

**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**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF NELSON FINANCIAL GROUP LTD. (the "Applicant")**

Applicant

**AFFIDAVIT OF MARC BOUTET
(Sworn September 15th, 2010)**

I, **MARC BOUTET**, of the City of Pickering, in the Province of Ontario, **MAKE OATH
AND SAY AS FOLLOWS:**

Introduction

1. I am the President, Secretary and sole director of Nelson Financial Group Ltd. ("**Nelson Financial**" or the "**Applicant**"). Accordingly, I have personal knowledge of the matters deposed to in this Affidavit. Where this Affidavit is not based on my personal knowledge, it is based on information and belief and I verily believe such information to be true.
2. This Affidavit is sworn in support of Nelson Financial's motion for the approval of a settlement of the claims of Foscarini Mackie Holdings Inc. ("**Foscarini Mackie**") against Nelson Financial on terms set out below and supplements evidence provided to this Honourable Court in relation to the Foscarini Mackie claims in my affidavit sworn July 21, 2010 (the "**July 21 Affidavit**").

Background

3. On March 23, 2010, Nelson Financial filed for and obtained protection from its creditors under the *Companies' Creditors Arrangement Act* (the "**CCAA**") pursuant to the Order of the Honourable Madam Justice Pepall (the "**Initial Order**"). A copy of the Initial Order is attached hereto as **Exhibit "A"**. The stay of proceedings arising under the Initial Order has been extended from time to time by Order of this Honourable Court and currently runs to October 1, 2010.
4. Pursuant to the Initial Order, A. John Page & Associates Inc. ("**AJP&AI**") was appointed as Monitor of the Applicant (the "**Monitor**").

Foscarini Mackie Security and Settlement

5. As stated in my July 21, 2010 Affidavit, counsel to the Monitor has opined that , Foscarini Mackie holds a valid and enforceable security interest securing amounts due to Foscarini Mackie under certain promissory notes issued by Nelson Financial (the "**Foscarini Mackie Security**"). The security interest created by the Foscarini Mackie Security attaches to certain contracts financed by Nelson Financial and continues to accrue interest.
6. For the reasons noted in my July 21, 2010 Affidavit, including avoiding the further accrual of interest and administrative costs, Nelson Financial has proposed to pay out amounts due and owing under the Foscarini Mackie Security. As set out in the Supplement to Fifth Report to the Court of the Monitor, the Monitor supports the full and final settlement of the Foscarini Mackie Claims.
7. When these issues were brought before the Court on July 27, 2010, this Honourable Court directed that they be adjourned to permit Representative Counsel to Nelson Financial's noteholders ("**Representative Counsel**") to review the facts relating to Foscarini Mackie's claims under its security. In this regard, this Honourable Court set a schedule for the hearing of a motion or application by Representative Counsel for an order setting aside the Foscarini Mackie Security. Attached hereto as **Exhibit "B"** is a

copy of the scheduling direction of the Honourable Justice Pepall with respect to Representative Counsel's proposed proceedings in relation to the Foscarini Mackie Security.

8. Representative Counsel cross-examined Lisa Mackie and me on September 20th and September 17th, respectively. Subsequently, as I understand it, certain information was provided to Representative Counsel in relation to undertakings given during these examinations.
9. I am advised by Clifton P. Prophet, of counsel to Nelson Financial, that Representative Counsel and counsel to Foscarini Mackie subsequently agreed on a slightly revised settlement of the Foscarini Mackie claims under the Foscarini Mackie Security and that this settlement is fully described in an e-mail from counsel to Foscarini Mackie to certain of the other parties in interest, attached hereto as **Exhibit "C"** (the "**Settlement E-mail**"). I am further advised by Mr. Prophet and verily believe that the Monitor supports a settlement with Foscarini Mackie on the terms proposed.
10. As set out in the Settlement E-mail, the main terms of the revised settlement include the following:
 - (a) Payment to Foscarini Mackie by Nelson Financial of the sum of \$696,775.43 by September 27, 2010, being the principal amount of the secured indebtedness due to Foscarini Mackie, plus interest and recovery costs, less \$25,000;
 - (b) Delivery of releases from Foscarini Mackie, Lisa Mackie and Glenn Mackie in favour of Nelson Financial, its officer and director and Stephanie Sobol, in the form attached hereto as **Exhibit "D"**.
 - (c) A "standstill" by Lisa Mackie and Glenn Mackie with respect to any claims they may have in the restructuring other than those released, provided that Lisa Mackie and Glenn Mackie will retain the benefits, if

EXHIBIT "A"

A handwritten signature in black ink, appearing to read "Joanne Raffia". The signature is written in a cursive style with a large initial 'J' and 'R'.

**JOANNE JOSEPHINE RAFFA,
A COMMISSIONER, ETC.,
PROVINCE OF ONTARIO
FOR NELSON FINANCIAL GROUP LTD.
EXPIRES FEBRUARY 1, 2013.**

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MADAM) TUESDAY, THE 23rd
)
JUSTICE PEPALL) DAY OF MARCH, 2010

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF NELSON FINANCIAL GROUP LTD. (the "Applicant")**



Applicant

INITIAL ORDER

THIS APPLICATION, made by the Applicant, Nelson Financial Group Ltd. ("Nelson Financial" or the "Applicant"), without notice, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Marc Boutet sworn March 22, 2010 and the Exhibits thereto, and the Report of A. John Page & Associates Inc. in its capacity as the Proposed Monitor to the Applicant dated March 22, 2010 and the Exhibits thereto, and on hearing the submissions of counsel for Nelson Financial, and counsel for A. John Page & Associates Inc., and on reading the consent of A. John Page & Associates Inc. to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "Business") and Property. The Applicant shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

6. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

7. THIS COURT ORDERS that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any

nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

8. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

9. THIS COURT ORDERS that, except as specifically permitted herein, the Applicant is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. THIS COURT ORDERS that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$50,000 in any one transaction or \$100,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and

- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "Restructuring").

11. THIS COURT ORDERS that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

12. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

13. THIS COURT ORDERS that until and including April 22, 2010, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

15. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

16. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data

services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

17. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

18. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

19. THIS COURT ORDERS that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant

after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

20. THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$200,000, as security for the indemnity provided in paragraph 19 of this Order. The Directors' Charge shall have the priority set out in paragraphs 31 and 33 herein.

21. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 19 of this Order.

APPOINTMENT OF MONITOR

22. THIS COURT ORDERS that A. John Page & Associates Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

23. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant's receipts and disbursements;

- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (d) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

24. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

25. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations

thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

26. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

27. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

28. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis.

29. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

30. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of

\$1,000,000.00, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraph 31 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

31. THIS COURT ORDERS that the priorities of the Directors' Charge and the Administration Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$1,000,000.00); and

Second – Directors' Charge (to the maximum amount of \$200,000.00).

32. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge and the Administration Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

33. THIS COURT ORDERS that each of the Directors' Charge and the Administration Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person, save and except the Encumbrances in favour of Glen Mackie and Lisa Mackie and Foscarini Mackie Holdings Inc., to the extent they are determined to be valid and enforceable and properly perfected by counsel to the Monitor.

34. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the DIP Lender's Charge, unless the Applicant also obtains the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

35. THIS COURT ORDERS that the Directors' Charge and the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicant pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

36. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.

SERVICE AND NOTICE

37. THIS COURT ORDERS that, subject to paragraph 38 of this Order, the Monitor shall (i) without delay, publish in the Globe and Mail newspaper a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the

estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

38. THIS COURT ORDERS that notwithstanding the provisions of paragraph 23(1)(a)(ii) of the CCAA, the Monitor shall not be obliged to publish and/or make publicly available the name or address of (i) any current and former Nelson Financial employees on account of employment-related liabilities, and (ii) any person holding securities issued by the Applicant which includes, but is not limited to, any person holding Notes and Pref Shares as defined in the Affidavit of Marc Boutet sworn March 22, 2010.

39. THIS COURT ORDERS that the Applicant and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

40. THIS COURT ORDERS that the Applicant, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at www.ajohnpage.com.

GENERAL

41. THIS COURT ORDERS that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

42. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

43. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

44. THIS COURT ORDERS that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

45. THIS COURT ORDERS that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

46. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Daylight Time on the date of this Order.



ENTERED IN REGISTRY - TORONTO
ON / BU / 23 / 10
LE / DATE DE REGISTRE NO.

MAR 23 2010

PER / PAR *JV*

Court File No. 10-8630-00CL

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NELSON FINANCIAL GROUP LTD.

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE**

(PROCEEDING COMMENCED AT TORONTO)

INITIAL ORDER

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
TORONTO, Ontario
M5X 1G5

Clifton P. Prophet / Frank Lamie
LSUC No.: 34345K / 54035S

Telephone: (416) 862-3509 / (416) 862-3609
Facsimile: (416) 862-7661

SOLICITORS FOR THE APPLICANT

EXHIBIT "B"

Joanne Raffa

JOANNE JOSEPHINE RAFFA,
A COMMISSIONER, ETC.,
PROVINCE OF ONTARIO
FOR NELSON FINANCIAL GROUP LTD.
EXPIRES FEBRUARY 1, 2013.

August 24, 2010

To address the issue of the validity, priority and enforceability of the secured claim of Foscarini MacLachlan Holdings Inc. the parties will proceed in accordance with the following steps and schedule:

1. The Representative Counsel will decide on or before Friday, September 3, 2010 whether or not he will oppose the proposed settlement of the Foscarini MacLachlan claim. If he determines not to oppose, the order can be granted on consent or without opposition on a chambers attendance of the debtor Applicant.

2. If the matter is to proceed there shall be a trial of an issue on the following schedule:

a) On or before Friday September 10, 2010, Representative Counsel shall serve and file a statement of issues and the general facts on which it relies.

b) On or before Friday September 17, 2010, any parties interested shall ^{serve and} file replies setting out their positions and the general facts on which they rely.

c) The ~~statement~~ of issues and the replies shall constitute pleadings. ^{The} transcripts, exhibits and responses to undertakings of the examinations of Marc Bootet and of his MacLachlan shall be dealt with as discovery and shall be admissible ~~evidence~~ at trial.

d) Facts shall be delivered and filed by noon on Thursday October 7, 2010.

e) The trial of the issue shall be held commencing at 2:00 pm on Tuesday October 12, 2010 and continuing as needed on October 13, 2010.

3. The company shall maintain at least \$500,000 to fund the proposed retirement with Mr. Nutra's client. (SVP/Realt.,)

Aug 24, 2010

on court, order to issue as per attached.

Seipel, J.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NELSON FINANCIAL GROUP LTD.

Court File No.: 10-8630-00CL

27 JULY 2010

Applicant

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(PROCEEDING COMMENCED AT TORONTO)

MOTION RECORD
(Returnable July 27, 2010)

GOWLING LAFLEUR HENDERSON LLP
Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Clifton P. Prophet (LSUC# 34845K)
Frank Lanie (LSUC# 54035S)
Tel: (416) 862-3509
Fax: (416) 863-3509

Solicitors for the Applicant
Nelson Financial Group Ltd.

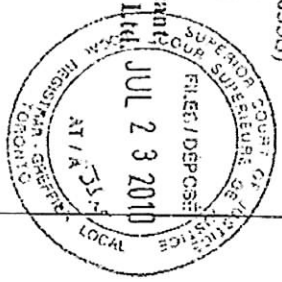


EXHIBIT "C"

A handwritten signature in black ink, appearing to read "Joanne Rafferty". The signature is written in a cursive, flowing style.

JOANNE JOSEPHINE RAFFA
A COMMISSIONER, ETC.,
PROVINCE OF ONTARIO
FOR NELSON FINANCIAL GROUP LTD.
EXPIRES FEBRUARY 1, 2013.

JOANNE JOSEPHINE RAFFA,
A COMMISSIONER, ETC.,
PROVINCE OF ONTARIO
FOR NELSON FINANCIAL GROUP LTD.
EXPIRES FEBRUARY 1, 2013.

Prophet, Clifton

From: Sanj Mitra [smitra@airdberlis.com]
Sent: September 8, 2010 6:01 PM
To: lisa@mackie.info; glenn@mackie.info; Doug Turner; Prophet, Clifton; John Page; Seema Aggarwal; James Grout; Richard Jones; glenn@mackie.info
Subject: RE: Nelson - Draft Settlement Terms

Without Prejudice

We have had discussion with counsel for the note holders about resolving the current impasse. To resolve this matter with minimal expense and uncertainty going forward, I believe that counsel for the note holders are to a slightly amended resolution on the following terms:

- 1) Nelson Financial Group Inc. ("Nelson") shall pay to Foscarini Mackie Holdings Inc. ("Foscarini") on or before September 27 the sum of \$696,775.43 in full and final satisfaction of all debts, interest and recovery costs owed up to that date. The foregoing amount being the principal amount of the note plus interest and recovery costs to September 1, 2010 less the sum of \$25,000. If the payment is not made by September 27, 2010, interest shall continue at the rate set out in the promissory note until repayment in full.
- 2) Foscarini, Glenn Mackie and Lisa Mackie, will execute full and final releases in favour of Nelson, its officer and director and Stephanie Sobel in a form acceptable to counsel for Nelson and Foscarini, acting reasonably.
- 3) Glenn Mackie and Lisa Mackie shall take no further steps in connection with the restructuring of Nelson but shall be entitled to retain any benefits arising out of their ownership of the preferred shares in Nelson.
- 4) The terms of this settlement shall remain confidential until September 16, 2010.
- 5) Nelson shall proceed to take an order at a 9:30 hearing before the Toronto Commercial List as soon as practicable to approve the terms of this amended settlement. Counsel to the note holders shall consent to the relief sought in this motion.

This resolution is more favourable to Nelson than as was previously agreed to so I am assuming neither the company nor the Monitor will amend its recommendation to support this resolution.

I would appreciate hearing confirmation from parties as soon as possible.

Sanjeev Mitra, B.Sc., LL.B.

T 416.865.3085
F 416.863.1515
E smitra@airdberlis.com

Brookfield Place - 181 Bay Street
Suite 1800 - Box 754
Toronto ON - M5J 2T9 - Canada
www.airdberlis.com

AIRD & BERLIS LLP
Barristers and Solicitors

14/09/2010

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Please consider the environment before printing this email.

EXHIBIT "D"

Joanne Raffa

JOANNE JOSEPHINE RAFFA,
A COMMISSIONER, ETC.,
PROVINCE OF ONTARIO
FOR NELSON FINANCIAL GROUP LTD.
EXPIRES FEBRUARY 1, 2013

RELEASE

BETWEEN:

**FOSCARINI MACKIE HOLDINGS INC.,
LISA MACKIE and GLENN MACKIE**

(hereinafter referred to as the "Releasers")

OF THE FIRST PART

- and -

**NELSON FINANCIAL GROUP LTD. ("NELSON FINANCIAL")
MARC BOUTET and STEPHANIE LOCKMAN SOBOL**

(hereinafter referred to as the "Releasees")

OF THE SECOND PART

KNOW ALL MEN BY THESE PRESENTS that in consideration of the payment of the sum of **SIX HUNDRED AND NINETY-SIX THOUSAND SEVEN HUNDRED AND SEVENTY-FIVE DOLLARS AND FORTY-THREE CENTS** (\$696,775.43) in lawful money of Canada by the Releasees to the Releasers and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Releasers (which term includes their heirs, agents, executors, administrators, trustees, shareholders, successors, subrogees and assigns), the Releasers hereby remise, release and forever discharge the Releasees (which term includes their respective direct and indirect parents, subsidiaries and affiliates and their respective partners, shareholders, officers, directors, servants, agents, employees, subrogees, predecessors, trustees, successors and assigns) of and from all manner of action, causes of action, suits, debts, dues, covenants, accounts, contracts, rights, damages, judgments, costs, expenses and compensation, claims and demands whatsoever, whether at law or in equity, including any subrogated claims and demands and any claims and demands arising by way of indemnity, contribution or other relief over, which

against the Releasees the Releasors ever had, now have or which the Releasors hereafter can, shall or may have, for or by reason of or arising from any matter, thing or claim whatsoever, save and except the entitlement of Lisa Mackie and Glenn Mackie to receive benefits provided to all preferred shareholders of Nelson Financial, if any, pursuant to any plan of compromise or arrangement approved in relation to Nelson Financial and on account of preferred shares held by Lisa Mackie and/or Glenn Mackie in the capital of Nelson Financial.

AND FOR THE SAID CONSIDERATION, the Releasors agree not to make any claim or take any proceedings (expressly including any cross-claim, counterclaim, third party action or application) against any other person, corporation, association, partnership or any other entity who might claim contribution, indemnity or other relief over from the Releasees with respect to any of the causes, matters or things referred to above.

IT IS UNDERSTOOD AND AGREED that the Releasors shall not encourage or cooperate or otherwise participate or confer with any current or former noteholder, shareholder, creditor or claimant of any kind, of or in respect of the Releasees, individually or collectively, or any potential plaintiff, to commence any legal action or make any claim against any of the Releasees with respect to claims, including equity claims as defined under the *Companies' Creditors Arrangement Act* ("**CCAA**") against the Releasees. The Releasors shall similarly not take any active step or action in the CCAA proceedings involving Nelson Financial, provided that this covenant shall not prevent Lisa Mackie and Glenn Mackie from receiving benefits, if any, provided to all preferred shareholders pursuant to any plan of compromise or arrangement approved in relation to Nelson Financial.

IT IS FURTHER UNDERSTOOD AND AGREED that the Releasors shall not make, or cause to be made, any statement or communicate any information (whether oral or written) that disparages or reflects negatively on any of the Releasees, provided that the foregoing shall not prevent the Releasors from making any statement or communication specifically required by applicable law.

IT IS FURTHER UNDERSTOOD AND AGREED that the Releasors will hold in strict confidence the business and affairs of the Releasees and will neither directly nor indirectly disclose or permit to be disclosed to any third party any information relating to the business and affairs of the Releasees, except as may be required by order of a Court of competent jurisdiction and provided the said information is not otherwise in the public domain.

IT IS FURTHER UNDERSTOOD AND AGREED that the granting of consideration by the Releasees to the Releasors is deemed to be no admission whatsoever of liability on the part of the Releasees.

THE RELEASORS declare that they have read and understood this Release, and that they have entered into the said Release freely, having obtained independent legal advice.

THIS RELEASE shall be binding upon the Releasors, their heirs, agents, executors, administrators, trustees, successors, subrogees and assigns and shall enure to the Releasees' benefit and to the benefit of its respective officers, directors, servants, agents, employees, subrogees, predecessors, trustees, successors and assigns.

For the avoidance of doubt, this Release shall be construed, interpreted and performed in accordance with the laws of the Province of Ontario.

IN WITNESS WHEREOF the Releasors have hereunto affixed their hand and seal this ____ day of September, 2010.

FOSCARINI MACKIE HOLDINGS INC.

Per:

Witness

Name:
Title:

I have authority to bind the Corporation.

Witness

)
)
)
)
)
)
)

LISA MACKIE

Witness

)
)
)

GLENN MACKIE

Court File No. 10-8630-00CL

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NELSON FINANCIAL GROUP LTD.

Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE**

(PROCEEDING COMMENCED AT TORONTO)

**AFFIDAVIT OF MARC BOUTET
(Sworn September 15th, 2010)**

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
TORONTO, Ontario
M5X 1G5

Clifton P. Prophet / Frank Lamie
LSUC No.: 34345K / 54035S

Telephone: (416) 862-3509 / (416) 862-3609
Facsimile: (416) 862-7661

**SOLICITORS FOR THE APPLICANT,
NELSON FINANCIAL GROUP LTD.**