

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

*APPLICATION OF TLC VISION CORPORATION UNDER  
SECTION 47 OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED*

**THIRD REPORT OF THE INFORMATION OFFICER**

**ALVAREZ & MARSAL CANADA INC.**

**March 29, 2010**

**INTRODUCTION**

1. On December 21, 2009, TLC Vision Corporation (“TLC Canada” or the “Company”), along with TLC Vision (USA) Corporation (“TLC USA”), a wholly-owned subsidiary of TLC Canada, and TLC Management Services Inc. (“TLC MSI”), a wholly-owned subsidiary of TLC USA (collectively, the “Debtors”), filed with the United States Bankruptcy Court for the District Court of Delaware (the “U.S. Court”) a voluntary petition for relief under Chapter 11 of Title 11 of the *United States Bankruptcy Code* (the “Chapter 11 Proceeding”). TLC Canada is the direct or indirect parent of the entities that comprise the TLC group of companies (the “TLC Group”).
2. On December 21, 2009, TLC Canada obtained an order of this Honourable Court (the “Canadian Court”) pursuant to Section 47 of the *Companies' Creditors Arrangement Act* (“CCAA”), granting, among other things, an interim stay of proceedings against the Company (the “Interim Initial Order”).
3. On December 23, 2009, TLC Canada, as foreign representative, brought an application before the Canadian Court, pursuant to section 47 of the CCAA, and obtained an order, which among other things: (i) recognized the Chapter 11 Proceeding commenced by TLC

Canada as a “foreign main proceeding”; (ii) recognized various Chapter 11 orders; (iii) granted a stay of proceedings against the Company; (iv) authorized the Debtors to obtain super-priority postpetition financing in the aggregate amount of up to \$US 15 million (the “Lender DIP Facility”); and (v) appointed Alvarez & Marsal Canada ULC<sup>1</sup>, as Information Officer (the “Initial Order”).

4. On January 26, 2010, TLC Canada, as foreign representative, obtained an order from the Canadian Court which, among other things: (i) approved the First Report of the Information Officer dated January 25, 2010 (the “First Report”) and the activities described therein; and (ii) recognized the U.S. Lease Rejection Order, the U.S. Claims Bar Date Order and the U.S. Final Utilities Order.
5. On February 18, 2010, TLC Canada, as foreign representative, obtained an order from the Canadian Court which, among other things: (i) approved the Second Report of the Information Officer dated February 16, 2010 (the “Second Report”) and the activities described therein; and (ii) recognized the U.S. Plan Sponsor Order and the U.S. Second Interim DIP Order.
6. On March 16, 2010, TLC Canada, as foreign representative, obtained an order from the Canadian Court which, among other things, recognized the U.S. Amended Claims Bar Date Order and the U.S. Final DIP Order.
7. This is the Third Report of the Information Officer (the “Report”) in these Proceedings. Copies of the First Report and Second Report (without appendices) are attached to this Report as “Exhibits A and B”, respectively. The First Report and Second Report, together with other information regarding these CCAA proceedings, have been posted by the Information Officer on its website at [www.alvarezandmarsal.com/tlccanada](http://www.alvarezandmarsal.com/tlccanada). The Court-filed documents regarding the Chapter 11 Proceeding are also available at <http://chapter11.epiqsystems.com/tlcvision>.

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<sup>1</sup> Pursuant to the Amended and Restated Initial Order of Mr. Justice Cumming dated January 21, 2010, Alvarez & Marsal Canada ULC was replaced by Alvarez & Marsal Canada Inc. (“A&M”) as Information Officer in this proceeding. The Consent by A&M to act as Information Officer in this proceeding was filed with this Honourable Court on January 21, 2010.

8. The purpose of this Report of the Information Officer is to provide the Canadian Court with information concerning:
  - (i) the Debtors' plan of reorganization:
    - (a) background of the Plan;
    - (b) general structure of the Plan;
    - (c) Plan voting instructions and procedures;
  - (ii) the activities of the Information Officer since the date of the Second Report; and
  - (iii) the Information Officer's recommendations.

### **TERMS OF REFERENCE**

9. In preparing this report, A&M has relied upon unaudited financial information, the Company's books and records, financial information prepared by the Company and its advisors, and discussions with management of TLC Canada and its advisors. In addition, A&M has reviewed the publicly available information filed in the Chapter 11 Proceeding and in this CCAA proceeding. A&M has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information and, accordingly, A&M expresses no opinion or other form of assurance on the information contained in this report.
10. A&M has requested that the Debtors and their legal and financial advisers and management bring to its attention any significant matters that were not addressed in the course of its specific inquiries. Accordingly, this report is based solely on the information (financial or otherwise) made available to A&M.
11. All terms not otherwise defined in this Report have the meanings ascribed to them in the prior reports of the Information Officer.
12. All references to dollars in this report are in Canadian currency unless otherwise noted.

### **COMPANY BACKGROUND**

13. TLC Canada is a publicly traded company with its common shares traded on the OTC Bulletin Board. The shares were previously listed on the Toronto Stock Exchange under

the symbol “TLC” and on the NASDAQ Global Market under the symbol “TLCV” prior to their delisting as a result of the insolvency proceedings. The Company’s head office and executive personnel are located in St. Louis, Missouri. For the year ended December 31, 2008, TLC Canada reported revenues from continuing operations of approximately \$275.7 million, of which the Canadian operations accounted for approximately \$15 million or 5.5%. The majority of the TLC Group’s revenues are derived from owning and managing refractive centres. The TLC Group employs approximately 750 people, including 101 in Canada.

14. The TLC Group is an eye care services company that operates in three main business segments: (i) refractive laser centres (the “Refractive Segment”); (ii) doctor services; and (iii) eye care. The majority of the TLC Group’s revenues are derived from owning and managing refractive laser centres that employ laser technologies to treat common refractive vision disorders. A brief description of the Refractive Segment is as follows:

***Refractive Segment***

15. The TLC Group owns and manages 64 refractive centres located in the U.S. and six in Canada. A typical centre is between 3,000 and 5,000 square feet, located in a high-end retail, medical or general office building and has a minimum of at least one excimer laser (with many centres having two or more). The TLC Group’s Refractive Segment receives revenues from patients for laser vision correction procedures performed at the centres and fees paid by doctors who use the centres to perform procedures. The TLC Group does not practice medicine and as such its activities are limited to owning and managing eye care centres and affiliating with surgeons performing the laser vision correction procedures.
16. Of the six Canadian refractive centres (the “Canadian Operations”), four are located in Ontario. Through its 75% ownership of TLC The Laser Center (Moncton) Inc. (“TLC Moncton”), TLC Canada is also the majority owner of two refractive centres located in Eastern Canada. TLC Moncton employs 10 people. TLC Moncton is not an applicant in the Chapter 11 Proceeding or these proceedings.

## TLC GROUP'S PLAN OF REORGANIZATION

### *(i) Background of the Plan*

17. On February 12, 2010, the Debtors obtained an order (the "U.S. Plan Sponsor Order") approving an agreement (as amended, the "Plan Sponsor Agreement"), outlining the terms and conditions under which Charlesbank Equity Fund VII Limited Partnership and certain of its affiliates (collectively, "Charlesbank") would agree to purchase and assume from the Debtors all right, title, interests and obligations in substantially all of the assets and liabilities of the Debtors' business. The Plan Sponsor Agreement provides, among other things, for the cash payment in full by Charlesbank of all obligations owing to the Prepetition Lenders and a greater cash distribution to the Company's unsecured creditors than was provided for in the prior Prepetition Lenders' Plan of Reorganization. The Plan Sponsor Agreement is not subject to any financing contingency. On February 18, 2010, this Honourable Court granted an order which recognized the U.S. Plan Sponsor Order.
18. On March 17, 2010, the Company submitted to the U.S. Court a Third Amended Plan of Reorganization that provides for the classification and treatment of creditors' claims against the Debtors. The Plan designates eighteen classes of claims and three classes of interests which are categorized according to their priority and nature under the U.S. Bankruptcy Code. The Plan is based on the Plan Sponsor Agreement, previously negotiated by the Company and Charlesbank, and the Company believes that it represents the best means currently available for its emergence from Chapter 11.
19. On March 17, 2010, the Company also submitted to the U.S. Court a Third Amended Disclosure Statement to be used as a source of information for creditors voting on the Plan. Among other things, the Disclosure Statement discusses: (i) the Company's prepetition operating and financial history; (ii) significant events that have occurred during the Chapter 11 Proceeding; (iii) the anticipated organization, operations and financing of the Company upon emergence from Chapter 11; (iv) risk factors associated with the Plan; (v) securities to be issued by the Plan; (vi) how distributions will be made under the Plan; (vii) the Plan consummation process; and (viii) the claim holder voting process.

20. Copies of the Third Amended Plan of Reorganization and the Third Amended Disclosure Statement were served on the Debtors' creditors, including the Company's creditors, on or about March 17, 2010.
21. In part, as a result of certain objections filed with the U.S. Court, the Third Amended Plan and the Third Amended Disclosure Statement were further amended resulting in the filing of the Disclosure Statement and the Plan (each as defined below).
22. On March 24, 2010, the U.S. Court made an order approving: (i) the Fourth Amended Disclosure Statement (the "Disclosure Statement"); (ii) procedures for the solicitation and tabulation of votes to accept or reject the Fourth Amended Plan of Reorganization (the "Plan"); and (iii) related notice and objection procedures (the "U.S. Disclosure Statement Order"). The Disclosure Statement was deemed by the U.S. Court to have adequate information to enable the Debtors' claim holders to make an informed judgment about how to vote on the Plan. The U.S. Court's approval of the Disclosure Statement does not constitute a determination by the U.S. Court as to the fairness or merits of the Plan.
23. Pursuant to the U.S. Disclosure Statement Order, the Plan, the Disclosure Statement and other solicitation materials will be served on the Debtors' creditors commencing no later than March 31, 2010.
24. Copies of the Plan, the Disclosure Statement and the U.S. Disclosure Statement Order are appended to the Affidavit of Tim Robbins, sworn on March 25, 2010, in support of the Company's motion for an order recognizing and giving full force and effect in Canada to the U.S. Disclosure Statement Order.

***(ii) General Structure of the Plan***

25. The Plan is structured as a joint plan addressing claims against each of the Debtors. The Plan provides for the distribution of proceeds derived from the sale of the Debtors' assets pursuant to the transaction contemplated by the Plan Sponsor Agreement to the Debtors' secured and unsecured creditors. Pursuant to the Plan, claim holders are classified in three broad categories: (i) impaired claims; (ii) unimpaired claims; and (iii) claimants which will receive no recovery.

26. Pursuant to the U.S. Bankruptcy Code, only creditors holding claims or interests that have been classified in the Plan as “impaired” and “entitled to receive a distribution” are entitled to vote on the Plan. Pursuant to the Plan, these claims include general unsecured claims and claims arising from a medical malpractice classified as Medical Pending Litigation Claims.
27. Creditors holding claims classified as “unimpaired” are deemed to have accepted the Plan and are not entitled to vote on the Plan. Under the Plan, these claims are comprised of the secured claims against the Company, including: (i) junior DIP claims; (ii) administrative claims; (iii) tax priority claims; (iv) other secured claims; (v) essential trade claims; and (vi) other priority claims. The Plan contemplates the payment of the unimpaired claims in full.
28. Creditors holding claims which receive nothing under the Plan are deemed to have rejected the Plan and, as such, are not entitled to vote. This category of claims consists of subordinated claims, intercompany claims and claims of equity holders.
29. The Disclosure Statement contains a detailed table outlining the treatment and classification of individual prepetition claims. An extract from the Disclosure Statement of this table is attached as “Exhibit C” to this Report. For each claim class, the table sets out an estimated percentage recovery, outlines whether or not the claim class is impaired, and whether it is entitled to a distribution.
30. As of the Petition Date, the aggregate amount of the Prepetition Lenders’ secured claims, including principal, interest, costs and fees, totalled \$US 107.5 million, and the Debtors’ other liabilities totalled approximately \$US 25 million. Estimated allowed claims against TLC Canada at the time of Plan confirmation, as outlined in the Disclosure Statement, aggregate to approximately \$US 117,217,000 and include the following:
  - (i) secured claims of the Prepetition Lenders at \$US 107.5 million. These claims are unimpaired and have been assigned an estimated percentage recovery of 100%;

- (ii) secured claims, other than those of the Prepetition Lenders, of \$US 7.2 million. These claims are unimpaired and have been assigned an estimated percentage recovery of 100%;
- (iii) essential trade claims of \$US 57,000. These claims are unimpaired and have been assigned an estimated percentage recovery of 100%;
- (iv) general unsecured claims of \$US 2.3 million, comprised of a lease rejection damage claim (the "Damage Claim") from the Canada Mortgage and Housing Corporation of \$1.4 million and severance claims from three terminated executives of \$US 900,000. The Damage Claim arises from the U.S. Lease Rejection Order granted by the U.S. Court on January 22, 2010 (and recognized by this Honourable Court on January 26, 2010), which authorized the Company to reject its unexpired property lease for its Mississauga Premises. These general unsecured claims have been classified as impaired and are entitled to vote on the Plan and receive a distribution. The Debtors have assigned an estimated percentage recovery of 100% to these claims because, together with the \$US 5.4 million in unsecured claims against TLC USA, the aggregate unsecured claims are less than the unsecured claim provision under the Plan Sponsor Agreement of approximately \$US 12 million (\$US 9 million cash plus \$US 3 million promissory note). To date, Proofs of Claim against TLC Canada and TLC USA have been filed which are significantly in excess of this amount. The Debtors have reviewed these claims and believe that a substantial majority of these claims will be disallowed. The Debtors plan to commence the claims reconciliation and objection process soon, since the Claims Bar Date of March 22, 2010 has expired; and
- (v) medical malpractice claims of \$US 160,000 resulting from three medical malpractice lawsuits filed against TLC Canada. These claims are impaired and entitled to receive a distribution and vote under the Plan. The Debtors have assigned an estimated percentage recovery of 100% to these claims because the claimants are entitled to payment by way of insurance coverage held by TLC Canada.

31. The Information Officer understands that twelve unsecured claims totalling approximately \$US 50,000 have been filed against TLC Canada by creditors with Canadian addresses. However, two additional claims totalling approximately \$US 2.5 million have been filed against TLC USA where it appears the claims should have been properly filed against TLC Canada. The first of these claims is for approximately \$US 1.8 million from Canada Mortgage and Housing for the Damage Claim described above. The second is for approximately \$US 700,000 for damages sought by Lasik MD Inc. and 7289499 Canada Inc. because the sale of the Canadian refractive centres was not consummated.
32. Following the effective date of the Plan, a reorganized TLC Canada will cease all operations. At such time, there may be certain residual assets of TLC Canada which are excluded from the purchase. The Disclosure Statement and the Plan contemplate the liquidation of the residual assets of TLC Canada by the Information Officer and the distribution of the net proceeds among TLC Canada's eligible general unsecured claim holders. The Information Officer is in the process of obtaining information from the Company regarding the nature of the residual assets in order to determine the extent of its participation, if any, in the contemplated liquidation and distribution.

***(iii) Plan Voting Instructions and Procedures***

33. Pursuant to the U.S. Disclosure Statement Order, the Debtors are to send the following to claim holders who are entitled to vote:
- (i) a copy of the Disclosure Statement and Plan;
  - (ii) notice of date, time and place of the hearing to consider the Plan and the deadline for filing objections to the Plan;
  - (iii) a ballot to be used in voting on the Plan; and
  - (iv) any other materials authorized by the U.S. Court.
34. Holders of claims who are eligible to vote on the Plan may only do so if they are claim holders at the time of the voting record date of March 24, 2010.

35. Eligible claim holders who did not receive a ballot or who have any questions, can contact the following:

**By regular mail:**

TLC Vision (USA) Corporation Ballot Processing  
c/o Epiq Bankruptcy Solutions, LLC  
FDR Station, P.O. Box 5014  
New York, NY 10150-5014  
Attn: Janice E. Livingstone

**By telephone (US callers):**

Epiq Systems, Inc.  
Telephone: (646) 282-2400

**By overnight courier or hand delivery:**

TLC Vision (USA) Corporation Ballot Processing  
c/o Epiq Bankruptcy Solutions, LLC  
757 Third Avenue, 3<sup>rd</sup> Floor  
New York, NY 10017  
Attn: Janice E. Livingstone

**By telephone (International callers):**

Epiq Systems, Inc.  
Telephone: (503) 597-7713

36. In order for a claim holder's vote to be counted, its ballot must be properly completed in accordance with the provisions set forth in the Disclosure Statement and the U.S. Disclosure Statement Order and received no later than April 28<sup>th</sup>, 2010 at 5:00 pm EDT.
37. If the Plan is approved by the Company's creditors, it is contemplated that the Company will return before the U.S. Court and this Honourable Court to seek approval of the Plan. If a plan vote does not pass, or if the Plan is not confirmed, the Debtors could attempt to formulate and propose a different plan of reorganization. Such a plan could involve either a reorganization and continuation of the Debtors' business or an orderly liquidation which, in the Debtors' opinion, would be detrimental to the Company's enterprise value.

#### **ACTIVITIES OF THE INFORMATION OFFICER**

38. Since the date of the Second Report (February 16, 2010), the Information Officer's activities have included:
- daily review and monitoring of the materials filed in the Chapter 11 Proceeding and communicating with Chaitons regarding same (the Court-filed documents for the Chapter 11 Proceeding are available at <http://chapter11.epiqsystems.com/tlcvision>);
  - reviewing the draft materials for these CCAA proceedings and communicating with Chaitons regarding same;

- preparing for and attending at Court for the hearing held on March 16, 2010 where the orders of the U.S. Court referred to in paragraph 6 of this Report were recognized by the Canadian Court;
- posting a copy of the Court-filed documents in these CCAA proceedings to the Information Officer's website at [www.alvarezandmarsal.com/tlccanada](http://www.alvarezandmarsal.com/tlccanada);
- liaising with the Company and the Office of the Superintendent of Bankruptcy ("OSB") to assist in providing information requested by the OSB;
- participating in conference calls with management of the Company and the Company's legal and financial advisors to discuss matters relevant to the CCAA and Chapter 11 proceedings; and
- preparing this Report and communicating with Chaitons regarding same.

#### RECOMMENDATIONS

39. Based on the foregoing, the Information Officer recommends that this Honourable Court:
- (i) recognize and give full force and effect to the U.S. Disclosure Statement Order; and
  - (ii) approve this Report and the activities of the Information Officer as described herein.
40. **ALL OF WHICH IS RESPECTFULLY SUBMITTED** at Toronto, Ontario this 29th day of March, 2010.

**ALVAREZ & MARSAL CANADA INC.**  
in its capacity as Information Officer of  
TLC Vision Corporation

Per: \_\_\_\_\_

Richard A. Morawetz

**EXHIBIT A**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

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

*APPLICATION OF TLC VISION CORPORATION UNDER  
SECTION 47 OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED*

**FIRST REPORT OF THE INFORMATION OFFICER**

**ALVAREZ & MARSAL CANADA INC.**

**January 25, 2010**

**INTRODUCTION**

1. On December 21, 2009, TLC Vision Corporation ("TLC Canada" or the "Company"), along with TLC Vision (USA) Corporation ("TLC USA"), a wholly-owned subsidiary of TLC Canada and TLC Management Services Inc. ("TLC MSI") a wholly-owned subsidiary of TLC USA (collectively the "Debtors") filed with the United States Bankruptcy Court for the District Court of Delaware (the "U.S. Court") a voluntary petition for relief under Chapter 11 of Title 11 of the *United States Bankruptcy Code* (the "Chapter 11 Proceeding"). TLC Canada is the direct or indirect parent of the entities that comprise the TLC Group of Companies (the "TLC Group").
2. On December 21, 2009, TLC Canada obtained an order of this Honourable Court (the "Canadian Court") pursuant to Section 47 of the *Companies' Creditors Arrangement Act* ("CCAA"), granting, among other things, a stay of proceedings against the Company (the "Interim Initial Order").

3. On December 23, 2009, TLC Canada, as foreign representative, brought a further application before the Canadian Court, pursuant to section 47 of the CCAA, and obtained an order, which among other things: (i) recognized the Chapter 11 Proceeding commenced by TLC Canada as a “foreign main proceeding”; (ii) granted a stay of proceedings against the Company; (iii) authorized the Debtors to obtain super-priority postpetition financing in the aggregate amount of up to \$US 15 million; and (iv) appointed Alvarez & Marsal Canada ULC<sup>1</sup>, as Information Officer (the “Initial Order”).
4. Following its appointment as the Information Officer, A&M, in accordance with section 47 of the CCAA and paragraph 41 of the Initial Order, coordinated the publication of notice of the CCAA and Chapter 11 proceedings in The Globe and Mail (National Edition) on December 28 and 31, 2009.
5. The purpose of this First Report of the Information Officer (the “Report”) is to provide the Canadian Court with information concerning:
  - (a) background on TLC Canada’s business and operations in Canada;
  - (b) the TLC Group’s financing facilities, including:
    - (i) the Prepetition Credit Facilities;
    - (ii) the security opinion provided by the Information Officer’s independent legal counsel;
  - (c) the claims process;
  - (d) other Orders of the U.S. Court granted on January 22, 2010;
  - (e) the activities of the Information Officer; and
  - (f) conclusions and recommendations.

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<sup>1</sup> Pursuant to the Amended and Restated Initial Order of Mr. Justice Cummings dated January 21, 2010, Alvarez & Marsal Canada ULC was replaced by Alvarez & Marsal Canada Inc. (“A&M”) as Information Officer in this proceeding. The Consent by A&M to act as Information Officer in this proceeding was filed with this Honourable Court on January 21, 2010.

## **TERMS OF REFERENCE**

6. In preparing this report, A&M has relied upon unaudited financial information, the Company's books and records, financial information prepared by the Company and its advisors, and discussions with management of TLC Canada and its advisors. In addition, A&M has reviewed the publicly available information filed in the Chapter 11 Proceeding and in this CCAA proceeding. A&M has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information and, accordingly, A&M expresses no opinion or other form of assurance on the information contained in this report.
7. Certain of the information referred to in this report may consist of or include forecasts and/or projections. An examination or review of financial forecasts and projections, as outlined in the Canadian Institute of Chartered Accountants Handbook, has not been performed. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
8. A&M has requested that TLC Canada bring to its attention any significant matters that were not addressed in the course of its specific inquiries. Accordingly, this report is based solely on the information (financial or otherwise) made available to A&M.
9. All references to dollars in this report are in Canadian currency unless otherwise noted.

## **BACKGROUND**

10. TLC Canada is a publicly traded company with its common shares traded on the OTC Bulletin Board. The shares were previously listed on the Toronto Stock Exchange under the symbol "TLC" and on the NASDAQ Global Market under the symbol "TLCV" prior to their delisting as a result of the insolvency proceedings. The Company's head office and executive personnel are located in St. Louis, Missouri. For the year ended December 31, 2008, TLC Canada reported revenues from continuing operations of approximately \$275.7 million, of which the Canadian operations accounted for approximately \$15

million or 5.5%. The majority of the TLC Group's revenues are derived from owning and managing refractive centres, of which 64 are located in the United States and six in Canada. The TLC Group employs approximately 750 people, including 101 in Canada.

11. The TLC Group is an eye care services company that operates in three main business segments: (i) refractive laser centres (the "Refractive Segment"); (ii) doctor services; and (iii) eye care. The majority of the TLC Group's revenues are derived from owning and managing refractive laser centres that employ laser technologies to treat common refractive vision disorders. A brief description of the Refractive Segment is as follows:

***Refractive Segment***

12. The TLC Group owns and manages 64 refractive centres located in the U.S. and 6 in Canada. A typical centre is between 3,000 and 5,000 square feet, located in a high-end retail, medical or general office building and has a minimum of at least one excimer laser (with many centres having two or more). The TLC Group's Refractive Segment receives revenues from patients for laser vision correction procedures performed at the centres and fees paid by doctors who use the centres to perform procedures. The TLC Group does not practice medicine and as such its activities are limited to owning and managing eye care centres and affiliating with surgeons performing the laser vision correction procedures.
13. Of the 6 Canadian refractive centres (the "Canadian Operations"), four are located in Ontario. Through its 75% ownership of TLC The Laser Center (Moncton) Inc. ("TLC Moncton"), TLC Canada is also the majority owner of two refractive centres located in Eastern Canada. TLC Moncton employs 10 people. TLC Moncton is not an applicant in the Chapter 11 Proceeding or the Canadian recognition proceeding.
14. The refractive centres operated in Canada are located at leased premises at the following locations:
  - 4101 Yonge St., Suite 100, Toronto, ON;
  - 50 Burnhamthorpe Road West, First Floor, Mississauga, ON;
  - 380 Wellington St. N., London, ON;
  - University of Waterloo, School of Optometry, Waterloo, ON;

- 100 Arden Street, Suite 515, Moncton, NB; and
  - Clayton Professional Center, 255 Lacewood Dr., Suite 212, Halifax, NS.
15. In addition to the above refractive centres, TLC Canada operated a call centre and information technology department located at leased premises at 5280 Solar Drive, Mississauga, ON (the "Mississauga Premises"). From this location, the Company provided support services to the entire TLC Group. A portion of the Mississauga Premises was subleased by TLC Canada to an unrelated company, Innovapost Inc. As discussed later in this Report, on January 22, 2010, the Debtors obtained an order from the U.S. Court authorizing TLC Canada to reject the lease for the Mississauga Premises (the "U.S. Lease Rejection Order").

## **TLC GROUP'S FINANCING FACILITIES**

### *(i) Prepetition Credit Facilities*

16. On June 21, 2007, certain TLC entities entered into a \$US 110 million credit facility with a syndicate of lenders (the "Prepetition Secured Lenders"). The facility is currently administered by Wells Fargo Bank ("Wells Fargo") and consists of an \$US 85 million senior term loan with a six-year term, a \$US 25 million revolver with a five-year term and a \$US 3 million letter of credit facility (collectively the "Prepetition Credit Facilities"). The Borrower under the Prepetition Credit Facilities is TLC USA. TLC Canada and TLC Moncton are Guarantors, among others, of the Prepetition Credit Facilities. All of TLC Canada's assets are pledged as security in support of the Prepetition Credit Facilities pursuant to the Canadian Security Agreement dated June 21, 2007.
17. As at December 21, 2009, the TLC Group had total obligations of approximately \$US 107.6 million (the "Prepetition Debt") under the Prepetition Credit Facilities.

*(ii) Security Opinion Provided by the Information Officer's Independent Legal Counsel*

18. The Information Officer's independent legal counsel in this matter, Chaitons LLP ("Chaitons"), has provided A&M with a legal opinion (the "Opinion") that the Canadian Security Agreement creates a security interest in favour of the Prepetition Secured Lenders in the personal property of TLC Canada as security for payment of TLC Canada's guaranty of the Prepetition Credit Facilities, which security interest is perfected in TLC Canada's personal property located in the Province of Ontario. A copy of the Opinion is attached hereto as Exhibit "A".

**CLAIMS PROCESS**

19. On January 22, 2010, the Debtors sought and obtained an order in the U.S. Court establishing bar dates for filing proofs of prepetition secured, unsecured and administrative expense claims (the "Claims Order"). A copy of the Claims Order is attached hereto as Exhibit "B". Pursuant to the Claims Order, the deadline for all persons and entities holding or wishing to assert a prepetition unsecured or secured claim against the Debtors in the Chapter 11 Proceeding is March 15, 2010 (the "General Bar Date"). The Claims Order also established June 21, 2010 (the "Governmental Bar Date") as the deadline for all governmental units to file proofs of claim in the Chapter 11 Proceeding.
20. Pursuant to the Claims Order, the Applicants are required to provide notice of the above bar dates, together with a proof of claim form, to all known persons and entities holding claims, by first class mail at least twenty days before the General Bar Date. The Claims Order also requires the Applicants to publish a notice of the bar dates at least twenty days before the General Bar Date in the national edition of the Wall Street Journal and The Globe and Mail (National Edition) newspapers.
21. The Claims Order requires that to file a claim, creditors need to submit a signed original claim form, together with supporting documentation to the following by the applicable Bar Date: (i) by first class US mail to: TLC Vision (USA) Corporation Claims Processing Center, c/o Epiq Bankruptcy Solutions, LLC, FDR Station, PO Box 5082, New York, NY 10150-5082; and (ii) by hand delivery and overnight mail to TLC Vision (USA)

Corporation Claims Processing Center, c/o Epiq Bankruptcy Solutions, LLC 757 Third Avenue, 3<sup>rd</sup> Floor, New York, NY 10017.

#### **OTHER ORDERS OF THE U.S. COURT**

22. On January 22, 2010, the U.S. Court also granted the following orders, which the Company is seeking recognition of the Canadian Court at the hearing scheduled for January 26, 2010:
- (i) *U.S. Lease Rejection Order*; authorizing TLC Canada to reject its unexpired real property lease for the Mississauga Premises (the "U.S. Lease Rejection Order"). The lease agreement for the Mississauga Premises is by and between TLC Canada, as tenant, and Canada Mortgage and Housing Corporation as landlord and has an 18 year term which commenced in October 2001. The annual rent payable by TLC Canada is \$1,050,000, increasing to \$1,110,000 over the last 5 years of the lease. A&M has been informed by the Company's management that based on TLC Canada's current needs, the Mississauga Premises are costly and underutilized. As such, as part of its Chapter 11 Proceeding, TLC Canada sought and obtained the Lease Rejection Order from the U.S. Court. The TLC Group intends to permanently relocate its call centre and IT functions to smaller more cost effective premises. A copy of the U.S. Lease Rejection Order is attached hereto as Exhibit "C"; and
  - (ii) *U.S. Final Utilities Order*; among other things, prohibiting utility companies from altering, refusing or discontinuing services to the Debtors (the "U.S. Final Utilities Order"). A copy of the U.S. Final Utilities Order is attached hereto as Exhibit "D".

#### **ACTIVITIES OF THE INFORMATION OFFICER**

23. Since the date of the Initial Order, the Information Officer's activities have included:
- Daily review and monitoring of the materials filed in the Chapter 11 Proceedings and communicating with Chaitons regarding same (the Court-filed documents for


the Chapter 11 Proceedings are available at  
<http://chapter11.epiqsystems.com/tlcvision>);

- Reviewing the draft materials for these CCAA proceedings and communicating with Chaitons regarding same;
- Preparing for and attending at Court for the hearing for the Initial Order;
- Posting a copy of the Court-filed documents in these CCAA proceedings to the Information Officer's website at [www.alvarezandmarsal.com/tlccanada](http://www.alvarezandmarsal.com/tlccanada);
- Coordinating publication of notice of the CCAA and Chapter 11 proceedings in The Globe and Mail (National Edition) on December 28 and 31, 2009, as required by section 47 of the CCAA and paragraph 41 of the Initial Order;
- Liaising with the Company and the Canada Revenue Agency ("CRA") to assist in facilitating a payroll audit requested by CRA;
- Participating in conference calls with management of the Company and the Company's legal and financial advisors to discuss matters relevant to the CCAA and Chapter 11 proceedings; and
- Preparing this Report and communicating with Chaitons regarding same.

#### **RECOMMENDATIONS**

24. Based on the foregoing, the Information Officer recommends that this Honourable Court:
- Recognize and give full force and effect to the U.S. Lease Rejection Order;
  - Recognize and give full force and effect to the U.S. Claim Order;
  - Recognize and give full force and effect to the U.S. Final Utilities Order; and
  - Approve the activities of the Information Officer set out in this Report.
25. **ALL OF WHICH IS RESPECTFULLY SUBMITTED** at Toronto, Ontario this 25<sup>th</sup> day of January, 2010.

**ALVAREZ & MARSAL CANADA INC.**  
in its capacity as Information Officer of  
TLC Vision Corporation

Per:   
Richard A. Morawetz

**EXHIBIT B**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
  
*IN THE MATTER OF THE COMPANIES' CREDITORS*  
*ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED*  
  
*APPLICATION OF TLC VISION CORPORATION UNDER*  
*SECTION 47 OF THE COMPANIES' CREDITORS*  
*ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED*  
  
**SECOND REPORT OF THE INFORMATION OFFICER**  
  
**ALVAREZ & MARSAL CANADA INC.**

**February 16, 2010**

**INTRODUCTION**

1. On December 21, 2009, TLC Vision Corporation (“TLC Canada” or the “Company”), along with TLC Vision (USA) Corporation (“TLC USA”), a wholly-owned subsidiary of TLC Canada, and TLC Management Services Inc. (“TLC MSI”), a wholly-owned subsidiary of TLC USA (collectively, the “Debtors”), filed with the United States Bankruptcy Court for the District Court of Delaware (the “U.S. Court”) a voluntary petition for relief under Chapter 11 of Title 11 of the *United States Bankruptcy Code* (the “Chapter 11 Proceeding”). TLC Canada is the direct or indirect parent of the entities that comprise the TLC group of companies (the “TLC Group”).
2. On December 21, 2009, TLC Canada obtained an order of this Honourable Court (the “Canadian Court”) pursuant to Section 47 of the *Companies' Creditors Arrangement Act* (“CCAA”), granting, among other things, an interim stay of proceedings against the Company (the “Interim Initial Order”).

3. On December 23, 2009, TLC Canada, as foreign representative, brought an application before the Canadian Court, pursuant to section 47 of the CCAA, and obtained an order, which among other things: (i) recognized the Chapter 11 Proceeding commenced by TLC Canada as a “foreign main proceeding”; (ii) recognized various Chapter 11 orders; (iii) granted a stay of proceedings against the Company; (iv) authorized the Debtors to obtain super-priority postpetition financing in the aggregate amount of up to \$US 15 million (the “Lender DIP Facility”); and (v) appointed Alvarez & Marsal Canada ULC<sup>1</sup>, as Information Officer (collectively, the “Initial Order”).
4. On January 26, 2010, TLC Canada, as foreign representative, obtained an order from the Canadian Court which, among other things: (i) approved the First Report of the Information Officer, dated January 25, 2010 (the “First Report”) and the activities described therein; and (ii) recognized and gave full force and effect in all provinces and territories in Canada to the U.S. Lease Rejection Order, the U.S. Claims Bar Date Order and the U.S. Final Utilities Order. A copy of each of the orders issued by the U.S. Court is attached as exhibits to the First Report.
5. This is the Second Report of the Information Officer (the “Report”) in these Proceedings. A copy of the First Report (without appendices) is attached hereto as “Exhibit A”. The First Report, together with other information regarding these CCAA proceedings, including the Amended and Restated Initial Order, have been posted by the Information Officer on its website at [www.alvarezandmarsal.com/tlccanada](http://www.alvarezandmarsal.com/tlccanada). The Court-filed documents regarding the Chapter 11 Proceeding are also available at <http://chapter11.epiqsystems.com/tlevision>.
6. The purpose of this Second Report of the Information Officer is to provide the Canadian Court with information concerning:

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<sup>1</sup> Pursuant to the Amended and Restated Initial Order of Mr. Justice Cummings dated January 21, 2010, Alvarez & Marsal Canada ULC was replaced by Alvarez & Marsal Canada Inc. (“A&M”) as Information Officer in this proceeding. The Consent by A&M to act as Information Officer in this proceeding was filed with this Honourable Court on January 21, 2010.

- (i) the TLC Group's proposed recapitalization, including:
  - (a) past recapitalization and sales efforts; and
  - (b) the Plan Sponsor Agreement;
- (ii) the TLC Group's financing facilities, including:
  - (a) the Prepetition Credit Facilities;
  - (b) the First Interim DIP Order; and
  - (c) the Charlesbank DIP Facility;
- (iii) the activities of the Information Officer since the date of the First Report; and
- (iv) the Information Officer's recommendations.

### **TERMS OF REFERENCE**

7. In preparing this report, A&M has relied upon unaudited financial information, the Company's books and records, financial information prepared by the Company and its advisors, and discussions with management of TLC Canada and its advisors. In addition, A&M has reviewed the publicly available information filed in the Chapter 11 Proceeding and in this CCAA proceeding. A&M has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information and, accordingly, A&M expresses no opinion or other form of assurance on the information contained in this report.
8. A&M has requested that TLC Canada bring to its attention any significant matters that were not addressed in the course of its specific inquiries. Accordingly, this report is based solely on the information (financial or otherwise) made available to A&M.
9. All terms not otherwise defined in this Report have the meanings ascribed to them in the First Report.
10. All references to dollars in this report are in Canadian currency unless otherwise noted.

### **COMPANY BACKGROUND**

11. TLC Canada is a publicly traded company with its common shares traded on the OTC Bulletin Board. The shares were previously listed on the Toronto Stock Exchange under

the symbol "TLC" and on the NASDAQ Global Market under the symbol "TLCV" prior to their delisting as a result of the insolvency proceedings. The Company's head office and executive personnel are located in St. Louis, Missouri. For the year ended December 31, 2008, TLC Canada reported revenues from continuing operations of approximately \$275.7 million, of which the Canadian operations accounted for approximately \$15 million or 5.5%. The majority of the TLC Group's revenues are derived from owning and managing refractive centres. The TLC Group employs approximately 750 people, including 101 in Canada.

12. The TLC Group is an eye care services company that operates in three main business segments: (i) refractive laser centres (the "Refractive Segment"); (ii) doctor services; and (iii) eye care. The majority of the TLC Group's revenues are derived from owning and managing refractive laser centres that employ laser technologies to treat common refractive vision disorders. A brief description of the Refractive Segment is as follows:

***Refractive Segment***

13. The TLC Group owns and manages 64 refractive centres located in the U.S. and 6 in Canada. A typical centre is between 3,000 and 5,000 square feet, located in a high-end retail, medical or general office building and has a minimum of at least one excimer laser (with many centres having two or more). The TLC Group's Refractive Segment receives revenues from patients for laser vision correction procedures performed at the centres and fees paid by doctors who use the centres to perform procedures. The TLC Group does not practice medicine and as such its activities are limited to owning and managing eye care centres and affiliating with surgeons performing the laser vision correction procedures.
14. Of the 6 Canadian refractive centres (the "Canadian Operations"), four are located in Ontario. Through its 75% ownership of TLC The Laser Center (Moncton) Inc. ("TLC Moncton"), TLC Canada is also the majority owner of two refractive centres located in Eastern Canada. TLC Moncton employs 10 people. TLC Moncton is not an applicant in the Chapter 11 Proceeding or these proceedings.

## TLC GROUP'S RECAPITALIZATION EFFORTS

### *(i) Past Recapitalization and Sales Efforts*

15. As a result of the difficult economic environment and its significant debt, commencing in early 2008, the TLC Group undertook various initiatives in an attempt to recapitalize its balance sheet.
16. Through discussions with the Company's management, financial and legal advisors, review of the Company's public regulatory filings and press releases, and review of a report to the Board of Directors (the "Board"), A&M understands that:
  - (i) in February 2008, the Board engaged CIT and Edgeview Partners (the "IBanks") and Cowen and Company ("Cowen") to explore a potential transaction with a major strategic competitor of TLC based in the U.S. These discussions ultimately did not result in a transaction;
  - (ii) in September 2008, the IBanks commenced a marketing process to solicit interest from potential private equity investors. Fifty-three parties were contacted as part of this process, with 29 signing confidentiality agreements to review the Confidential Information Memorandum (a copy of which was provided to A&M). Two parties ultimately submitted indications of interest, but at valuation levels that would require substantial discounts to the amounts outstanding under the Prepetition Credit Facilities;
  - (iii) in December 2008, the IBanks also led discussions with a special acquisition corporation to attempt to arrange financing. In excess of 65 potential investors were contacted as part of this process. In March 2009, the IBanks reported to the Board that due to transaction complexity and poor market conditions, the likelihood of executing this type of financing was low; and
  - (iv) concurrent with the above, the IBanks also explored other strategic options to recapitalize the Company, including a sale of the Company's 51% interest in Vision Source LLC.

17. From April to November 2009, the Company issued a series of press releases and management comments in its SEC filings referring to its “continued work with lenders and advisors to secure a more flexible capital structure for the Company”. In November 2009, the Company also disclosed that it was in discussions with “certain third parties regarding the sale of non-core assets”.
18. As the initiatives outlined above did not result in the receipt of any viable expressions of interest at valuations in excess of the amounts outstanding under the Prepetition Credit Facilities, the Company entered into negotiations with its Prepetition Secured Lenders which culminated in the execution of the Lender DIP Facility, Restructuring Agreement and Plan of Reorganization (the “Prepetition Lenders’ Plan of Reorganization”), the latter of which was filed in the U.S. Court on January 6, 2010.
19. The Prepetition Lenders’ Plan of Reorganization contemplated a consensual restructuring of the Company whereby existing Secured Lenders would exchange approximately US\$107 million in prepetition debt (the “Prepetition Debt”) currently outstanding for newly-issued senior secured notes of TLC USA of US\$80 million and all of the equity of the reorganized TLC USA upon its emergence from the Chapter 11 Proceeding. The Prepetition Lenders’ Plan of Reorganization also required the sale of all of the assets necessary to operate TLC’s laser eye centers in Canada, including the shares of TLC Moncton owned by TLC Canada, for gross consideration of US\$9.7 million, plus assumed liabilities, pursuant to a Purchase Agreement negotiated with a third party.
20. Notwithstanding the Prepetition Lenders’ Plan of Reorganization, the Applicants continued to explore possible restructuring transactions as alternatives. The Prepetition Lenders’ Plan of Reorganization and paragraph 39 of the First Interim DIP Order provide that the Debtors may exercise a “fiduciary out” and terminate the Plan of Reorganization by:
  - (i) providing the Prepetition Lenders with written notice of the Board’s decision to exercise the fiduciary out;
  - (ii) filing a motion seeking authority to pay all amounts owing under the Lender DIP Facility, in full, in cash;

- (iii) filing a new plan of reorganization, not contingent on further due diligence or financing, that provides for repayment of the Prepetition Debt no later than May 20, 2010;
- (iv) providing reasonable evidence of committed financing in support of such plan; and
- (v) obtaining a U.S. Court hearing seeking approval to repay the outstanding balance of the Lender DIP Facility in full within 15 days of delivering the notice described in (i) above.

**(ii) *Plan Sponsor Agreement***

21. On February 12, 2010 the Debtors sought and obtained an order approving an agreement (as amended, the "Plan Sponsor Agreement" or the "Sponsored Plan"), outlining the terms and conditions under which Charlesbank Equity Fund VII Limited Partnership and certain of its affiliates (collectively, "Charlesbank") would agree to purchase and assume from the Debtors all right, title, interests and obligations in substantially all of the assets and liabilities of the Debtors' business. Unlike the Prepetition Lenders' Plan of Reorganization, the Plan Sponsor Agreement does not require the sale of the Canadian Operations. The Information Officer understands that Charlesbank is a leading middle market-focused private equity firm that manages more than \$3.0 billion of committed capital on behalf of Harvard University and other large institutions.
22. The Plan Sponsor Agreement approved by the U.S. Court on February 12, 2010 reflects material improvements made by Charlesbank to its original offer. These enhancements came about following receipt of an offer made by H.I.G. Middle Market LLC, an affiliate of Dunkirk Investments I, LLC, a Prepetition Lender (together, "HIG"), to acquire the Debtors' assets on terms superior to those initially offered by Charlesbank. Through affiliates, HIG contends that it holds in excess of 50% of the Company's senior secured debt.
23. The Information Officer is advised by the Debtors' U.S. counsel, that commencing on or about February 3, 2010, and after Charlesbank's original Plan Sponsor Agreement was

filed with the Bankruptcy Court, HIG asked the TLC Group if it had any objection to HIG having direct discussions with Charlesbank regarding a co-investment with Charlesbank. The TLC Group informed both HIG and Charlesbank that it had no objection to the parties engaging in discussions regarding a potential co-investment. The discussions between HIG and Charlesbank commenced and continued, without the Debtors' involvement. The Information Officer was advised by the Debtors' U.S. counsel that approximately one hour before the U.S. Court hearing on February 12, 2010, the TLC Group was informed by both Charlesbank and HIG that they had reached a handshake agreement on the terms of a co-investment, whereby HIG would "roll-over" its secured debt claim in exchange for a 35% equity interest in the holding company that will be established for the investment. However, the entity that is contractually obligated to the TLC Group under the Plan Sponsor Agreement and underlying equity commitment letter is Charlesbank, not HIG.

24. The Plan Sponsor Agreement provides, among other things, for the cash payment in full by Charlesbank of all obligations owing to the Prepetition Lenders upon the Sponsored Plan's effective date. The Plan Sponsor Agreement is not subject to any financing contingency and, according to the Debtors' U.S. counsel, has received approval from the Company's unsecured creditors' committee.
25. In connection with the Plan Sponsor Agreement, Charlesbank has provided a written commitment (the "Commitment Letter") to acquire the Company for up to US\$ 141,964,500, representing the amount that will be paid to creditors and claimants under the Sponsored Plan, exclusive of the value of any assumed liabilities and assumed capital leases. Among other things, the Sponsored Plan provides for: (i) full cash payment to the Prepetition Lenders; and (ii) a greater cash distribution to the Company's unsecured creditors than was provided for in the Prepetition Lenders' Plan of Reorganization. While the Sponsored Plan allows the Company to emerge from the Proceedings virtually debt free, under the previous lender plan, the Company would have funded secured indebtedness of at least US\$80 million upon emergence.
26. Key elements of the Plan Sponsor Agreement are:

- (i) the purchased assets are substantially all of the assets of the TLC Group, including without limitation, the business as a going concern, furniture and equipment, inventories, merchandise, cash, accounts receivable, books and records, intellectual property, certain claims and causes of action, assumed contracts, permits, leasehold interests and the stock of TLC Vision (USA) Corporation, The Laser Center (Moncton), Inc. and OccuLogix Inc.;
  - (ii) upon closing, Charlesbank is to make payments required under the Sponsored Plan, including: (i) the allowed claims of the Prepetition Lenders to a maximum of US\$ 107,677,000; (ii) the closing indebtedness of the Charlesbank DIP Facility (described below) up to a maximum of US\$ 25 million; (iii) up to 90% of the allowed claims of each general unsecured creditor, with aggregate cash to the class not to exceed US\$9 million, plus an unsecured note for 10% of the allowed general unsecured claims, not to exceed \$3 million; (iv) allowed administrative claims and priority tax claims; and (v) restructuring expenses (subject to a restructuring expense cap); and
  - (iii) the Plan Sponsor Agreement provides for a break-up fee of US\$5 million payable to Charlesbank if, among other things, the Company enters into a superior proposal. The break-up fee represents approximately 3.5% of the value of the Sponsored Plan. A typical break fee approved in CCAA proceedings represents approximately 1 to 3% of the purchase price. The agreement also provides for the reimbursement to Charlesbank of reasonable out-of-pocket costs and expenses incurred in connection with the transaction to a maximum of US\$ 2 million.
27. The Plan Sponsor Agreement allows for submission and consideration of superior proposals. Pursuant to the Plan Sponsor Agreement, such proposals may be considered by the Debtors' board of directors in accordance with the terms and conditions of the Plan Sponsor Agreement.
28. As described in the Debtors' motion for approval of the Plan Sponsor Agreement, the Debtors believe that the Plan Sponsor Agreement provides a higher and better recovery for the Debtors' secured and unsecured creditors than the recovery provided for in the

Prepetition Lenders' Plan of Reorganization. Further, the Debtors believe the Sponsored Plan is in the best interests of the Company's stakeholders because it is intended to enable the Company to emerge from the Chapter 11 and CCAA proceedings free of debt.

## **TLC GROUP'S FINANCING FACILITIES**

### ***(i) Pre-petition Credit Facilities***

29. As described in the First Report:

- (i) on June 21, 2007, certain TLC entities entered into a US\$ 110 million credit facility with the Prepetition Secured Lenders. The facility is administered by Wells Fargo Bank and consists of an US\$ 85 million senior term loan with a six-year term, a US\$ 25 million revolver with a five-year term and a US\$ 3 million letter of credit facility (collectively the "Prepetition Credit Facilities"). The Borrower under the Prepetition Credit Facilities is TLC USA. TLC Canada and TLC Moncton are Guarantors of the facilities. All of TLC Canada's assets are pledged as security in support of the Prepetition Credit Facilities pursuant to the Canadian Security Agreement dated June 21, 2007. As at the December 21, 2009, the Company had total obligations of approximately US\$ 107 million under the Prepetition Credit Facilities; and
- (ii) the Information Officer's independent legal counsel in this matter, Chaitons LLP ("Chaitons"), has provided A&M with a legal opinion (the "Opinion") that, subject to the customary exceptions and qualifications, the Canadian Security Agreement creates a security interest in favour of the Prepetition Lenders in the personal property of TLC Canada as security for payment of TLC Canada's guaranty of the Prepetition Credit Facilities, which security interest is perfected in TLC Canada's personal property located in the Province of Ontario. A copy of the Opinion is attached as Exhibit "A" to the First Report.

### ***(ii) First Interim DIP Order***

30. On December 21, 2009, the Interim Initial Order granted by the Canadian Court recognized and gave full force and effect to an order of the U.S. Court (the "U.S. Interim

DIP Order”) authorizing the TLC Group to, among other things, obtain postpetition super-priority financing on an interim basis, in the aggregate amount of up to \$US 15 million under the Lender DIP Facility.

31. The Lender DIP Facility is being provided by certain of the Debtors’ Prepetition Lenders with Cantor Fitzgerald Securities as agent. The Lender DIP Facility provides for several fees, including, among others, a closing fee of \$175,000, an agency fee of \$75,000, a backstop fee of \$275,000, an unused commitment fee of 0.75% of the annual unused facility amount, a facility fee of 1.5% of the aggregate commitments, an exit fee of 2.0% of the outstanding principal amount of the Lender DIP Facility on the closing date, and an extension fee of 2.0% of the outstanding amount of the Lender DIP Facility due upon extension.
32. The Lender DIP Facility was made available to the TLC Group in two draws. An initial draw in the amount of \$US 7.5 million was made available following the granting of the First Interim Initial Order and subsequently drawn on by TLC USA on December 23, 2009. A second draw in an amount not to exceed \$US 7.5 million was to be made available upon or after the entry of a final DIP order by the U.S. Court. Ultimately, the Final DIP Order for the Lender DIP Facility was not sought given the developments with respect to the Plan Sponsor Agreement and the Charlesbank DIP Facility, which is described below.

*(iii) The Charlesbank DIP Facility*

33. On February 12, 2010, the Debtors sought and obtained a Second Interim DIP Order in the U.S. Court approving a US\$ 25 million, multiple draw, junior, debtor-in-possession financing facility from Charlesbank (the “Charlesbank DIP Facility”). The Charlesbank DIP Facility is to be used to: (i) repay the Lender DIP Facility; (ii) continue the same adequate protection provisions provided for in the First Interim DIP Order; and (iii) provide sufficient working capital to fund the Debtors’ operations through the effective date of the Chapter 11 plan outlined in the Plan Sponsor Agreement.
34. The Charlesbank DIP Facility is to be secured by post-petition liens that are junior to all prepetition liens and obligations arising under the Prepetition Credit Facilities and

First Interim DIP Order. Pending entry and approval of a final order authorizing the DIP Credit Agreement, the Second Interim DIP Order authorizes the Debtors to borrow up to US\$ 10 million in order to repay all obligations owed pursuant to the First Interim DIP Order (approximately US\$ 7.5 million) and to meet administrative and operational obligations.

35. Key elements of the Charlesbank DIP Facility are as follows:
- (i) the Borrowers are TLC Canada, TLC USA and TLC MSI. TLC Canada and TLC MSI were not Borrowers under the Prepetition Credit Facilities, but were Guarantors;
  - (ii) the total amount of the Charlesbank DIP Facility is US\$ 25 million to be made available to the TLC Group in two or more draws. An initial draw in the amount of US\$ 10 million is to be made available following recognition by the Canadian Court of the Second Interim DIP Order. Subsequent draws in increments of US\$ 1 million up to a maximum of US\$ 15 million, will be made available following the entry of a final DIP order by the U.S. Court (the "U.S. Final DIP Order") and recognition by the Canadian Court;
  - (iii) interest is to be charged at LIBOR plus 10% and is due and payable in cash in arrears, on: (i) the last day of each month; and (ii) the maturity date;
  - (iv) the Charlesbank DIP Facility provides for several fees, including: (i) an exit fee in an amount equal to 4% of the maximum principal amount of the Charlesbank DIP Facility, payable on the maturity date or, if earlier, the date on which the Charlesbank DIP Facility is paid in full and all the commitments thereunder are terminated; and (ii) a commitment fee in an amount equal to 2% of the maximum principal amount of the facility payable on the Closing Date;
  - (v) the obligation to pay certain professional fees ranks senior to the facility. This amount will not exceed US\$ 250,000 plus the amount of any budgeted fees and expenses incurred prior to any acceleration of the facility; and
  - (vi) the Borrowers, including TLC Canada, are jointly and severally liable for the amounts outstanding under the facility.

## ACTIVITIES OF THE INFORMATION OFFICER

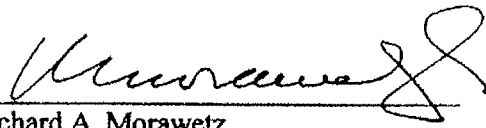
36. Since the date of the First Report (January 25, 2010), the Information Officer's activities have included:
- daily review and monitoring of the materials filed in the Chapter 11 Proceedings and communicating with Chaitons regarding same (the Court-filed documents for the Chapter 11 Proceeding are available at <http://chapter11.epiqsystems.com/tlcvision>);
  - reviewing the draft materials for these CCAA proceedings and communicating with Chaitons regarding same;
  - preparing for and attending at Court for the hearing held on January 26, 2010 where the orders of the U.S. Court referred to in paragraph 4 of this Report were recognized by the Canadian Court;
  - posting a copy of the Court-filed documents in these CCAA proceedings to the Information Officer's website at [www.alvarezandmarsal.com/tlccanada](http://www.alvarezandmarsal.com/tlccanada);
  - liaising with the Company and the Office of the Superintendent of Bankruptcy ("OSB") to assist in providing information requested by the OSB;
  - participating in conference calls with management of the Company and the Company's legal and financial advisors to discuss matters relevant to the CCAA and Chapter 11 proceedings; and
  - preparing this Report and communicating with Chaitons regarding same.

## RECOMMENDATIONS

37. Based on the foregoing, the Information Officer recommends that this Honourable Court:
- (i) recognize and give full force and effect to the U.S. Plan Sponsor Order;
  - (ii) recognize and give full force and effect to the U.S. Second Interim DIP Order;  
and
  - (iii) approve this Report and the activities of the Information Officer as described herein.

38. **ALL OF WHICH IS RESPECTFULLY SUBMITTED** at Toronto, Ontario this 16th day of February, 2010.

**ALVAREZ & MARSAL CANADA INC.**  
in its capacity as Information Officer of  
TLC Vision Corporation

Per:   
Richard A. Morawetz

**EXHIBIT C**

**Treatment of Claims Against and Interests In TLC Canada**

<b>Type of Claim or Interest</b>	<b>Description and Treatment under Plan</b>
<p><b>Class B1 – Other Secured Claims</b>                      Estimated Aggregate Allowed                      Amount: \$7,200,000<sup>9</sup></p>	<p>Other Secured Claims are Secured Claims other than the Prepetition Lender Secured Claims.</p> <p>Class B1 Other Secured Claims are Unimpaired (unless such Claims are treated pursuant to clause (d) in the following sentence, in which case such Claims are Impaired and shall be entitled to vote). Each Holder of an Allowed Class B1 Other Secured Claim shall receive, in the sole discretion of the Debtors or the Reorganized Debtors, as the case may be, in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) Cash equal to the amount of such Allowed Other Secured Claim on or as soon as practicable after the later of (i) the Effective Date, (ii) the date that such Other Secured Claim becomes Allowed, and (iii) a date agreed to by the Debtors or the Reorganized Debtors, as the case may be, and the Holder of such Class B1 Other Secured Claim; (b) treatment such that such Other Secured Claim is Reinstated; (c) the Property securing such Other Secured Claim, with any deficiency to result in a General Unsecured Claim; or (d) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Debtors or Reorganized Debtors, as the case may be, or as the Bankruptcy Court may order.</p> <p>Estimated Percentage Recovery: 100%</p>
<p><b>Class B2 – Other Priority Claims</b>                      Estimated Aggregate Allowed                      Amount: Approximately \$0</p>	<p>Other Priority Claims are Claims against the Debtors entitled to priority pursuant to section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.</p> <p>Class B2 Other Priority Claims are Unimpaired. Each Holder of an Allowed Class B2 Other Priority Claim shall be paid in full in cash (a) on or as soon as practicable after the Effective Date or the date such claim is allowed in accordance with</p>

<sup>9</sup> The Debtors believe that the only potentially impaired Claim in Class B1 is the capital equipment lease Claim of AMO.

Type of Claim or Interest	Description and Treatment under Plan
	<p>section 502 of the Bankruptcy Code, whichever is later, or (b) upon such other terms, less favorable to the Holder of such Claim, as the Reorganized Debtors and the Holder of such Claim may agree. Notwithstanding the foregoing, each Allowed Canadian Priority Employee Claim shall be paid immediately after the Canadian Sanction Order, or as the Canadian Court may order.</p> <p>Estimated Percentage Recovery: 100%</p>
<p><b>Class B3 – Essential Trade Claims</b> Estimated Aggregate Allowed Amount: Approximately \$57,000.00<sup>10</sup></p>	<p>Essential Trade Claims are those Claims to be identified by TLC Canada as such in the Plan Supplement.</p> <p>Class B3 Essential Trade Claims are Unimpaired. Each Holder of an Allowed Class B3 Essential Trade Claim shall receive in full satisfaction, settlement, release, extinguishment and discharge of such Claim: (a) the amount of such unpaid Allowed Claim in Cash on or as soon as reasonably practicable after the later of (i) the Effective Date, (ii) the date on which such Class B3 Essential Trade Claim becomes Allowed, and (iii) a date agreed to by the Debtors or the Reorganized Debtors, as the case may be, and the Holder of such Class B3 Essential Trade Claim; or (b) such other treatment on such other terms and conditions as may be agreed upon in writing by the Holder of such Claim and the Debtors or the Reorganized Debtors, as the case may be, or as the Bankruptcy Court may order.</p> <p>Estimated Percentage Recovery: 100%</p>
<p><b>Class B4 – Prepetition Lender Secured Claims</b> Estimated Aggregate Allowed Amount: Approximately \$107,500,000</p>	<p>Prepetition Lender Secured Claims are the claims of the Prepetition Agent and the Prepetition Lenders.</p> <p>Class B4 Prepetition Lender Secured Claims are Unimpaired. Each Holder of an Allowed Class B4 Prepetition Lender Secured Claim shall receive, on or as soon as reasonably practicable after the Effective Date, in full satisfaction, settlement, release, extinguishment and discharge of such Claim, cash in an amount equal to such Allowed Class B4 Prepetition Lender Secured Claim.</p>

<sup>10</sup> The Debtors estimate that most of the Essential Trade Claims incurred prior to the Petition Date will have been paid in full by the Effective Date pursuant to prior orders of this Court.

Type of Claim or Interest	Description and Treatment under Plan
	Estimated Percentage Recovery: 100%
<p><b>Class B5 – General Unsecured Claims</b></p> <p>Estimated Aggregate Allowed Amount: Approximately \$2,300,000<sup>11</sup></p>	<p>General Unsecured Claims are all Allowed Claims, but excluding Administrative Claims, Priority Tax Claims, and Junior DIP Claims, Professional Fee Claims, Other Secured Claims, Prepetition Lender Secured Claims, Essential Trade Claims, and Other Priority Claims. A summary of the Debtors' current estimate of Allowed General Unsecured Class A5 and Class B5 Claims is attached hereto as <u>Appendix E</u>.</p> <p>Class B5 General Unsecured Claims are Impaired. Class B5 General Unsecured Claims are Impaired. Each holder of an Allowed Class B5 General Unsecured Claim shall receive, in full satisfaction, settlement, release, extinguishment, and discharge of such Claim, its <u>pro rata</u> share of: (a) Cash in the amount of 90% of the aggregate amount of all Allowed Class B5 Claims, up to a maximum amount (when combined with the aggregate amount of all Allowed Class A5 Claims) of \$9,000,000; and (b) from the General Unsecured Creditor Note, 10% of all Allowed Class B5 Claims, up to a maximum amount (when combined with the aggregate amount of all Allowed Class A5 Claims) of \$3,000,000; <u>provided, however,</u> that in the event that Holders of Allowed Class B5 Claims are paid in full pursuant to Section 3.07(e)(i) of the Plan, any remaining balance from the foregoing shall be distributed <u>pro rata</u> to Holders of Allowed Claims in Class A5.</p> <p>Estimated Percentage Recovery: 100%</p>
<p><b>Class B6 – Medical Pending Litigation Claims</b></p> <p>Estimated Aggregate Allowed Amount: Approximately \$160,000<sup>12</sup></p>	<p>Medical Pending Litigation Claims are those claims arising from a medical malpractice or similar action against the Debtors, including the actions listed on <u>Appendix D</u> hereto.</p> <p>Class B6 Medical Pending Litigation Claims are Impaired.</p>

<sup>11</sup> This amount assumes that the Atwood Claim is denied as against TLC Canada as duplicative of his General Unsecured Claim asserted against TLC USA.

<sup>12</sup> To the extent any of the Hollman Claims are Allowed against TLC Canada, they will be classified in Class B6.

Type of Claim or Interest	Description and Treatment under Plan
	<p>On the Effective Date, the Holders of Class B6 Medical Pending Litigation Claims shall be entitled to payment exclusively by way of any insurance coverage held by TLC Canada or its affiliates covering such Medical Pending Litigation Claims.</p> <p>Estimated Percentage Recovery: 100%<sup>13</sup></p>
<p><b>Class B7 – Intercompany Claims</b> Estimated Aggregate Allowed Amount: Unknown at this time</p>	<p>Intercompany Claims means all claims owing by any Debtor to any other Debtor.</p> <p>Class B7 Intercompany Claims are Impaired. Holders of Class B7 Intercompany Claims shall not receive or retain any Property under the Plan on account of such Intercompany Claims. On the Effective Date, all Intercompany Claims shall be extinguished; <u>provided, however</u>, that claims owing by non-debtor subsidiaries and affiliates to TLC Canada shall not be affected by the Plan.</p> <p>Percentage Recovery: 0%</p>
<p><b>Class B8 – TLC Canada Common Stock and Interests</b></p>	<p>TLC Canada Common Stock and Interests means all authorized, issued and outstanding shares of common stock of, and Interests in TLC Canada, as of the Petition Date, including, without limitation all issued, outstanding and unexpired options, warrants, conversion, privilege or other legal or contractual rights to acquire any of the foregoing. TLC Canada Common Stock and Interests also includes any contingent, disputed or unliquidated Claims related to or in connection with any of the foregoing.</p> <p>Class B8 TLC Canada Common Stock and Interests are Impaired and are deemed to have rejected the Plan. On the Effective Date, the Holders of the TLC Canada Common Stock and Interests shall retain such common stock and interests although TLC Canada shall no longer have any assets following the consummation of the Plan and Plan Sponsor Agreement. The Holders of the TLC Canada Common Stock and Interests shall not receive or retain any</p>

<sup>13</sup> All three pending cases listed on Appendix D are also filed against non-Debtor affiliates and doctors. As those co-defendants are not subject to bankruptcy proceedings, any judgment in their favor will be likely collectible in full against non-Debtors and their insurance policies.

Type of Claim or Interest	Description and Treatment under Plan
	<p>Property under the Plan on account of such Common Stock and Interests; <u>provided, however</u>, that solely in the event that Holders of Class B5 General Unsecured Claims and Class B6 Medical Pending Litigation Claims vote to accept the Plan, each Holder of an Allowed Class B8 TLC Canada Common Stock and Interest shall receive its <u>pro rata</u> share of a cash pool of \$287,500.</p> <p>Percentage Recovery: N/A</p>

**Appendix D**

**Identified Medical Claims**

<b><u>Case</u></b>	<b><u>Debtor Defendant</u></b>	<b><u>Amount Asserted</u></b>	<b><u>Insurance Coverage<sup>1</sup></u></b>	<b><u>Jurisdiction</u></b>
<i>Hollman v. Woolfson et al.</i> <sup>2</sup>	None	Not specified	Yes	<u>Court of Common Pleas, Greenville County, South Carolina; United States District Court, District of South Carolina</u>
<i>Scheithauer v. TLC Vision Corporation et al.</i>	TLC Canada	Not specified	Yes	District Court, Weber Co., Utah
<i>Soper v. TLC Laser Eye Center (a/k/a TLC Vision Corporation)</i>	TLC Canada	Not Specified	Yes	Division of Occupational and Professional Licensing, State of Utah
<i>Zyra v. TLC Laser Eye Center (a/k/a TLC Vision Corporation)</i>	TLC Canada	Not Specified	Yes	Court of Common Pleas, Allegheny Co., Pennsylvania

<sup>1</sup> The Debtors carry medical malpractice insurance with an aggregate limit of \$5,000,000, general liability insurance with an aggregate limit of \$2,000,000, and umbrella coverage with an aggregate limit of \$15,000,000 (the umbrella coverage aggregate limit prior to May 31, 2008 was \$4,000,000). Nothing contained herein constitutes an admission or representation regarding availability of insurance coverage for any particular Claim.

<sup>2</sup> These cases are the basis for the Hollman Claims. None of the Debtors are presently joined as defendants in these actions.

**Estimate of Unsecured Claims (TLC)**

Schedule E Creditors Holding Unsecured Priority Claims  
 Schedule F Creditors Holding Unsecured NonPriority Claims

TLC Vision (USA) Corp <sup>1</sup>

Sch.	Note	Creditors Name	Description	Estimated at Plan	
				Pre-Petition	Confirmation
E		Various	Taxes and Certain other Debts owed to Governments	\$ 102,768	
F	(2)	Lindsay T Alwood	TruVision Amended acquisition agreement	4,940,000	5,332,000
F	(3)	Various	Estimated-Non Priority Claims - Payables	6,908,967	64,968
				<u>11,949,735</u>	<u>5,396,968</u>
<b>Grand total TLC Vision (USA) Corp.</b>				<b>\$ 11,949,735</b>	<b>\$ 5,396,968</b>

TLC Vision Corporation

Sch.	Creditors Name	Description	Estimated at Plan		
			Pre-Petition	Confirmation	
F	(4) Canadian Landlord	Lease Rejection Damage Claim (w/o mitigation)	\$ -	\$ 1,436,544	
F	Terminated Executives	Severance (CFO)	306,615	306,615	
F	Terminated Executives	Severance (General Counsel)	232,378	232,378	
F	Terminated Executives	Severance (President Refractive)	380,935	380,935	
F	(5) Various	Estimated-Non Priority Claims - Payables	2,111,279	-	
				<u>3,031,204</u>	<u>2,356,469</u>
<b>Grand total TLC Vision Corporation</b>				<b>3,031,204</b>	<b>2,356,469</b>

TLC Management Services Inc. (MSI)

No prepetition General Unsecured Claims

**Total Estimated Unsecured Claims** \$ 14,980,939 \$ 7,753,437

(1) Assumes Kremer Claims are settled at zero or subordinated under 11 U.S.C. § 510(b)  
 (2) The Debtors intend to seek subordination of the Alwood Claim under 11 U.S.C. § 510(b)  
 (3) Represents the greater of 15% of remaining lease payments or 12-months worth of lease payments (\$1,243,050) with mitigation by subtenant rent  
 (4) Estimated at confirmation to be approx \$65k of unsecured creditors consisting of PSS World Medical and CareerBuilder.com. All other claims in this line assumed paid under critical vendor order  
 (5) Assumes all Claims in this line paid under critical vendor order

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced at TORONTO

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**THIRD REPORT OF THE  
INFORMATION OFFICER**

(Dated: March 29, 2010)

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