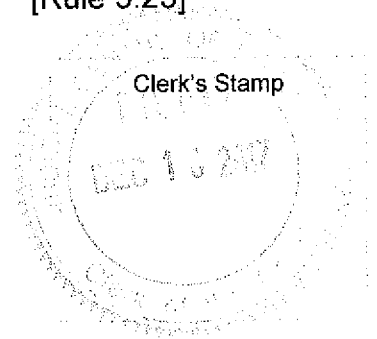


COURT FILE NUMBER 1603-022816
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF LUTHERAN CHURCH-CANADA,
THE ALBERTA-BRITISH COLUMBIA DISTRICT
DEFENDANTS DELOITTE LLP/DELOITTE S.E.N.C.R.L./S.R.L.;
ROLFE, BENSON; ROLFE, BENSON LLP



AMENDED THIS PURSUANT TO
18 Dec 17

DOCUMENT **AMENDED AMENDED STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT HIGGERTY LAW
Attention: Clint Docken, Q.C
Suite 101 440 2nd Ave SW
Calgary Alberta T2P 5E9
Fax:587-316-2260

NOTICE TO DEFENDANTS

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

Note: State below only facts and not evidence (Rule 13.6)

Statement of facts relied on:

1. The Plaintiff, the Lutheran Church – Canada, the Alberta-British Columbia District (“the ABC District”) was incorporated as the Alberta and British Columbia District of the Evangelical Lutheran Synod of Missouri, Ohio and other States by way of a special Act of the Alberta Legislature, S.A. 1944, c. 82 *as am*. In 1991 the ABC District was continued and renamed the Lutheran Church – Canada, the Alberta-British Columbia District pursuant to the *Lutheran Church – Canada, The Alberta British Columbia District Corporation Act*, SA 1991, c. 42.
2. The Defendant Deloitte LLP/Deloitte S.E.N.C.R.L./S.R.L. is an Extra-Provincial Limited Liability Partnership whose head office is in Toronto, Ontario, Canada. It was extra-provincially registered in Alberta on February 10, 2005 with a registered office at 2000 Manulife Place, 10180 – 101 Street, Edmonton, Alberta T5J 4E4. It formerly carried on business under the name and style of Deloitte & Touche LLP or Deloitte LLP and is the successor of Deloitte & Touche LLP or Deloitte LLP (hereafter “Deloitte”).
3. Deloitte was the accountant and auditor of the Plaintiff from 1993 – 1999 and provided audit opinions and audit reports to the Plaintiff from its office in Edmonton, Alberta.
4. The Defendant Rolfe, Benson LLP, is an accounting firm with a registered office at 1400 – 900 West Hastings Street, Vancouver, British Columbia. It is the successor of Rolfe, Benson (hereafter referred to as “Rolfe, Benson”).
5. From 2000 until 2010, Rolfe Benson was the accountant and auditor of the Plaintiff and provided audit opinions and audit reports to the Plaintiff.
6. The District Subcommittee appointed pursuant to the *District Subcommittee Order* of the Court of Queen’s Bench of Alberta filed August 5, 2016 in Action No. 1501-00955, brings this action in the name of the Plaintiff as a derivative action with leave of the Court pursuant to sections 5.1 and 5.3 of the *Fifth Amended Plan of Compromise and Arrangement of the Lutheran Church - Canada, the Alberta-British Columbia District*, filed on June 10, 2016 in the Court of Queen’s Bench of Alberta and approved by the Court in the District Sanction Order filed on August 5, 2016.

6.1 The Plaintiffs have sufficient facts and grounds to serve this Statement of Claim *ex juris* outside of Alberta on the Defendants Rolfe, Benson and Rolfe Benson LLP, since there is a real and substantial connection between Alberta, and the facts on which claims in the action are based as outlined in this pleading, including without limitation on the following grounds:

- a. the claim relates to land in Alberta;
- b. the claim relates to a contract or alleged contract made, performed or breached in Alberta; and,
- c. the claim relates to a tort committed in Alberta.

A. The ABC District Church Extension Fund

7. In or about 1921 and prior to its incorporation in 1944, the ABC District created a Church Extension Program (the "ABC District Church Extension Program") to advance the Church Extension objectives and policies of its parent organization, which was then the Lutheran Church – Missouri Synod ("LCMS") and as of its incorporation in 1959, the LCC.
8. The ABC District established The Church Extension Fund (the "CEF") as a non-registered fund held by ABC District which offered term deposits, savings accounts and a children's savings program.
9. All of the funds deposited to the ABC District's CEF were held in trust for the depositors by the ABC District as trustee (the "CEF Trust"), on the following terms:
 - a. that the monies on deposit in the CEF Trust would be used solely for the purpose of building churches and schools, and would be invested by the ABC District in accordance with the mandate and policies of the ABC District's Church Extension Program; and
 - b. that the monies deposited to the CEF Trust would be repaid to the depositors on demand, or alternatively upon maturity if in the form of a term deposit, and with interest.
10. The ABC District and the CEF depositors intended to create, and did create, either expressly or by implication, the CEF Trust on the terms stated above. The CEF Depositors were the beneficiaries of the CEF Trust.
11. Further, or in the alternative, all funds deposited to the ABC District's CEF were impressed with a resulting trust (the "CEF Quistclose Trust") whereby, either expressly or by implication:
 - a. Funds on deposit in the CEF were to be used specifically and exclusively for the stated purpose of providing capital assistance in the mission and ministry of congregations and agencies of the Lutheran Church-Canada;
 - b. All deposits in the CEF remained the property of the CEF depositors; and
 - c. Deposits in the CEF would be invested by the ABC District in a safe and prudent manner.
12. The ABC District and the CEF depositors intended to create and did create, either expressly or by implication, the CEF Quistclose Trust on the terms stated above. The CEF depositors were the beneficiaries of the CEF Quistclose Trust.
13. The ABC District's Department of Stewardship and Financial Ministries (the "DSFM") established Loan Eligibility Policies in respect of the CEF funds. Those Policies limited

eligibility for loans to:

- a. congregations of the ABC District “in good standing,” defined as “those congregations which support the mission and ministry of the District and Synod in a responsible way, function under a district approved constitution and comply with the policy and practice established by the Lutheran Church – Canada”; and
 - b. institutions and entities of the LCC, whose constitutions, policies and practices are consistent with those of LCC.
14. Further, according to the Loan Eligibility Policies set by the DSFM, loans were to be made for capital projects only, including acquisition of land, purchase or construction of building facilities, major renovations to existing facilities or expansion of existing facilities.
15. The DSFM also set Loan Criteria for the CEF funds in conformity with policies established by the LCC and/or LCCFM for that purpose, including (but not limited to) the following:
- a. The need for facilities, renovations or property in which to carry out the ministry of the Lutheran faith;
 - b. Need for financing of existing debt;
 - c. Relationship of total loan to property values and/or total assets;
 - d. Financial history of congregation and financial projections for future;
 - e. Growth potential of area and membership;
 - f. The existence of a pledge program for the building project;
 - g. Indebtedness per communicant;
 - h. Ability of congregation to service debt;
 - i. Percentage of total income for debt service; and
 - j. Continuity of the debtor congregation’s financial support to the ABC District and the LCC.
16. The DSFM also set Loan Conditions for the CEF funds in conformity with policies established by the Lutheran Church – Canada which required debtor congregations to provide certain items before loan funds would be disbursed, including (but not limited to) the following:
- a. Security documentation appropriate to the size and conditions of the loan;

- b. Loan Repayment Agreement signed by the officers of the debtor congregation;
 - c. Commitment to promoting Church Extension investments among the members of the debtor congregation; and
 - d. Financial statements submitted annually to the DSFM.
17. All loans in excess of \$100,000.00 required the approval of the ABC District's Board of Directors.
18. As a result of the ABC District's Church Extension Program and the implementation of the Loan Eligibility Policies, Loan Criteria and Loan Conditions, by the early 1990s the ABC District had built a diverse portfolio of mortgage loans to more than 65 congregations for the construction of churches and schools in which to carry out the ministry of the Lutheran faith. The ABC District guaranteed the investments of depositors in the CEF.
19. The Defendants knew or were willfully blind to the existence of the CEF Trust and the CEF Quistclose Trust.
20. Further, the Defendants knew of or were willfully blind to the terms and mandate of the CEF Trust or alternatively the terms of the CEF Quistclose Trust, and the Loan Eligibility Policies, Loan Conditions and Loan Criteria for the CEF funds as described in paragraphs 11 – 20, above.

B. The Prince of Peace Village Loans

21. In or about 1994, the ABC District and/or the Prince of Peace Lutheran Church Calgary purchased 156 acres of real property near Calgary, Alberta for \$1,007,700 for the purpose of building a church and a school.
22. The ABC District and/or the POP Congregation set aside or designated certain lands within the 156 acre parcel of land for the construction of a church and school.
23. In or about June 1997, the POP Congregation established a \$26.6 million budget for the construction of a 174 duplex and fourplex unit seniors' housing project called the Prince of Peace Village ("POP Village") to be constructed on a portion of the 156 acres ("the POP Village Lands").
24. The POP Congregation proposed the POP Village development to the ABC District, which approved it on the understanding that the monies for the POP Village would be borrowed from the bank.
25. When sufficient construction loans were not obtainable from the bank, ABC District, to the knowledge of the Defendants at times material to their retainers, advanced monies from the

CEF Trust or alternatively the CEF Quistclose Trust to develop the POP Village. The ABC District developed the POP Village on its own behalf or alternatively in partnership with the POP Congregation.

26. The POP Village was expanded to include a seniors' assisted living residence ("The Manor"), and an Alzheimer's care centre ("The Harbour").
27. The decision of the ABC District to embark upon the speculative real estate development of the Prince of Peace Village on its own behalf, or in partnership with the POP Congregation, with funding from the CEF, was contrary to the purposes of the ABC District Church Extension Program, which was to provide mortgage financing for congregations to build churches and schools in which to carry out the ministry of the Lutheran faith.
28. The POP Village development commenced in 1993 and was carried on by the ABC District or by the ABC District from 1993 through 2006.
29. The POP Village opened in or about 1998. The development operated at a financial deficit and continued to do so. The ABC District, to the knowledge of the Defendants at all times material to their retainers, financed those deficits through additional input of funds from the CEF.
30. Between 1993 and 2006, to the knowledge of the Defendants at all times material to their retainers, the ABC District utilized \$71,800,000.00 of funds on deposit in the CEF for the purchase and construction of the Prince of Peace Village and the lands upon which it was built, including subsidies for high-cost hauled water services provided to the POP Village (the "CEF POP Village Advances").
31. ABC District began selling pre-paid life leases in the POP Village in 1998. However, to the knowledge of the Defendants at all times material to their retainers, it failed to return any part of the proceeds of those sales to the CEF in payment of the CEF POP Village Advances.
32. The CEF POP Village Advances contravened the ABC District's Church Extension Program Loan Eligibility Policies, Loan Criteria and Loan Conditions in respect of the CEF Trust in that:
 - a. The POP Village development was not for the purpose of building churches or schools;
 - b. The POP Village development was a highly speculative real estate venture;
 - c. The POP Village development was commenced and continued in the absence of any, or any reliable, financial projections;
 - d. The ABC District lacked the experience and qualifications to bring the POP Village

to successful completion; and

e. The CEF POP Village Advances were used in part to fund operating deficits.

33. Further, or in the alternative, the CEF POP Village Advances contravened the terms of the CEF Quistclose Trust in that the POP Village development:

- a. Was not for the purpose of providing capital assistance to a congregation or agency of the LCC to carry out its mission or ministry;
- b. The POP Village development was a highly speculative real estate venture;
- c. The POP Village development was commenced and continued in the absence of any, or any reliable, financial projections; and
- d. The ABC District lacked the experience and qualifications to bring the POP Village to successful completion.

34. The Defendants knew or ought to have known that the use of the CEF funds to develop the POP Village Lands contravened the mandate and terms of the CEF Trust or in the alternative the CEF Quistclose Trust.

C. Transfer of the POP Village to Encharis

35. On November 9, 2005, ABC District incorporated Encharis Community Housing and Services (“ECHS”) to act as the developer of the POP Village.

36. At all times material to these proceedings, ABC District and ECHS, to the knowledge of the Defendant Rolfe, Benson, were under common control, in that several members of ECHS’s Board of Directors were also members of ABC District’s Board of Directors, including but not limited to:

- a. Donald Schiemann;
- b. Mark Ruf; and
- c. Jim Kentel.

37. Further, Ted Ulmer, an Officer of the ABC District, was also a member of the ECHS Board of Directors.

38. In January, 2006, the ABC District transferred to ECHS all of its interest in the POP Village Lands in exchange for a mortgage loan in the amount of approximately \$38,000,000.00 (the “POP Village CEF Mortgage Loan”) and the assumption of ABC District’s contingent liabilities of approximately \$33,000,000.00 with respect to the POP Village life leases. The POP Village CEF Mortgage Loan was secured by a mortgage registered against the POP Village Lands and a 101 acre parcel of real property in Chestermere, Alberta.

39. The ABC District transferred its interest in the POP Village lands to ECHS and authorized the POP Village CEF Mortgage Loan and the POP Village CEF Unsecured Loans for the sole purpose of divesting ABC District of the failing POP Village development and its associated financial liabilities and instead recording the POP Village CEF Mortgage Loan as an asset in the CEF's mortgage portfolio.
40. Subsequent to the transfer of ABC District's interest in the POP Village to ECHS, ECHS was unable to service its mortgage debt to ABC District. Despite this, ABC District, to the knowledge of Rolfe, Benson, approved additional advances of approximately \$7,000,000.00 to ECHS under the POP Village CEF Mortgage Loan and also made unsecured loans to ECHS from the CEF Trust or in the alternative from the CEF Quistclose Trust in the amount of approximately \$28,500,000.00 (the "POP Village CEF Unsecured Loans") in order to allow ECHS to service its mortgage debt and finance its operating deficit in respect of the POP Village.
41. The ABC District approved the POP Village CEF Mortgage Loan and the POP Village CEF Unsecured Loans (hereafter collectively the "POP Village CEF Loans") in circumstances where the Defendant Rolfe, Benson knew or ought to have known that:
 - a. ECHS was insolvent; and
 - b. ECHS was operating at a deficit.
42. The POP Village CEF Loans contravened the ABC District's Church Extension Program Loan Eligibility Policies, Loan Criteria and Loan Conditions in respect of the CEF Trust in that:
 - a. they were not made for the purpose of building churches and/or schools in which to carry out the ministry of the Lutheran faith, but rather for the purpose of enabling ECHS to engage in speculative real estate development.
 - b. ECHS was not a "congregation of the ABC District in good standing" nor an institution or entity of the LCC whose constitution, policies and practices were consistent with those of LCC;
 - c. The loan-to-value ratio in respect of each of the Loans was greater than that which would be commercially acceptable, or alternatively was based on an inflated valuation of the POP Village Lands;
 - d. The POP Village development was commenced and continued in the absence of any, or any reliable, financial projections;
 - e. ECHS lacked the experience and qualifications to bring the POP Village to successful completion;
 - f. ECHS had no ability to service the POP Village Loans;

- g. ECHS did not and was not required to provide financial support to ABC District and/or LCC in exchange for the POP Village Loans;
- h. The POP Village Loans were unsecured or alternatively inadequately secured;
- i. The officers of ECHS were not required or alternatively failed to sign Loan Repayment Agreements with ABC District in respect of the POP Village Loans;
- j. ECHS was not required or alternatively failed to make a commitment to promote Church Extension deposits among its members or others;
- k. ECHS was not required or alternatively failed to submit financial statements to the ABC District or alternatively the ABC District failed to scrutinize those financial statements to assess the risk to the POP Village Loans.

43. Further, the POP Village CEF Loans contravened the terms of the CEF Quistclose Trust in that:

- a. ECHS was not a congregation or agency of the LCC;
- b. The loan-to-value ratio in respect of each of the Loans was greater than that which would be commercially acceptable, or alternatively was based on an inflated valuation of the POP Village Lands;
- c. The POP Village development was commenced and continued in the absence of any, or any reliable, financial projections;
- d. ECHS lacked the experience and qualifications to bring the POP Village to successful completion;
- e. ECHS had no ability to service the POP Village Loans;
- f. ECHS did not and was not required to provide financial support to ABC District and/or LCC in exchange for the POP Village Loans;
- g. The POP Village CEF Loans were unsecured or alternatively inadequately secured;

44. The Defendants knew or ought to have known that the POP Village CEF Loans contravened the terms and mandate of the CEF Trust or alternatively the CEF Quistclose Trust as stated above.

45. The POP Village development was ultimately unsuccessful and ECHS defaulted on the POP Village CEF Loans. There is insufficient equity in ECHS's interest in the POP Village Lands to satisfy the POP Village CEF Loans.

D. The Strathmore Loan

46. In or about August 2007, the ABC District, to the knowledge of the Defendant Rolfe, Benson, approved a CEF mortgage loan of approximately \$5,850,000.00 to ECHS for the purpose of purchasing real property in Strathmore, Alberta (the "Strathmore Lands") and constructing a 50-unit seniors' condominium development (the "Strathmore Loan").
47. The Strathmore Loan contravened the mandate of the ABC District's Church Extension Program and the terms of the CEF Trust, in that it was not made for the purpose of building churches and/or schools in which to carry out the ministry of the Lutheran faith, but rather for the purpose of enabling ECHS to engage in speculative real estate development.
48. Further, the Strathmore Loan was contrary to the policies and procedures of the ABC District Church Extension Fund, and the CEF Trust, in that:
 - a. ECHS was not a "congregation of the ABC District in good standing" nor an institution or entity of the LCC whose constitution, policies and practices were consistent with those of LCC;
 - b. ECHS lacked the experience and qualifications to bring the Strathmore development to successful completion;
 - c. ECHS had no ability to service or repay the Strathmore Loan;
 - d. ECHS did not and was not required to provide financial support to ABC District and/or LCC in exchange for the Strathmore Loan;
 - e. The Strathmore Loan was very risky and inadequately secured;
 - f. The officers of ECHS were not required to sign Loan Repayment Agreements with ABC District in respect of the Strathmore Loan;
 - g. ECHS was not required to make a commitment to promote Church Extension deposits among its members or others; and
 - h. ECHS was not required to submit financial statements to the ABC District, or alternatively the ABC District and its Department of Stewardship and Financial Ministries failed to scrutinize those financial statements to assess the risk to the Strathmore Loan.
49. Further, or in the alternative, the Strathmore Loan was contrary to the terms of the CEF Quistclose Trust in that:
 - a. ECHS was not a congregation or agency of the LCC;

- b. ECHS lacked the experience and qualifications to bring the Strathmore development to successful completion;
- c. ECHS had no ability to service or repay the Strathmore Loan; and
- d. The Strathmore Loan was very risky and inadequately secured.

50. The Defendant Rolfe, Benson knew or ought to have known that the Strathmore Loan contravened the terms and mandate of the CEF Trust or alternatively the CEF Quistclose Trust as stated above.

51. In or about August 2008, ECHS, to the knowledge of the Defendant Rolfe, Benson, transferred the title to the Strathmore Lands to ABC District for consideration of \$1.00. Concurrently, ABC District, to the knowledge of the Defendant Rolfe, Benson, purported to “extinguish” the Strathmore Loan payable by ECHS to the CEF, thereby simultaneously obtaining the Strathmore Lands on its own account and depriving the CEF Trust or in the alternative the CEF Quistclose Trust of the Strathmore Loan receivable.

E. The POP Congregation Loan

52. The POP Congregation was a small congregation of about 230 members and consistently ran operating deficits. By about 2005, the POP Congregation operating deficit was \$1,200,000.00. It was unable to meet its operational financial requirements and its obligations to ABC District in respect of previous mortgage loans from the CEF.

53. POP Congregation deficits continued to increase and were met by further loans from the ABC District. By about 2008, ABC District advances to the POP Congregation for construction of the church and school and operating deficits had, to the knowledge of Rolfe, Benson, accumulated to \$8,000,000.00 (the “POP Congregation Loan”).

54. The POP Congregation Loan violated the mandate of the ABC District’s Church Extension Program and the terms of the CEF Trust in that it was granted, in whole or in part, to pay off the POP Congregation debts and to finance its operating deficit and not for the purposes of building churches and schools in which to carry out the ministry of the Lutheran Church.

55. Further, the Prince of Peace Congregation Loan violated the Loan Eligibility Policies, Loan Criteria and Loan Conditions of the ABC District, and the terms of the CEF Trust, in that:

- a. The POP Congregation was not financially a “congregation in good standing” within the meaning of the ABC District Loan Eligibility Policy;
- b. The Prince of Peace Congregation Loan was in whole or in part for operating purposes rather than a capital project;

- c. The POP Congregation had no ability to service the debt;
- d. The Prince of Peace Congregation Loan was unsecured or alternatively inadequately secured;
- e. The Prince of Peace Congregation Loan was not accompanied by a Loan Repayment Agreement signed by the officers of the congregation
- f. The POP Congregation was operating at a deficit and could not meet its existing financial obligations to the ABC District to repay a previous mortgage loan;
- g. The POP Congregation did not and could not make a commitment to promoting Church Extension deposits among its members; and
- h. The ABC District did not require the POP Congregation to submit its financial statements on an annual basis, or alternatively failed to scrutinize those financial statements to assess the risk that the Prince of Peace Congregation Loan would not be repaid; and
- i. The POP Congregation Loan was used to fund operating deficits.

56. Further, or in the alternative, the Prince of Peace Congregation Loan violated the terms of the CEF Quistclose Trust, in that:

- a. The POP Congregation Loan was extremely risky in that the POP Congregation had no ability to service the debt;
- b. The Prince of Peace Congregation Loan was unsecured or alternatively inadequately secured;
- c. The POP Congregation was operating at a deficit and could not meet its existing financial obligations to the ABC District to repay a previous mortgage loan;
- d. The POP Congregation Loan was used to subsidize operating deficits.

57. The Defendant Rolfe, Benson knew or ought to have known that the POP Congregation Loan contravened the terms and mandate of the CEF Trust or alternatively the CEF Quistclose Trust as stated above.

58. In or about 2009, the ABC District, to the knowledge of the Defendant Rolfe, Benson, forgave \$6,000,000.00 of the \$8,000,000.00 POP Congregation Loan in exchange for the right to receive proceeds from the future sale of certain property owned by the POP Congregation (the "POP Congregation Land Sale Proceeds Assignment Agreement").

59. The POP Congregation Land Sale Proceeds Assignment Agreement, to the knowledge of the Defendant Rolfe, Benson, does not stipulate a date nor any deadline for the sale of the subject property, and the ABC District has no recourse in the event that the eventual sale proceeds are insufficient to discharge the \$6,000,000.00 loan receivable in full. Accordingly, the POP Congregation Land Sale Proceeds Assignment Agreement is wholly inadequate consideration for ABC District's forgiveness of the POP Congregation's \$6,000,000.00 debt to the CEF Trust or the CEF Quistclose Trust.

F. The Shepherd's Village Loans

60. On July 28, 1999, Shepherd's Village Ministries Ltd. ("SVML") was incorporated for the purpose of acquiring acreages of real property in and about Valleyview, Alberta, and developing 75 seniors' condominium housing units (the "Shepherd's Village Lands").
61. Between 1997 and 2014, ABC District, to the knowledge of the Defendants at all times material to their retainers, advanced to SVML either directly or indirectly through ECHS, CEF monies in the total amount of \$16.9 million for the purpose of acquiring and developing the Shepherd's Village lands (the "Shepherd's Village CEF Loans").
62. Beginning in 2005, ABC District and SVML, to the knowledge of the Defendant Rolfe Benson, were under common control, in that officers and/or directors of ABC District were also officers, directors and/or members of SVML, including (but not limited to): Mark Ruf, Judith Burns, Harold Haberstock and Kwang Soo Kim in 2005, Harold Haberstock, Judith Burns and Kwang Soo Kim in 2006, Donald Schiemann, Harold Haberstock and Judith Burns in 2007, Donald Schiemann and Mark Ruf in 2008, Donald Schiemann and Jim Kentel in 2009, and Donald Schiemann, Mark Ruf and Jim Kentel from 2010 through 2013. Further, from 2007 through 2013, Donald Schiemann was the President of the ABC District and at the same time the Vice-President of SVML.
63. The Shepherd's Village CEF Loans were contrary to the mandate of the ABC District Church Extension Program and the terms of the CEF Trust, in that they were not made for the purpose of building churches and/or schools in which to carry out the ministry of the Lutheran faith, but rather for the purpose of enabling SVML to engage in speculative real estate development.
64. Further, the Shepherd's Village CEF Loans were contrary to the policies and procedures of the ABC District Church Extension Fund, in that:
- a. SVML was not a "congregation of the ABC District in good standing" nor an institution or entity of the LCC whose constitution, policies and practices were consistent with those of LCC;
 - b. The loan-to-value ratio in respect of the Shepherd's Village CEF Loans was greater

than that which would be commercially acceptable;

- c. The Shepherd's Village development was commenced and continued in the absence of any, or any reliable, financial projections;
- d. SVML lacked the experience and qualifications to bring the Shepherd's Village development to successful completion;
- e. SVML had no ability to service or repay the Shepherd's Village CEF Loans;
- f. SVML did not and was not required to provide financial support to ABC District and/or LCC in exchange for the Shepherd's Village CEF Loans;
- g. The Shepherd's Village CEF Loans were unsecured or alternatively inadequately secured;
- h. The officers of SVML were not required to sign Loan Repayment Agreements with ABC District in respect of the Shepherd's Village CEF Loans;
- i. Shepherd's Village was not required to make a commitment to promote Church Extension deposits among its members or others;
- j. SVML was not required to submit financial statements to the ABC District, or alternatively the ABC District failed to scrutinize those financial statements to assess the risk to the Shepherd's Village CEF Loans.

65. Further, the Shepherd's Village CEF Loans were contrary to the terms of the CEF Quistclose Trust in that:

- a. SVML was not a congregation or agency of the LCC;
- b. The loan-to-value ratio in respect of the Shepherd's Village CEF Loans was greater than that which would be commercially acceptable;
- c. The Shepherd's Village development was commenced and continued in the absence of any, or any reliable, financial projections;
- d. SVML lacked the experience and qualifications to bring the Shepherd's Village development to successful completion; and
- e. SVML had no ability to service or repay the Shepherd's Village CEF Loans;

66. The Defendants knew or ought to have known that the Shepherds Village CEF Loans contravened the terms and mandate of the CEF Trust or alternatively the CEF Quistclose Trust as stated above.

67. Between 2011 and 2014, ABC District and/or ECHS, to the knowledge of the Defendant Rolfe, Benson, forgave \$12,575,685.00 of the Shepherd's Village CEF Loans, thereby depriving the CEF Trust and the CEF Quistclose Trust of those funds.
68. Between 1993 and 2014, the ABC District loaned money from the CEF to the Lutheran-Church Canada to fund the Lutheran-Church Canada's unfunded pension liabilities.

G. The CCAA Proceedings

69. As a result of the events set out herein, the ABC District was unable to meet its obligations to the depositors to the CEF.
70. On January 2, 2015 ABC District, ECHS and other related entities (the "Applicants") sought protection from their creditors under the *Company's Creditors Arrangement Act*, RSC 1985, c.C-36, as amended (the "CCAA Proceedings"). An Order to that effect was granted by the Court of Queen's Bench of Alberta on January 23, 2015 in Court of Queen's Bench Action No. 1501-00955.
71. Deloitte Restructuring Inc., a related, affiliated or sister company of Deloitte, was the Monitor of the District in the CCAA proceedings even though it knew of, and acknowledged, its potential conflict of interest by virtue of the auditing functions performed by Deloitte as described herein.
72. The assets of the ABC District are not sufficient to satisfy its approximately \$97,000,000.00 in total outstanding obligations to its members who have made deposits to the CEF.
73. The actions of the Defendants herein caused or in the alternative contributed to, the insolvency of the ABC District.

H. Breach of Contract or in the alternative Negligence

74. It was a term of the contracts between the Plaintiff and each of the Defendants, express or implied, that the Defendants would perform accounting and auditing services for the Plaintiff, and would provide audit opinions and audit reports in a professional, diligent and workmanlike manner, and in accordance with generally accepted standards and procedures.
75. In the alternative, it was foreseeable that if the Defendants failed to perform or provide or render their accounting and auditing services in a professional, diligent and workmanlike manner, and in accordance with generally accepted standards and procedures, the Plaintiff would suffer damages and loss.

76. Accordingly, each of the Defendants owed the Plaintiff a duty of care to prepare audit opinions and audit reports in a professional, diligent and workmanlike manner, and in accordance with generally accepted standards and procedures.

77. At all times material hereto, the Defendants were aware or ought to have been aware of the DFSM's Loan Eligibility Policies, and the Loan Criteria and Loan Conditions with respect to CEF deposits.

Liability of Deloitte:

78. In breach of its contract with the Plaintiff, or in the alternative in breach of its duty of care, the Defendant Deloitte in its audit opinions and audit reports:

A. With respect to the POP Village lands:

- a. Failed to identify and report upon the misappropriation and misuse by the District of CEF trust funds to finance the POP Village Lands between 1993 and 1999;
- b. Failed to independently verify and report upon the value of the POP Village Lands;
- c. Failed to report that proceeds of the pre-paid life leases in the POP Village were not being used to pay back the CEF POP Village Advances;

B. With respect to Shepherd's Village Ministries:

- a. Failed to identify and report upon the misappropriation and misuse by the District of CEF funds by way of loans advanced to SVML;
- b. Failed to independently verify and report upon the value of the SVML Lands taken as security for the loans advanced to SVML;
- c. Failed to identify and report upon the relationship between District and SVML;
- d. Failed to issue consolidated financial statements of the District and SVML.

C. Generally:

- a. Failed to report that funds on deposit to the CEF were loaned to the Lutheran-Church Canada to fund its unfunded pension liabilities. The Lutheran Church — Canada is a religious body incorporated under the *Act to Incorporate Lutheran Church-Canada 7-8 Eliz. II Chap. 68 S.C. 1959*

Liability of Rolfe, Benson:

79. In breach of its contract with the Plaintiff, or in the alternative in breach of its duty of care, the Defendant Rolfe, Benson in its audit opinions and audit reports:

A. With respect to the POP Village Lands and the transfer of the POP Village Lands to ECHS:

- a. Failed to review Deloitte & Touche's working papers for 1999 prior to issuing its 2000 audit report;
- b. Failed to report that proceeds of the pre-paid life leases in the POP Village were not being used to pay back the CEF POP Village Advances;
- c. Failed to identify and report upon the misappropriation and misuse by the District of CEF trust funds to finance the POP Village Lands between 2000 and 2006;
- d. Failed to independently verify and report upon the value of the POP Village Lands as security for the mortgage loans advanced to ECHS between 2006 and 2010;
- e. Failed to identify and report upon the risk to the District in respect of the mortgage loans advanced to ECHS;
- f. Failed to identify and report upon the relationship between the District and ECHS;
- g. Failed to issue consolidated financial statements of the District and ECHS.

B. With respect to the Strathmore Loan:

- b. Failed to identify and report upon the misappropriation and misuse by ABC District of CEF funds by extinguishing a CEF mortgage loan to ECHS in the amount of \$5,850,000 in exchange for title to the Strathmore Lands.

C. With respect to the POP Congregation Loan:

- a. Failed to identify and report upon the District's misuse of CEF funds to make an operating loan in the amount of \$8 million to the Prince of Peace Congregation in 2008, and the subsequent forgiveness of all or part of that loan in 2009;

D. With respect to Shepherd's Village Ministries:

- e. Failed to identify and report upon the misappropriation and misuse by the District of CEF funds by way of loans advanced to SVML and the subsequent forgiveness of those loans;
- f. Failed to independently verify and report upon the value of the SVML Lands taken

as security for the loans advanced to SVML;

- g. Failed to identify and report upon the relationship between District and SVML;
- h. Failed to issue consolidated financial statements of the District and SVML;
- i. Failed to report on the forgiveness of the \$12,575,685.00 of the Shepherd's Village CEF Loans by the ABC District.

E. Generally:

- a. Failed to report that funds on deposit to the CEF were being loaned by the District to the Lutheran Church-Canada to fund its unfunded pension liabilities.

80. As a result of the Defendants' breaches of contract with the Plaintiff, or alternatively as a result of the Defendants' negligence described herein, the Plaintiff suffered damages and loss.

81. The Plaintiffs propose that that trial of this action take place in Edmonton, Alberta.

Remedy sought:

82. The Plaintiff claims the following relief as against each of the Defendants, jointly and severally:

- (i) Damages for breach of contract;
- (ii) Damages for negligence;
- (iii) Costs on an enhanced party and party basis;
- (iv) Pre-judgment interest in accordance with the *Judgment Interest Act*;
- (v) Such further and other relief as this Court deems just.

NOTICE TO THE DEFENDANTS

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Edmonton, Alberta, AND serving your statement of

defence or a demand for notice on the Plaintiff' address for service.

WARNING

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.