but are the subject of an ongoing appeal (as discussed later in this Report);
  - 22.3 One claim filed by BMG for outstanding management fees for approximately \$30,000 that has been disallowed in full by the Trustee as no supporting backup was provided and the Trustee has calculated that management fees were overcharged for approximately the same amount during 2013 and 2014. The time period for appealing the disallowance has expired; and
  - 22.4 Seventy-two claims from Shareholders totalling approximately \$8,940,000.
23. The Trustee has received the following claims to date in the Estate of TEC:
  - 23.1 Four unsecured creditor claims totalling approximately \$23,000; and
  - 23.2 Four claims filed by the Fox Group totalling approximately \$272,000 (the "Fox TEC Claims"). The Fox TEC Claims were disallowed and the time period for appealing the disallowance has expired.
24. The Bearspaw Mortgage remains outstanding in TEC for \$1.0 million.
25. The Trustee is continuing to review and assess the quantum and validity of the claims that have been filed. The Trustee continues to assess its position on the treatment of the claims of the Shareholders as debt claims versus equity claims, and the Trustee will likely have to make an application to Court to have this matter determined. No date has yet been set as, in the view of the Trustee, the Fox TMIC Claims need to be resolved as well as the potential annulment applications (as discussed in more detail later in this Report).



# Ongoing Litigation

26. As outlined in the First Report and the Second Report, the Trustee continues to deal with issues relating to the Fox TMIC Claims and other matters raised by the Fox Group. The Fox Group have disputed the treatment of their claims, the validity of the assignments of the Companies into bankruptcy, and the validity of the TMIC FMOC.
27. As previously reported, the Trustee has also disallowed the Fox TMIC Claims on the basis that such claims were filed as unsecured claims, as opposed to Shareholder claims, pursuant to a default judgment that the Fox Group obtained against TMIC in the amount of \$265,527 on May 26, 2014 (the "Default Judgement"). After obtaining the Default Judgement, the Fox Group filed a writ of enforcement with respect to the Default Judgment and costs in the amount of \$272,415. Pursuant to a garnishee summons, an amount of \$225,880 was paid from the TMIC bank account into Court prior to the Date of Bankruptcy. The proceedings in relation to the Default Judgment were stayed as a result of the bankruptcy of TMIC and funds in the amount of \$226,021 (the "Garnishee Funds") were recovered from the Court by the Trustee pursuant to an Order. The Trustee's position is that the Fox TMIC Claims should be treated no different than the claims of the other Preferred Shareholders. The Trustee understands that the Fox Group are seeking to have their Fox TMIC Claims treated as regular creditor claims, which would elevate the status of their claims above the other Preferred Shareholders, and thereby result in a lesser return to the general body of Shareholders. The Fox Group appealed the disallowance by the Trustee of the Fox TMIC Claims as creditor claims and were successful in the appeal in Court. The Trustee, with the approval of the Inspectors, is appealing the decision of the Court (the "Trustee's Appeal").
28. The Garnishee Funds are being held by the Trustee until the outcome of the potential applications by the Fox Group to annul the bankruptcies of the Companies are heard. The Trustee understands that the Fox Group may be applying to the Court to annul the bankruptcies based on their allegations that the Companies were not insolvent when they were assigned into bankruptcy. The Trustee has provided information to and has discussed the issue of the solvency of the Companies at the Date of Bankruptcy with the Office of the Superintendent of Bankruptcy who has indicated that it agrees that the Companies were in fact insolvent at that time.
29. The Trustee's Appeal of the Court's decision to allow the Fox TMIC Claims as regular creditor claims is currently being scheduled for hearing at the Court of Appeal. Settlement attempts were unsuccessful between the parties and the appeal is expected to be heard in late 2015 or early 2016. Once the appeal

is decided, the Fox Group will have four weeks to determine if they are going to apply to annul the bankruptcy of TMIC and/or TEC. The Trustee and its counsel have spent significant time and costs dealing with the matters related to the claims of the Fox Group.

# Other matters

30. The Trustee is aware of complaints that BMG filed with the Institute of Chartered Accountants of Alberta (“ICAA”) against two of the former auditors of the Companies. The Trustee’s initial position is that any such action would not benefit the stakeholders of the Companies and discussions are ongoing with the Inspectors and the third party investigating the claim on behalf of the ICAA.
31. The Trustee is also aware of complaints from certain Shareholders about the fees that have been paid by TMIC and/or TEC to BMG and other parties who had oversight and management of the investments made through TMIC and TEC. The Trustee is continuing to gather and assess information as part of this analysis and will be report on the steps taken in the next update.

# Receipts and Disbursements and Funds on Hand

32. The Statements of Receipts and Disbursements for TMIC and TEC for the period from July 15, 2014 to July 21, 2015 are attached to this Report as Appendices 1 and 2, respectively.
33. The Trustee is holding approximately \$346,000 in funds in the TMIC estate as at July 21, 2015. However, approximately \$226,000 of these funds are not available until the dispute is resolved with the Fox Group.
34. The Trustee is holding approximately \$1.4 million of funds in the TEC estate as at July 21, 2015.
35. The Trustee is discussing options with the Inspectors on how to deal with and distribute the funds on hand. Any distributions to the Shareholders cannot be made until the litigation with the Fox Group is resolved (or the \$226,000 in funds are set aside), all other creditor claims are paid or reserved (including the \$1.0 million Bearspaw Mortgage), and a claims and distribution process (the "Claims Process") is put in place with the Shareholders. The Trustee proposes to have a Claims Process approved by the Court which will outline the timeframes and procedures for creditors and Shareholders to file claims and for the Trustee to handle and process these claims.

# Next Steps

36. As outlined in this Report, the next steps for Trustee are as follows:

- 36.1 Attempt to realize on the remaining assets, including the Bears paw Property, Lake Newell Mortgage and other mortgages receivable;
- 36.2 Conclude the Fox Group litigation;
- 36.3 Set up a Claims Process so funds can be distributed to the Shareholders when available; and
- 36.4 Provide a further update to the Shareholders by December 31, 2015.

**DELOITTE RESTRUCTURING INC.,**

In its capacity as Trustee in bankruptcy of Trimor Mortgage Investment Corporation and Trimor Equity Corporation and not in its personal capacity.



---

Jeff Keeble, CA • CIRP, CBV  
Senior Vice President

Appendix 1 –  
Statement of Receipts and  
Disbursements for Trimor Mortgage  
Investment Corporation for the  
Period from July 15, 2014 to July 21,  
2015

**Trimor Mortgage Investment Corporation - in Bankruptcy**  
**Statement of Receipts & Disbursements**  
**For the period July 15, 2014 to July 21, 2015**

	Amount
<b>Cash Receipts</b>	
Recovery of TMIC funds paid into Court	\$ 226,022
Receipt of mortgage payouts	305,023
Cash in bank at date of Bankruptcy	336
Interest income on trust funds	434
<b>Total Cash Receipts</b>	<b>531,815</b>
<b>Cash Disbursements</b>	
Trustee's fees	88,294
Trustee's legal fees	71,756
Payment to secured creditor re: mortgage on Calgary 1st Street Property	18,630
GST paid on disbursements	7,139
Filing fees	150
<b>Total Cash Disbursements</b>	<b>185,969</b>
<b>Excess of Cash Receipts over Cash Disbursements</b>	<b>\$ 345,845</b>

Appendix 2 –  
Statement of Receipts and  
Disbursements for Trimor Equity  
Corporation for the Period from  
July 15, 2014 to July 21, 2015



**Appendix 2**

**Trimor Equity Corporation - in Bankruptcy**  
**Statement of Receipts & Disbursements**  
**For the period July 15, 2014 to July 21, 2015**

	Amount
<b>Cash Receipts</b>	
Net proceeds from sale of Calgary 1st Street Property	\$ 1,542,941
Cash in bank at date of Bankruptcy	6,606
Rental Income re: Bearspaw Property	36,000
Advance from Deloitte LLP	15,055
Recovery of legal fees on Calgary 1st Street Property mortgage extension	1,480
Interest income from vendor take-back mortgage on Calgary 1st Street Property	45,000
Interest income on trust funds	111
<b>Total Cash Receipts</b>	<u>1,647,193</u>
<b>Cash Disbursements</b>	
Trustee's fees	88,294
Trustee's legal fees	71,756
Mortgage interest on Bearspaw property	60,055
GST paid on disbursements	9,262
Insurance	8,179
Property taxes on Bearspaw Property	5,165
Appraisal fees	3,562
Utilities	2,924
Real property report	1,980
Newspaper advertising	216
Change of locks	166
Filing fees	150
<b>Total Cash Disbursements</b>	<u>251,710</u>
<b>Excess of Cash Receipts over Cash Disbursements</b>	<u><u>\$ 1,395,483</u></u>