

RE: Draft response re media inquiry

From: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
To: Louie, Toby I JAG:EX <Toby.Louie@gov.bc.ca>, Carpenter, Elissa GCPE:EX <Elissa.Carpenter@gov.bc.ca>, Louie, Toby I TRAN:EX <Toby.Louie@gov.bc.ca>
Cc: Ponce, Kristina JAG:EX <Kristina.Ponce@gov.bc.ca>, Gelzinis, Dave JAG:EX <Dave.Gelzinis@gov.bc.ca>, McAndrews, Caroline GCPE:EX <Caroline.McAndrews@gov.bc.ca>, Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
Sent: February 3, 2016 12:56:22 PM PST
Attachments: image001.jpg

Thanks Toby, per our discussion, I'll discuss your feedback with Tatiana and copy you on the response. Elissa, feel free to give me a shout when you're available. Per Toby's feedback it would be useful to be clear on who is speaking to what.

D

From: Louie, Toby I JAG:EX [mailto:Toby.Louie@gov.bc.ca]
Sent: Wednesday, February 03, 2016 11:28 AM
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>; Carpenter, Elissa GCPE:EX <Elissa.Carpenter@gov.bc.ca>
Cc: Ponce, Kristina JAG:EX <Kristina.Ponce@gov.bc.ca>; Gelzinis, Dave JAG:EX <Dave.Gelzinis@gov.bc.ca>; McAndrews, Caroline GCPE:EX <Caroline.McAndrews@gov.bc.ca>
Subject: RE: Draft response re media inquiry

Thanks Dustin. I wonder if you might consider re-framing your responses, particularly where it falls within operational aspect. Or might be good to make response shorter. See initial comments (in red) below; I didn't get through all of the Qs.

From: Dustin Dunlop [mailto:Dustin.Dunlop@consumerprotectionbc.ca]
Sent: Wednesday, February 3, 2016 11:04 AM
To: Louie, Toby I JAG:EX; Carpenter, Elissa GCPE:EX
Cc: Ponce, Kristina JAG:EX; Gelzinis, Dave JAG:EX; McAndrews, Caroline GCPE:EX
Subject: Draft response re media inquiry
Importance: High

Hi Toby,

Below are our responses to the most recent series of questions posed by Lisa Cordasco (in black font) about the debt repayment regulations and specific questions about a company called 4Pillars. As a reminder, Ms. Cordasco is working on a story for FOCUS Magazine.

Our responses are in blue and will be sent to her today. Because the responses speak to the new debt repayment law and suggest she contact PSSG if she has specific questions about government's legislative process, I wanted to make sure you had a chance to see our messaging.

Per our last response, we have now responded to a series of questions and follow ups and we really don't have more we can offer at this point. So this will likely be our last response to this inquiry.

If you have any questions please let me know.

D

Thank you for your reply, however, I must be a little thick cuz I do not understand why 4 Pillars is not considered a debt pooler, Can someone explain to me how their business model does not fit the definition of debt pooler?

With the legislative changes coming into force on April 1, greater protections will be in place for BC consumers who use debt pooling and debt repayment services. There was a gap in the legislative framework that allowed certain business models to avoid being licensed by Consumer Protection BC. We understand the business models can vary, and the current definitions of debt pooling are in section.... Of the BPCPA.

Let's back up a bit here. I acknowledge that all of the different types of business models and services can be difficult to understand and can be confusing – including all the names for the repayment options (debt poolers, debt settlers, trustees, debt counselors, etc.). This is one of the reasons why we had put information up on our website to try to help consumers understand that there are a variety of options and to ask the right questions. All that being said, it is important for me to use the correct terms here as the rules and regulators differ.

So, to expand on the clarification offered earlier about debt poolers, I had mentioned that section 125 of the Business Practices and Consumer Protection Act sets out the following definitions of "debt pooler" and "debt pooling system":

- "debt pooler" means a person, whether in British Columbia or not, who in the course of business arranges or operates a debt pooling system;
- "debt pooling system" means an arrangement or procedure under which a debtor pays to a debt pooler money to be distributed or paid, according to a system, by that debt pooler to 3 or more creditors of the debtor.

What that means is that a person only requires (until April 1) a debt pooler licence if, in the course of business, they operate a debt pooling system (which is the distribution of a debtors' money to 3 or more creditors of the debtor). It's my understanding that based on the information we had about 4 Pillar's business model, they were not distributing a debtor's money to 3 or more creditors and so we were satisfied that a licence as a debt pooler was not required.

Again, the rules change on April 1st and we will assess each business model on a case by case basis to determine whether they require a debt repayment agent licence. (Using the correct terms, as of April 1st both debt poolers and debt settlers will both be called debt repayment agents.)

Also, it seems the new regulations will not have any effect on agencies or individuals that charge up front "consulting fees" and then tell the debtor that they have to go to a licensed trustee in order to do a consumer proposal or bankruptcy. (This is another business practise that 4 Pillars employs.) These agencies still collect several thousand dollars up front by saying they are negotiating a debt resettlement plan, but in the end, send the client to see a trustee...so they aren't actually debt pooling or settling directly...they are referring people to a trustee who does the proposal or bankruptcy...So how do the new regulations prevent that practise?

The new law states that debt repayment agents can't charge upfront fees. If a consumer has a complaint or concern with a practice being employ, we will look into that complaint.

We are still familiarizing ourselves with the new regulations but it's my understanding that they don't address that practice. I believe that the new law states that debt repayment agents can't charge an upfront fee until a written repayment proposal has been agreed to by both the debtor and the creditor(s).

It should also be noted that the behaviour of Licensed Insolvency Trustees (formerly called a bankruptcy trustee), who are the only ones allowed to offer consumer proposals, is governed by the Bankruptcy and Insolvency Act, overseen by the federal Office of the Superintendent of Bankruptcy. You may want to contact the OSIB related to your consumer proposal questions and referrals to trustees.

Also, do you know why BC did not follow Ontario's lead in allowing people who have signed contracts to withdraw from them within ten days of signing, no questions asked, and are allow to end a contract within a year if the debt settlement agency did not obey the regulations (such as disclosure requirements). Under BC law and regulation, what recourse do people have to get out of contracts they feel are unfair?

We can't speak to Ontario's provision. In addition to the specific debt repayment regulations in BC, we administer the BPCPA which has protections regarding contract requirements – future performance contract and direct sales contracts.

[I'm not aware of Onatrio's provision off hand. We followed Alberta and Ontario].

I can't speak to government's process so you may want to contract them about this. I can tell you that the new regulations require written contracts and specific contract disclosures, including:

- A list of all fees to be paid by the debtor and when.
- How the repayment agent is planning on arranging a settlement with the creditors (a schedule of payments, etc.)

Also, these types of contracts can fit the definition of a future performance contract and we oversee the legislation that speaks to cancellation rights and disclosure requirements with those particular contracts. You can find out more about future performance contracts [on our website here](#).

4 Pillars offers clients "access to financial products to rebuild your credit." They offer loans by referring customers to "The Phoenix Fund." Is this an allowable practise? They recommend such products to people who are in consumer proposals, which were arranged thru 4 Pillars. After two years of payments, 4 Pillars asks client if they would like to rebuild their credit sooner by paying off a consumer proposal with a high interest loan from The Phoenix Fund.

We're not aware of the specific business practices mentioned. While we do not license lenders other than payday lenders, we can't comment about this Fund without looking into this further.

At first blush, this doesn't appear to be something we would be involved in. We do not license lenders other than payday lenders so I can't speak to this Fund and consumer proposals are a service offered by Licensed Insolvency Trustees, regulated by the federal Office of the Superintendent of Bankruptcy.

How many complaints have you received about 4 Pillars? Were there ever any investigations of this company or are they ignored because they are considered debt consultants?

As we haven't received any formal consumer complaints against 4 Pillars, we have not opened any investigations related to the company. As I mentioned previously, when the new debt repayment legislation comes into effect on April 1st, there may be a potential requirement for them to be licensed should their business model stay the same. I hope that all of the information I have provided you is helpful. I don't believe that there is any additional information that I can offer you but I will conclude by saying that we are still in a time of transition with the implementation of the new regulations. The reality is that we are still familiarizing ourselves with the details and are in the process of operationalizing the new regulations. We aren't in a position to speculate on a certain business model using the new regulations and it is going to take us some time to assess the industry and test our interpretation of the new laws. I can say this though - although we juggle the licensing and regulation of seven different industries, I can assure you that we will be testing the marketplace to ensure that businesses are complying with the requirements of the Business Practices and Consumer Protection Act and the debt collection and repayment agent regulation.

DUSTIN DUNLOP | DIRECTOR, STAKEHOLDER RELATIONS
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RE: your follow up questions

From: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Sent: February 9, 2016 2:43:00 PM PST

Thanks for sharing Dustin. I'd like to discuss the specifics of the 4 Pillars situation further with you when you have some time. I know you mentioned it during the Liaison Meeting when I brought up Bankruptcy Trustees. I'm not sure what the issue is there but you made it sound like there is some funny business going on. My recollection of the Federal laws relating to Proposals/Bankruptcy though is that they are very proscriptive and don't allow room for hanky panky.

I also have a couple other comments re: the responses to Ms. Cordasco. See below.

From: Dustin Dunlop [mailto:Dustin.Dunlop@consumerprotectionbc.ca]
Sent: Friday, February 5, 2016 8:41 AM
To: Louie, Toby I JAG:EX; Carpenter, Elissa GCPE:EX
Cc: Ustina, Barb GCPE:EX; Gelzinis, Dave JAG:EX; Ponce, Kristina JAG:EX
Subject: FW: your follow up questions
FYI... re Ms. Cordasco's inquiry re DRAs...

Begin forwarded message:

From: Lisa Cordasco <s.22>
Date: February 4, 2016 at 10:32:21 PM PST
To: Tatiana Chabeaux-Smith <Tatiana.Chabeaux-Smith@consumerprotectionbc.ca>
Subject: Re: your follow up questions

Thanks so much for your clarifications...Good luck with the new regs!!

LC

On Thu, Feb 4, 2016 at 12:53 PM, Tatiana Chabeaux-Smith <Tatiana.Chabeaux-Smith@consumerprotectionbc.ca> wrote:

Hi Lisa,

I've done my best to answer your questions but I want to give you some context first. The reality is that we are still familiarizing ourselves with the details of the new regulation and are in the process of operationalizing them. We aren't in a position to speculate on different business models using the new regulations and it is going to take us some time to assess the industry and test our interpretation of the new laws. I can say this though - although we juggle the licensing and regulation of seven different industries, I can assure you that we will be testing the marketplace to ensure that businesses are complying with the requirements of the *Business Practices and Consumer Protection Act* and the Debt Collection and Repayment Regulation.

I've included your questions (in black) and my response (in blue) for clarity.

Thank you for your reply, however, s.22 I do not understand why 4 Pillars is not considered a debt pooler, Can someone explain to me how their business model does not fit the definition of debt pooler?

Let me say that I acknowledge that all of the different types of business models and services can be difficult to understand and can be confusing – including all the names for the repayment options (debt poolers, debt settlers, trustees, debt counselors, etc.). This is one of the reasons we had put information up on our website to try to help consumers understand that there are a variety of options and to ask the right questions. All that being said, it is important for me to use the correct terms here as the rules and regulators differ, depending on the applicable terms.

In a previous email, I referenced section 125 of the *Business Practices and Consumer Protection Act* (BPCPA) which sets out the definitions of “debt pooler” and “debt pooling system”. It's my understanding that based on the information we had about 4 Pillar's business model, they were not engaged in a “debt pooling system”, meaning that they

weren't distributing a debtor's money to 3 or more creditors. As such, we were satisfied that a licence as a debt pooler was not required. As you know, the rules change on April 1st and we will assess each business model on a case by case basis to determine whether they require a debt repayment agent licence. (Using the correct terms, as of April 1st both debt poolers and debt settlers will both be called debt repayment agents.)

Also, it seems the new regulations will not have any effect on agencies or individuals that charge up front "consulting fees" and then tell the debtor that they have to go to a licensed trustee in order to do a consumer proposal or bankruptcy. (This is another business practise that 4 Pillars employs.) These agencies still collect several thousand dollars up front by saying they are negotiating a debt resettlement plan, but in the end, send the client to see a trustee...so they aren't actually debt pooling or settling directly...they are referring people to a trustee who does the proposal or bankruptcy...So how do the new regulations prevent that practise?

We just aren't in a position to speculate on our interpretation of the new laws. Our process for testing the marketplace to ensure businesses are complying with all the requirements of the *Business Practices and Consumer Protection Act* and regulations, beyond just any licensing requirements, will occur as we operationalize these changes to the law. In the meantime, it is my understanding that the behaviour of Licensed Insolvency Trustees (formerly called a bankruptcy trustee), who are the only ones allowed to offer consumer proposals, is governed by the Bankruptcy and Insolvency Act, overseen by the federal Office of the Superintendent of Bankruptcy. You may want to contact them related to your consumer proposal questions and referrals to trustees.

This is an interesting question. I'd like to discuss further. If they are only 'consulting' then it's much like a Credit Counsellor and we don't license. However, if the business says they are doing something they are not (negotiations), does that fall into deceptive practices? Have we had problems with Credit Counselling organizations before which do something like this, or is this particular business really a DRA that is trying to find a loophole?

Also, do you know why BC did not follow Ontario's lead in allowing people who have signed contracts to withdraw from them within ten days of signing, no questions asked, and are allow to end a contract within a year if the debt settlement agency did not obey the regulations (such as disclosure requirements). Under BC law and regulation, what recourse do people have to get out of contracts they feel are unfair?

We can't speak to Ontario's provision nor government's process, though you can contact them about this. In addition to the specific debt repayment regulations in BC (which speaks to fee prohibitions), we administer the BPCPA which contains consumer contract requirements, including rules regarding consumer cancellation rights. You can find out more about the consumer contracts that we administer [on our website here](#).

I don't understand this response. I get the fine line between providing education and providing legal advice. This response is vague and evasive though. Why didn't CPBC just respond that we do have the same protections, it's just that they are in a different section of the Act, and then give her the link as you did. When we developed the policy we discussed and agreed that we wanted harmonized cancellation provisions. That's what she asked and we should be clear that is what we did. If you're not comfortable speaking specifically to policy we should figure out a way to bridge that gap, but the media is the link to the public and we shouldn't try to confuse or be too ambiguous with them. From a policy perspective this was clear cut.

4 Pillars offers clients "access to financial products to rebuild your credit." They offer loans by referring customers to "The Phoenix Fund." Is this an allowable practise? They recommend such products to people who are in consumer proposals, which were arranged thru 4 Pillars.

After two years of payments, 4 Pillars asks client if they would like to rebuild their credit sooner by paying off a consumer proposal with a high interest loan from The Phoenix Fund. We do not license lenders other than payday lenders so I can't speak to this Fund. Again, it is my understanding that "consumer proposals" are a service offered by Licensed Insolvency Trustees, regulated by the federal Office of the Superintendent of Bankruptcy. This is what I referred to at the top. I'd be interested in understanding what's going on here. A Consumer Proposal is pretty straight forward. If you don't have enough assets/income to meet your debt obligations, but have enough to pay 30 cents on the dollar then you can move ahead with a proposal (that's very broad brush). I suppose if a separate company wants to try to provide you with a high interest loan after you execute the proposal, either for disposable income or to rebuild credit, then that's a lending issue as you say and nothing to do with debt settlement.

How many complaints have you received about 4 Pillars? Were there ever any investigations of this company or are they ignored because they are considered debt consultants?

As we haven't received any formal consumer complaints against 4 Pillars, we have not opened any investigations related to the company.

I hope that all of the information I have provided has been helpful. I don't believe that there is any additional information that I can offer you and I wish you all the best with your story!

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FW: Focus Magazine article

From: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Sent: March 4, 2016 3:32:14 PM PST
Attachments: image002.jpg

This reminds me. Even though Kristina is the analyst who will be responsible for Debt Collection policy going forward, I'd still be interested in getting the run down from you in person about the whole issue with 4 Pillars and the Federal Trustees.

From: Dustin Dunlop [mailto:Dustin.Dunlop@consumerprotectionbc.ca]

Sent: Friday, March 4, 2016 3:17 PM

To: Louie, Toby I JAG:EX

Cc: Gelzinis, Dave JAG:EX; Ponce, Kristina JAG:EX

Subject: Focus Magazine article

Importance: High

Hi Toby,

You'll recall that back in February we provided quite a bit of information to Lisa Cordasco in relation to a story she was working on for Focus Magazine re debt settlement and 4-Pillars.

Her story is now available [here](#) (starting on page 28)

Note that Scott Hannah appears to have been interviewed and is quoted in several places. A few examples:

- BC's Credit Counselling Society welcomes the new regulations, but its CEO had hoped they would demand more from those who are licensed. Hannah says, "The new regulations will make it mandatory that all debt settlement and repayment organizations be licensed, but they will not be required to have any special training or education to get a license—and that's a deficiency. They will be required to hold trust accounts for debtors to make repayments but those accounts do not have to be audited. Debt settlement agents will have to explain the risk associated with that in a disclosure statement and exactly how, when and to whom the debts will be repaid, but the debt settlement companies that were not serving consumers well will have already left BC." Hannah says he's more concerned that debt counselling agencies like 4 Pillars will remain unregulated after the new consumer protection regulations come into effect.
- Hannah says, "We have asked the Province to include all debt counsellors, like 4 Pillars, in the new regulations. They have not." BC's current Solicitor General Mike Morris was not available for an interview to explain why debt counsellors are not included in the new rules.

Re 4-Pillars, our response is quoted in the article.

- Chabeaux-Smith says Consumer Protection BC did not consider 4 Pillars a "debt pooler" under the old regulations. "Many credit counsellors do, in fact, offer services that are defined as a debtpooling service. We are aware of the business model used by 4 Pillars and, under their business model, they are not engaged in a 'debt pooling system,' per se, meaning that they are not distributing a debtor's money to three or more creditors. As such, we were satisfied that a license as a debt pooler was not required." She admits her watchdog group is unsure whether 4 Pillars and other credit counselling agencies will be subject to the new rules. "When the new legislation comes into effect on April 1st, we will assess each business model on a case by case basis to determine whether they require a debt repayment agent license. We will have to assess that based on the new requirements."

While 4 Pillars is on our radar.. it is rather odd that the federal Office of the Superintendent didn't comment on the story (it sounds like they were contacted) re 4-Pillars' alleged practice of referring debtors to insolvency trustees who alone can provide consumer proposals. Such an arrangement presumably wouldn't be able to work if there wasn't a willing insolvency trustee involved (and the article does a good job of explaining the benefits of consumer proposals for debtors).

In fact, the story quotes one trustee as saying:

- The Province has no jurisdiction over the business practises of insolvency trustees, and trustee Colleen Craig believes there are trustees who accept referrals from debt counsellors and skirt the rules themselves. Craig suspects some fellow trustees allow debt counsellors to do the paperwork that should be done by the trustee, who is legally obligated to negotiate with the creditors based on what a debtor can repay. "These trustees simply show up to rubber-stamp those documents," she says. Craig has made formal complaints about such trustees to her industry group, the Canadian Association for Restructuring and Insolvency Professionals, but to no avail. "I feel that the professional body knows that this stuff is going on, but that it is

technically outside the federal legislation governing insolvency trustees and technically outside of the association's ethics guidelines. It really is a very grey area." Also,

- Hannah says his group has made similar complaints to the Office of the Superintendent of Bankruptcy in Ottawa, but "they seem reluctant to investigate unless we come with solid evidence but I think it's their duty to look into it." No one from the OSB responded to requests for an interview.

D

DUSTIN DUNLOP | DIRECTOR, STAKEHOLDER RELATIONS

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Untitled.msg

From: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
To: Gelzinis, Dave JAG:EX <Dave.Gelzinis@gov.bc.ca>, Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
Sent: March 4, 2016 3:45:36 PM PST

Sures.22 but I'm happy to discuss.

The learning I've done recently is that poolers, trustees and 4-pillars generally (not always) serve three different debtor groups:

- Poolers – people who can/want to pay off their whole debt with reduced interest (and a lower hit to their credit rating). Downsides – no guarantees, debtors don't always follow through, fees for a service some people might be able to do themselves.
- Trustees – debtors are in a more serious financial situation than with poolers – Bankruptcy has life altering implications. Consumer proposal comes with cost (\$1,500 but taken from proposal amount??) but is legally binding on all creditors, final, fair to debtor and creditors. Downside – impact on credit trustworthiness higher than pooling.
- 4-Pillars – debtors are asset-rich but cash poor – i.e. they may have a house with equity but no money to pay off credit card loans. Rather than take out a loan against their home, they borrow from 4-Pillars and swap credit card debt for 4-Pillar debt at say 10% APR.

RE: New OSB Info Product - Licensed Insolvency Trustees vs Debt Consultant

From: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Sent: June 14, 2016 4:00:00 PM PDT

Another issue to add to the list to discuss, maybe with Mike or maybe with you (the other question I was trying to think of after the PHCL meeting with Lisa last week).

s.13

Q: How does CPBC regulate PDLer providing credit to BC consumers over the internet? Are you able to control this group if they come from other provinces, from other countries? How?

From: Gelzinis, Dave PSSG:EX
Sent: Tuesday, June 14, 2016 3:54 PM
To: 'Dustin Dunlop'
Subject: RE: New OSB Info Product - Licensed Insolvency Trustees vs Debt Consultant
Sounds good. Maybe a 15 min call when you and Mike have the time.

From: Dustin Dunlop [<mailto:Dustin.Dunlop@consumerprotectionbc.ca>]
Sent: Tuesday, June 14, 2016 3:43 PM
To: Gelzinis, Dave PSSG:EX
Subject: RE: New OSB Info Product - Licensed Insolvency Trustees vs Debt Consultant
I'm happy to give you some background on this, and in fact, my Mgr of Stakeholder Relations met with 4 Pillars and can explain their model vs Trustees.
Mike is out of the office this week but let's chat when he's back.
D

From: Gelzinis, Dave PSSG:EX [<mailto:Dave.Gelzinis@gov.bc.ca>]
Sent: Tuesday, June 14, 2016 3:26 PM
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Subject: RE: New OSB Info Product - Licensed Insolvency Trustees vs Debt Consultant
Hi Dustin,

Do you have any briefing materials or news articles related to that 4Pillars/Bankruptcy Trustees issue you brought up. I keep asking you what the issue is but it's always in passing and we never have time to discuss in a fulsome way. I still don't understand the concern, in particular how it reflects badly on Trustees. I really would like to get the complete and detailed story of what was going on there and whether there was potentially anything illegal or a serious conflict of interest.

That aside I totally support CPBC meeting with and getting to know and better understand the work of Trustees. This is something I've raised previously regarding CPBC's debt repayment educational materials: even though Trustees are federally regulated (and not by CPBC), I think it's important to include them in the continuum of options available to consumers who are having problems repaying their debts.

From: Dustin Dunlop [<mailto:Dustin.Dunlop@consumerprotectionbc.ca>]
Sent: Monday, June 13, 2016 1:18 PM
To: Ponce, Kristina PSSG:EX; Gelzinis, Dave PSSG:EX
Subject: FW: New OSB Info Product - Licensed Insolvency Trustees vs Debt Consultant
Hi Kristina/Dave,

Given our recent and ongoing discussions re "debt consultants" like 4Pillars (which did not ultimately get licensed as a debt repayment agency), the information that the Office of the Superintendent of Bankruptcy has shared below will be of interest. We have plans to meet with Bill Millar over the summer and will look to continue to collaborate and share info with OSB re debt issues. In the meantime, I just wanted you to be aware of the info OSB has made available, which is helpful and nice and straightforward. We'll look to share it ourselves too.

D

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From: Millar, Bill (IC) [<mailto:s.22>]
Sent: Monday, June 06, 2016 11:42 AM
To: Mike Collyer <Mike.Collier@consumerprotectionbc.ca>
Cc: Millar, Bill (IC) <s.22>
Subject: New OSB Info Product - Licensed Insolvency Trustees vs Debt Consultant

Good morning Mike. In the event that you aren't set-up with an RSS feed for the OSB – which I would encourage you to do through the following link: http://www.ic.gc.ca/eic/site/icgc.nsf/eng/h_07032.html -- I thought you might be interested in this newly posted info product for consumers: <http://www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/br03612.html> . There is another recent posting that speaks to the new title for trustees in bankruptcy that is meant to be more illustrative of the broader scope of their role: <http://www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/br03459.html> .

Let me know if you have any questions.

Regards,

Bill Millar

Assistant Superintendent, Outreach and Service Innovation, West, Office of the Superintendent of Bankruptcy Canada

Innovation, Science and Economic Development Canada / Government of Canada

New Email: s.22 / **New Tel:** s.22 / TTY: 1-866-694-8389

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Nouveau courrier: s.22 / **Nouveau Tél:** s.22 / ATS: 1-866-694-8389

Outstanding Issues

From: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Sent: July 15, 2016 12:20:48 PM PDT

Hey Dustin, I've got a yellow sticky note with outstanding issues to deal with or discuss with you at some point. I thought I'd put it in an e-mail so I can get rid of the sticky note.

- 4 Pillars/Trustees – getting the full story of the issue that was going on there and concerns
- Time Shares – s.16 . I just don't understand how time shares work and would like to get a short tutorial from someone who does
- s.13
-

Dave Gelzinis

Senior Policy & Legislation Analyst
Corporate Policy & Planning Office
Ministry of Public Safety & Solicitor General
250 356-7085 (Phone)



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RE: Liaison

From: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Sent: March 28, 2017 10:58:56 AM PDT
Attachments: image001.jpg, Consumer Protection - Legislative Changes Wish List.docx,
Consumer Protection - Issues to discuss with CPBC.docx

Hey Dustin, that's for this. To be honest I can't think of anything else to put into the Agenda other than maybe an update of the FCAC meeting. It would be good to provide a quick update to Toby and Rob and talk a little about the potential impacts of s.13. Otherwise, there are a

lot of specifics to discuss (in particular regarding s.13) under the listed topics but if we still with the very high level Agenda format we are using then I think we've captured all the major industry areas we want to update on.

On a different note, I'm slowly starting to put together 2 lists: the first is outstanding issues I want to discuss with you to either better understand the issue/industry or get you feedback on how CPBC views the law and thus enforcement of it; the second is the s.13

s.13

s.13

Anyway, I'm wondering if you could review the two documents and add anything that comes to the top of your mind. I'll clean them up afterwards and we can discuss later.

Thanks

Dave

From: Dustin Dunlop [mailto:Dustin.Dunlop@consumerprotectionbc.ca]

Sent: Monday, March 27, 2017 3:19 PM

To: Gelzinis, Dave PSSG:EX

Subject: Liaison

Hi Dave,

I know Toby's out of the office for a while now (when's he back again?), but I thought I'd go ahead and ask anyway – any additions to the proposed Q2 Liaison Mtg Agenda?

Under s.13

would be helpful for everyone to receive.

Other than that it's the usual boiler plate agenda items. Perhaps a short refresher on Comms during the Writ Period would also be useful, just to close off the discussion from the Q1 meeting that PSSG would share that info (which you have).

The actions items are done.

Once I've heard back from you I'll circulate to everyone else.

Thanks,

D

DUSTIN DUNLOP | DIRECTOR, STAKEHOLDER RELATIONS

Consumer Protection BC

TF 250-920-7112 Ext.s.22 Cs.22

F 250.920.7181

W www.consumerprotectionbc.ca



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Consumer Policy Legislative Changes – Wish List

s.13

- Other?

Consumer Protection

Issues to Discuss with Dustin

- **Credit Reporting: Credit Scores (soft vs. hard)**

- **Hard credit inquiry** - when a potential lender examines credit report and uses information to decide whether to extend an offer for credit.
- **Soft credit inquiry** - routine check that can be done without permission when a lender you're currently doing business with checks your credit to make sure you're still creditworthy.

s.13

- **Debt Collection: Bankruptcy Trustees**

- Debt Counselling Firms offering high interest loan to pay off consumer proposals. Trustees accepting referrals from debt counsellors.
- 4 Pillars recommending financial products to pay off consumer proposals and rebuild consumer credit. Consumer starts paying off proposal. After two years of payments, 4 Pillars asks client if they would like to rebuild their credit sooner by paying off consumer proposal with a high interest loan from The Phoenix Fund.

s.13

- **Contract: Timeshares**

- s.13
- Issue – What is the issue?

- **Enforcement**

- s.13

- **CIFSA**

- s.13
-
-

other?

- **Home Inspectors**

- Update on issues

- **Bailiffs**

- s.13

FW: Class action against 4 pillars

From: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
To: toby.louie@gov.bc.ca, Louie, Toby I TRAN:EX <Toby.Louie@gov.bc.ca>
Cc: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
Sent: March 20, 2018 3:20:51 PM PDT
Attachments: image31b5a7.JPG, image510fc9.JPG, imagee4d464.JPG, image1a8fc3.JPG, 2018 03 09 Notice of Civil Claim.pdf, image001.jpg, image78ae4a.JPG

Hi Toby,

In case^{s.22} forwards this to PSSG – some background for you.

After receiving questions from a licensee in September of 2017, we conducted an inspection of the business practices at a 4 Pillars franchise in Burnaby. At that time, we formed an opinion that the activity 4 Pillars was engaged in generally did not fall within the designated activity of debt repayment agent under the BPCPA. There was some indication that 4 Pillars had been (on a limited basis) engaged in activity that would call for licences under BPCPA 143 but that they would end those practices.

That said, the allegations of deceptive/unconscionable business practices being put forward here are separate from the licensing questions and it remains to be seen where the Courts may land re the 4 Pillars business and fee model – s.13

I don't believe we were notified by the lawyers representing the plaintiffs that they had referenced the BPCPA in their claim. As such, they may not have been aware of our assessment of 4 Pillars vis a vis licensing back in September 2017, which we could have shared if they had (I would imagine the defendants will refer to our conclusions in their defense).

Will let you know what comes of this.

D

s.22

Page 17 of 78

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s.22

Page 18 of 78 to/à Page 39 of 78

Withheld pursuant to/removed as

s.3

RE: Class action against 4 pillars

From: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
To: Louie, Toby I PSSG:EX <Toby.Louie@gov.bc.ca>, Louie, Toby I TRAN:EX <Toby.Louie@gov.bc.ca>
Cc: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
Sent: March 21, 2018 10:02:40 AM PDT
Attachments: image004.jpg, image002.jpg, image005.jpg, image006.jpg, image003.jpg, image001.jpg

I think you're correct re the law firm. Also very much agree on the worth of discussing^{s.13}
s.13

The deceptive/unconscionable practices argument is interesting. If the courts agree that could do away with the model. Clearly, federal legislation (BIA) and provincial legislation have sought to impose maximum allowable charges on the businesses that are regulated. The 4 Pillars model appears to have been able to exceed those maximum charges by skirting reg requirements.

D

From: Louie, Toby I PSSG:EX <Toby.Louie@gov.bc.ca>
Sent: Wednesday, March 21, 2018 9:46 AM
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Cc: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
Subject: RE: Class action against 4 pillars

Thanks Dustin. I was not aware of the class action. I think the plaintiff's law firm is the same in the payday lending class action.^{s.13}

s.13

From: Dustin Dunlop [<mailto:Dustin.Dunlop@consumerprotectionbc.ca>]
Sent: Tuesday, March 20, 2018 3:21 PM
To: Louie, Toby I PSSG:EX
Cc: Gelzinis, Dave PSSG:EX
Subject: FW: Class action against 4 pillars

Hi Toby,

In case^{s.22} forwards this to PSSG – some background for you.

After receiving questions from a licensee in September of 2017, we conducted an inspection of the business practices at a 4 Pillars franchise in Burnaby. At that time, we formed an opinion that the activity 4 Pillars was engaged in generally did not fall within the designated activity of debt repayment agent under the BPCPA. There was some indication that 4 Pillars had been (on a limited basis) engaged in activity that would call for licences under BPCPA 143 but that they would end those practices.

That said, the allegations of deceptive/unconscionable business practices being put forward here are separate from the licensing questions and it remains to be seen where the Courts may land re the 4 Pillars business and fee model –
s.13

I don't believe we were notified by the lawyers representing the plaintiffs that they had referenced the BPCPA in their claim. As such, they may not have been aware of our assessment of 4 Pillars vis a vis licensing back in September 2017, which we could have shared if they had (I would imagine the defendants will refer to our conclusions in their defense).

Will let you know what comes of this.

D

s.22

Page 41 of 78

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s.22

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FW: Notice of Action; Pears vs. 4 Pillars Consulting Group Inc. et al.

From: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
To: toby.louie@gov.bc.ca, Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>, Louie, Toby I TRAN:EX <Toby.Louie@gov.bc.ca>
Sent: March 29, 2018 12:46:13 PM PDT
Attachments: image002.jpg, image001.png, Pearce v. 4 Pillars Consulting Group Inc. et al..pdf

Just to note its now been filed in the BC Supreme Court. Likely public now.

Based on conversation Mike has had with a few licensees, many in the debt repayment and trustee sectors are watching this claim with high interest.

D

From: Emma Naismith

Sent: Thursday, March 29, 2018 9:31 AM

To: Shahid Noorani <Shahid.Noorani@consumerprotectionbc.ca>; Tayt Winnitoy <Tayt.Winnitoy@consumerprotectionbc.ca>; Dan Stefanson <Dan.Stefanson@consumerprotectionbc.ca>; Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>; Steven Pelton <Steven.Pelton@consumerprotectionbc.ca>; Laura Cox <Laura.Cox@consumerprotectionbc.ca>; Sean Sisett <sean.sisett@consumerprotectionbc.ca>; Robert Gialloreto <Robert.Gialloreto@consumerprotectionbc.ca>; Robert Penkala <Robert.Penkala@consumerprotectionbc.ca>; Heather McCurdy <Heather.McCurdy@consumerprotectionbc.ca>

Subject: Notice of Action; Pears vs. 4 Pillars Consulting Group Inc. et al.

Good morning,

This email is to inform you of a civil claim, Pearce vs. 4 Pillars Consulting Group Inc. et al, that has been filed in the Supreme Court of BC. The action claims damages under s.172 of the Act. Attached is a copy of the notice sent to us by Bennett Mounter LLP. The document can also be found in the s.15

s.15

Thank you,

EMMA NAISMITH | LICENSING AND INFORMATION OFFICER

P 604.296.2856 TF 1.888.564.9963

A 307-3450 UPTOWN BLVD. VICTORIA BC V8Z 0B9

W www.consumerprotectionbc.ca

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BENNETT | MOUNTEER LLP
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Barristers and Solicitors
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Mark W. Mounteer*
Managing Partner
Direct Line: (604) 639-3667
E-mail: mm@hbmlaw.com

BY REGULAR MAIL

March 15, 2018

Consumer Protection BC
P.O. Box 9244
Victoria, BC V8W 9J2

Dear Sirs/Mesdames:

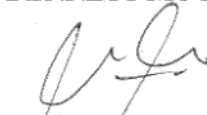
Re: Notice of Action re *Pearce v. 4 Pillars Consulting Group Inc. et al.*

Please find enclosed for service upon the Director pursuant to s. 173 of the *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2 (“*BPCPA*”) a copy of the Notice of Civil Claim filed in *Pearce v. 4 Pillars Consulting Group Inc. et al.*, No. S183599. The action is brought under the *Class Proceedings Act* and claims damages under ss. 171 and restitution under s. 172 of the *BPCPA*.

If you have any questions or require further documents, please contact me directly at (604) 639-3667.

Yours truly

BENNETT MOUNTEER LLP


Mark W. Mounteer
MM/sc

Enclosure

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s.3

RE: Debt Consultants and Credit Repair Firms

From: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
To: Cuirrier, Kyle (IC)^{s.22}
Sent: March 18, 2021 2:16:16 PM PDT

Hi Kyle,

Thanks again for the conversation today and for the information you've provided below. I'll definitely reach out to chat again if we have any further questions and to share any policy summaries we develop around this whole sector. I agree that it's very useful to come together occasionally to share information and view.

As for the 4Pillars court case I reached out to our consumer authority who mentioned this to me and apparently their head of compliance received the news about the franchisee settlement directly from the President of the company during a conversation, so I gather this information isn't public yet. I'll keep an eye open for any public notice and will forward it when it's released.

Cheers
Dave

Dave Gelzinis
Senior Policy & Legislation Analyst
Corporate Policy & Planning Office
Ministry of Public Safety & Solicitor General
250 356-7085 (Phone)



Please consider the environment before printing this e-mail

From: Cuirrier, Kyle (IC) ^{s.22}
Sent: Thursday, March 18, 2021 1:41 PM
To: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
Cc: Addo, Monique (IC)^{s.22}
Subject: Debt Consultants and Credit Repair Firms

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Hi Dave,

Thank you for the interesting and informative discussion today. The links to the items we discussed are below:

- s.16

-

I am unable to find anything online about the class action lawsuit settlement. If you are able to locate anything, it would be appreciated if you could forward it to us.

Please feel free to reach out to us if there are any additional items you would like to discuss or collaborate on.

Thanks,
Kyle Cuirrier

Sr Compliance Officer, Office of the Superintendent of Bankruptcy
Innovation, Science and Economic Development Canada / Government of Canada
s.22 / Tel: s.17 / TTY: 1-866-694-8389

Agent(e) princ. de conformité, Bureau du surintendant des faillites
Innovation, Sciences et Développement économique Canada / Gouvernement du Canada
s.22 / Tél. : s.17 / ATS : 1-866-694-8389

RE:

From: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
To: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
Sent: March 18, 2021 2:18:41 PM PDT

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Sure.

If you want to familiarize yourself with the class action, here are some links:

s.15

D

From: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
Sent: March 18, 2021 2:17 PM
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Subject: RE:

[EXTERNAL]

If CPBC sees any public notification of this, when it occurs, could you forward on to me.

Thanks

Dave

From: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Sent: Thursday, March 18, 2021 2:01 PM
To: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
Subject:

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Apparently Sean heard it directly from the 4Pillars President. So not a public source, which would explain why OSB hadn't heard about it...

<https://www.4pillars.ca/management>

From: Gelzinis, Dave PSSG:EX <Dave.Gelzinis@gov.bc.ca>
Sent: March 18, 2021 1:26 PM
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Subject: 4 - Pillars BC Class Action Lawsuit

[EXTERNAL]

Hi Dustin,

Yesterday Sean mentioned that there was a class action lawsuit in BC against 4-pillars but that the franchisee portion of the suit had been paid by franchisee insurers. Could you check with Sean to find out how he knew this. Specifically does he have any links to news stories, news releases, court releases, etc. I was talking with the Feds (OSB) today and they mentioned the lawsuit but weren't aware of the settled portion. I said I'd see if I could get them any public notice of this.

Thanks

Dave

Dave Gelzinis

Senior Policy & Legislation Analyst
Corporate Policy & Planning Office
Ministry of Public Safety & Solicitor General
250 356-7085 (Phone)

Page 70 of 78 to/à Page 75 of 78

Withheld pursuant to/removed as

NR

Moccia, Fiorella CITZ:EX

From: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Sent: February 3, 2016 3:12 PM
To: Louie, Toby I FIN:EX; Carpenter, Elissa GCPE:EX
Cc: Gelzinis, Dave PSSG:EX; Ponce, Kristina JAG:EX; McAndrews, Caroline GCPE:EX
Subject: RE: Draft response re media inquiry

Thanks Toby. We'll send it tomorrow AM.
D

From: Louie, Toby I JAG:EX [mailto:Toby.Louie@gov.bc.ca]
Sent: Wednesday, February 03, 2016 3:11 PM
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>; Carpenter, Elissa GCPE:EX <Elissa.Carpenter@gov.bc.ca>
Cc: Gelzinis, Dave JAG:EX <Dave.Gelzinis@gov.bc.ca>; Ponce, Kristina JAG:EX <Kristina.Ponce@gov.bc.ca>; McAndrews, Caroline GCPE:EX <Caroline.McAndrews@gov.bc.ca>
Subject: RE: Draft response re media inquiry

Thanks Dustin. This looks good to me.

From: Dustin Dunlop [mailto:Dustin.Dunlop@consumerprotectionbc.ca]
Sent: Wednesday, February 3, 2016 2:00 PM
To: Louie, Toby I JAG:EX; Carpenter, Elissa GCPE:EX
Cc: Gelzinis, Dave JAG:EX; Ponce, Kristina JAG:EX; McAndrews, Caroline GCPE:EX
Subject: FW: Draft response re media inquiry
Importance: High

Hi Toby,

We have revised our messaging a little bit, per below. Any comments/concerns before we respond?

Elissa and I will also touch base re who might speak to what if we both receive the same/similar questions.

We're looking to respond to the reporter by tomorrow.

Thanks,
D

From: Tatiana Chabeaux-Smith
Sent: Wednesday, February 03, 2016 1:57 PM
To: Dustin Dunlop <Dustin.Dunlop@consumerprotectionbc.ca>
Subject: RE: Draft response re media inquiry

Hi Lisa,

I've done my best to answer your questions but I want to give you some context first. The reality is that we are still familiarizing ourselves with the details of the new regulation and are in the process of operationalizing the new

regulations. We aren't in a position to speculate on different business models using the new regulations and it is going to take us some time to assess the industry and test our interpretation of the new laws. I can say this though - although we juggle the licensing and regulation of seven different industries, I can assure you that we will be testing the marketplace to ensure that businesses are complying with the requirements of the *Business Practices and Consumer Protection Act* and the Debt Collection and Repayment Regulation.

Thank you for your reply, however,^{s.22} cuz I do not understand why 4 Pillars is not considered a debt pooler, Can someone explain to me how their business model does not fit the definition of debt pooler?

Let me say that I acknowledge that all of the different types of business models and services can be difficult to understand and can be confusing – including all the names for the repayment options (debt poolers, debt settlers, trustees, debt counselors, etc.). This is one of the reasons we had put information up on our website to try to help consumers understand that there are a variety of options and to ask the right questions. All that being said, it is important for me to use the correct terms here as the rules and regulators differ, depending on the applicable terms.

In a previous email, I referenced section 125 of the *Business Practices and Consumer Protection Act* (BPCPA) which sets out the definitions of “debt pooler” and “debt pooling system”. It's my understanding that based on the information we had about 4 Pillar's business model, they were not engaged in a “debt pooling system”, meaning that they weren't distributing a debtor's money to 3 or more creditors. As such, we were satisfied that a licence as a debt pooler was not required. As you know, the rules change on April 1st and we will assess each business model on a case by case basis to determine whether they require a debt repayment agent licence. (Using the correct terms, as of April 1st both debt poolers and debt settlers will both be called debt repayment agents.)

Also, it seems the new regulations will not have any effect on agencies or individuals that charge up front "consulting fees" and then tell the debtor that they have to go to a licensed trustee in order to do a consumer proposal or bankruptcy. (This is another business practise that 4 Pillars employs.) These agencies still collect several thousand dollars up front by saying they are negotiating a debt resettlement plan, but in the end, send the client to see a trustee...so they aren't actually debt pooling or settling directly...they are referring people to a trustee who does the proposal or bankruptcy...So how do the new regulations prevent that practise?

We just aren't in a position to speculate on our interpretation of the new laws. Our process for testing the marketplace to ensure businesses are complying with all the requirements of the *Business Practices and Consumer Protection Act* and regulations, beyond just any licensing requirements, will occur as we operationalize these changes to the law. In the meantime, it is my understanding that the behaviour of Licensed Insolvency Trustees (formerly called a bankruptcy trustee), who are the only ones allowed to offer consumer proposals, is governed by the Bankruptcy and Insolvency Act, overseen by the federal Office of the Superintendent of Bankruptcy. You may want to contact the OSIB related to your consumer proposal questions and referrals to trustees.

Also, do you know why BC did not follow Ontario's lead in allowing people who have signed contracts to withdraw from them within ten days of signing, no questions asked, and are allow to end a contract within a year if the debt settlement agency did not obey the regulations (such as disclosure requirements). Under BC law and regulation, what recourse do people have to get out of contracts they feel are unfair?

We can't speak to Ontario's provision nor government's process, though you can contact them about this. In addition to the specific debt repayment regulations in BC (which speaks to fee prohibitions), we administer the BPCPA which contains consumer contract requirements, including rules regarding consumer cancellation rights. You can find out more about consumer contracts that we administer [on our website here](#).

4 Pillars offers clients "access to financial products to rebuild your credit." They offer loans by referring customers to "The Phoenix Fund." Is this an allowable practise? They recommend such products to people who are in consumer proposals, which were arranged thru 4 Pillars. After two years of payments, 4 Pillars asks client if they would like to rebuild their credit sooner by paying off a consumer proposal with a high interest loan from The Phoenix Fund.

We do not license lenders other than payday lenders so I can't speak to this Fund. Again, it is my understanding that "consumer proposals" are a service offered by Licensed Insolvency Trustees, regulated by the federal Office of the Superintendent of Bankruptcy.

How many complaints have you received about 4 Pillars? Were there ever any investigations of this company or are they ignored because they are considered debt consultants?

As we haven't received any formal consumer complaints against 4 Pillars, we have not opened any investigations related to the company. I hope that all of the information I have provided has been helpful. I don't believe that there is any additional information that I can offer you and I wish you all the best with your story!