

**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.**

APPLICANT

**SECOND REPORT OF DOUGLAS TURNER, Q.C.,
REPRESENTATIVE COUNSEL FOR NOTEHOLDERS
NOVEMBER 15, 2010**

1. INTRODUCTION

- 1.1 The first report of Representative Counsel was dated November 3, 2010. Significant changes have happened in the short span of time necessitating this Second Report to the Court.
- 1.2 Representative Counsel commenced in September of 2010 negotiations for the voluntary stepping aside of Marc Boutet from management, his resignations as an officer and director, and the surrender for cancellation of all of his common shares in Nelson Financial Group Ltd. ("Nelson Financial"). Representative Counsel was conscious of the costs of extensive court proceedings if there were no voluntary departure. These negotiations culminated in the Heads of Agreement which is exhibit 1 to the first report of Representative Counsel dated November 3, 2010.
- 1.3 Marc Boutet then required that he settle any allegations of the OSC against him before he would execute the Heads of Agreement.
- 1.4 The Ontario Securities Commission staff on November 10, 2010 amended their Statement of Allegations with respect to Marc Boutet. These amendments have been posted. The amendments (to sections 1, 2, 3, D, 36, 39 and 40) add allegations of misrepresentation, fraud and conduct abusive to the integrity of the capital markets and contrary to the public interest against Marc Boutet and others.
- 1.5 While the OSC is charged with the protection of all of Nelson's security holders (including the preference shareholders) Representative Counsel has been advised that

OSC staff supports the removal of Marc Boutet. Representative Counsel continues to work with OSC staff counsel to protect and advance the Noteholders' interests, and continues to receive the support of OSC counsel. In addition, while the original allegations name Nelson Financial as a party, Representative Counsel believes that the OSC fully supports the reorganization of Nelson under the CCAA, and that any reorganization will include the deletion of Nelson Financial as a party.

2. PROPOSED CHANGES IN MANAGEMENT PROPOSAL

- 2.1 After prolonged negotiations during most of October among the Representative Counsel, the Monitor and counsel for Mr. Boutet, heads of agreement were drafted by the Representative Counsel which were believed to be acceptable to all. That document is found as Exhibit 1 to the Representative Counsel's First Report dated November 3, 2010 and filed with the Court. Those were not executed by Mr. Boutet as he insisted that a settlement of the OSC proceedings was a pre-condition.
- 2.2 After further discussions with the Monitor and counsel for Mr. Boutet and the commencement of the Representative Counsel's motion seeking the removal of Mr. Boutet by the Court, Marc Boutet on November 12, 2010 executed an amended Heads of Agreement. for the removal of existing management through the voluntary stepping aside of Marc Boutet. A copy of the final Heads of Agreement executed by Mr. Boutet and approved by the Representative Counsel and the Monitor, subject to approval of the Court, is attached as Exhibit 1 to this Report. This agreement is conditional on Court approval.
- 2.3 Marc Boutet indicated that he would not execute the original Heads of Agreement without some provision for the continuing payment of his costs of the defence of the OSC proceedings.
- 2.4 Representative Counsel and the Monitor had to consider the effect of the by-laws of Nelson which purported to require the company to pay any legal defence costs of Marc Boutet. This by-law is section 6.2 of the company's by-laws and is referred to in the third report of the Monitor dated June 11, 2010 at paragraphs 57 and 63, where the Monitor recommended that the company continue to pay these legal expenses of Marc Boutet. Representative Counsel and Special Counsel had grave concerns about the obligations of the company under this part of the by-law, and these concerns were underlined by the change in OSC allegations now including fraud and misrepresentation by Marc Boutet.
- 2.5 There was also a concern about the fact that Marc Boutet could argue that the claims against the company for his legal costs were open ended and could even be expanded to include subsequent appeals should Marc Boutet not be successful during the first hearing.
- 2.6 The Securities Commission had set a date for the hearing against Marc Boutet for two weeks, beginning February of 2011, and this meant that the company could be liable for the costs of Boutet for not only a senior lawyer and a junior, but also for preparation time

which could be up to a week or more, and that this possible further financial drain could be a drag on the company's reorganization.

- 2.7 After agonizing review of the costs by the Representative Counsel, his Special Counsel and consultations with the noteholders' committee, the committee's unanimous - although extremely reluctant - conclusion was that the risk of the company continuing without proper management, the costs, the necessary delay of Court proceedings of obtaining and enforcing any removal order, meant that the noteholders had no choice but to consent to the amendment. The Representative Counsel so advised the Monitor, who also agreed.
- 2.8 Accordingly, the parties agreed to add clause 8 to the Heads of Agreement. The parties agreed that Representative Counsel would bring a motion for approval of the amended Heads of Agreement.
- 2.9 Because of the urgent need to proceed with the plan of reorganization, to avoid the hiatus period from the time of the execution of the agreement (which finally took place on November 11) an additional clause was added to section 1 of the Heads of Agreement to provide for the interim period until the Court has properly reviewed and heard from any other affected parties. The amendment permits Ms. Townsend immediate access to the company premises and records commencing Monday, November 15, 2010.
- 2.10 Representative Counsel applied to the Court on an urgent basis, and on November 12 the Court
 - (a) set the date of November 22 for the hearing of the motion of Representative Counsel for a hearing of the motion to remove Marc Boutet and other interim orders that counsel agree need to be brought before the Court, all of which are set out in Representative Counsel's amended motion dated November 12 and posted on the Monitor's web site and filed in Court;
 - (b) directed that the preference share claimants as well as the other interested parties be served with the Notice of Motion (which has been posted on the Monitor's web site and is being filed with the Court under the Rules).
- 2.11 As directed by the Court, all parties were served with Representative Counsel's amended Motion.

3 INTERIM OPERATING OFFICER

- 3.1 If approved by the Court on November 22, Sherry Townsend by virtue of Exhibit 1 becomes the Interim Operating Officer of Nelson Financial Group Ltd.
- 3.2 Representative Counsel has worked continuously with the noteholders' committee members, and in particular with Ms. Townsend, who, in addition to being a substantial noteholder (in the amount of \$892,000.00) is an experienced business person who has

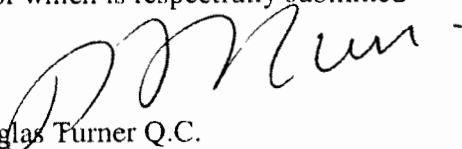
started and run her own business over the last seventeen years. The business has a staff of forty and income in excess of seven million dollars annually. In addition, she has arranged for the retaining of experts in the financial world of consumer lending as described below.

- 3.3 Included in Ms. Townsend's duties will be the retaining and supervision of consultants with consumer lending experience to analyze Nelson. Ms Townsend's CV, the consultants' mandate and their qualifications are in exhibit 2. Representative Counsel is confident that the consultants are necessary for the analysis of the business of Nelson, particularly because of the unfortunate (but unduly lengthy in the view of Representative Counsel) holding pattern that the company has been in since March 22, 2010.
- 3.4 The Monitor has also spent appropriate time reviewing the proposed new management and consultant analysis, and Representative Counsel is advised that Ms. Townsend and the consultants will have the full support of the Monitor.
- 3.5 Ms. Townsend has been working with the Monitor for the past weeks and Representative Counsel is satisfied that they have and are in the process of working out the details of the duties of the Interim Operating Officer, including the increased responsibility of Ms. Townsend if the Court approves the Heads of Agreement.

CONCLUSION

For the above reasons, it is the recommendation of Representative Counsel and Special Counsel that the Court approve the Heads of Agreement executed by Marc Boutet on November 12, 2010 and appoint Ms. Sherry Townsend as Interim Operating Officer of Nelson Financial.

All of which is respectfully submitted


Douglas Turner Q.C.

November 15, 2010

**EXHIBIT 1 to Report of Representative Counsel to Court
November 15, 2010**

Heads of Agreement

In connection with the insolvency of Nelson Financial Group Ltd. ("Nelson Financial") and the efforts to restructure it or its assets and undertaking in order to maximize the recoveries of its creditors, Douglas Turner Q.C., in his capacity as Court-appointed representative counsel for the Noteholders of Nelson Financial (the "Representative Counsel"), appointed by the Court in the proceeding of Nelson Financial under the *Companies' Creditors Arrangement Act* (the "CCAA") has been advised by Noteholders holding more than half of the claims by value that they will not support the plan of arrangement proposed by incumbent management. The Representative Counsel has determined that for this and other reasons, a change of management of Nelson Financial is likely to enhance the possibility of a restructuring of Nelson Financial.

Marc Boutet ("Boutet") holds all of the voting shares of Nelson Financial and is its sole director and corporate officer. Boutet is the sole officer, director and beneficial shareholder of Nelson Mortgage Group Inc. ("Nelson Mortgage"). In each of those several capacities and in his personal capacity, he agrees with the Monitor and with the Representative Counsel to take or support, as the context may require, the following steps for the purpose of replacing the incumbent management control of Nelson Financial:

1. As the sole director of Nelson, Mr. Boutet will forthwith approve a resolution satisfactory to the Representative Counsel and to the Monitor appointing Ms. Sherry Townsend as the Interim Operating Officer of Nelson, delegating to her the authority to manage the business and assets of Nelson Financial on such other terms as she or other stakeholders (or any of them) may propose and which are then recommended by the Monitor and approved by the Court. Ms. Townsend shall be provided full access to the premises and records of Nelson Financial immediately but shall assume neither responsibility nor authority with respect to its operations and assets until the Court approves these arrangements and her appointment on terms and conditions satisfactory to her.
2. On the date upon which the Court authorizes Nelson Financial to perform these arrangements and approves the appointment of the Interim Operating Officer (the "Effective Date"), Boutet shall tender to Nelson Financial for cancellation all of the shares in its common stock held by him or entities associated with him. As its sole director, Boutet shall approve and consent to a resolution accepting such surrender and cancellation. Immediately thereafter, Boutet shall resign as a director, officer and employee of Nelson Financial.
3. Boutet and any corporation associated with him, including without limitation Nelson Investment Group Ltd. and Nelson Mortgage, will surrender and release

all of their claims against Nelson Financial, including all Claims under the Claims Procedure Order, provided that the foregoing release shall not apply to or compromise in any way the rights of:

(a) Paladin Holdings under existing lease arrangements for the office premises of Nelson Financial; or,

(b) Boutet in relation only to wages due to him (on existing terms) up to the Effective Date.

4. Nelson Financial shall agree to propose, or to support if proposed by a creditor or other person, a plan of compromise or arrangement in respect of Nelson Financial which includes a release of such claims by any person against Boutet in his capacity as a director of Nelson Financial as can be compromised pursuant to s. 5.1(1) and (2) of the CCAA..

5. (a) The employment of Stephanie Lockman Sobol ("Sobol") shall be continued by Nelson Financial following the Effective Date (defined below) (the "Temporary Employment") for a period of 6 months (the "Temporary Employment Term") on the basis that the Temporary Employment Term shall constitute working notice. The Temporary Employment shall be on substantially identical terms and conditions to those currently in place, except that she shall report to and be subject to the direction of the Interim Operating Officer. In the event that Sobol's services are terminated by Nelson Financial before the expiry of the Temporary Employment Term, she shall be entitled to pay in lieu of notice equal to that which she would have earned during any remaining period of the Temporary Employment Term. If she should be required to perform for five months of the Temporary Employment Term, she shall thereupon be granted a bonus of two months salary.

(b) Nelson Financial will provide a full and final general release in favour of Sobol of any claims which the Monitor and the Representative Counsel have knowledge of and are referred to in the reports of the Monitor in the CCAA proceeding up to the date hereof.

6. Nelson Financial will provide a full and final general release in favour of Boutet and Nelson Mortgage of any and all claims which Nelson Financial may have against either of them, including without limitation any claims that could be asserted under section 130 of the *Business Corporations Act* (Ontario) in respect of Boutet's acts as a director to approve or consent to the payment of any dividends or the redemption of any preferred shares of Nelson Financial.

7. Subject to the approval and direction of the Court in the CCAA proceeding of Nelson Financial, the Monitor and the Representative Counsel shall advise the Ontario Securities Commission that the steps taken by Boutet in the matters dealt with herein, in their opinion, constitute a material contribution to the unsecured

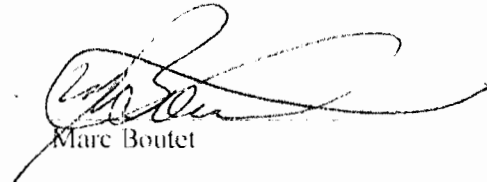
creditors and the Noteholders of Nelson Financial and that they do not object to a settlement substantially on the terms outlined in the proposal presented by Boutet to them on October 18, 2010.

8. Nelson Financial shall pay the sum of \$90,000 (the "Payment") to Gowling Lafleur Henderson, LLP ("Gowlings"), in trust to be applied to reimburse or pay legal costs and expenses incurred by Boutet and Sobol after the Effective Date in relation to the proceedings commenced against Boutet and Sobol and others by the Ontario Securities Commission (the "Proceedings"), in full satisfaction of any obligations pursuant to section 6.2 of the General By-Law of Nelson Financial. In the event that the Proceedings are fully and finally resolved in relation to Boutet and Sobol and any amount of the Payment remains unspent after payment of all amounts due to Gowlings in respect of the Proceedings, Gowlings shall return the said amount to Nelson Financial. Upon request, Gowlings shall provide Nelson Financial with copies of its invoices in relation to the Proceedings, redacted for privileged information.

The foregoing heads of agreement are subject to and conditional upon the approval of the Court in the CCAA proceeding of Nelson Financial. The Representative Counsel will bring a motion seeking such approval and the approval and appointment of the Interim Operating Officer by November 18, 2010 to be heard as soon as the Court will schedule the same. If such Court approval shall be refused or not granted for any reason by November 30, 2010, these heads of agreement shall be null and void and of no effect.

Toronto, Ontario

November 11, 2010



Marc Boutet

The Representative Counsel will make and the Monitor will support an application to the Court for the approval by the Court of Nelson Financial and Marc Boutet entering into and implementing the arrangements set out above, including the agreements and releases between Nelson Financial and each of Marc Boutet and Stephanie Lockman Sobol, and each of the Monitor and the Representative Counsel will recommend such approval by way of Reports to be filed with the Court.

Toronto, Ontario
~~October 29, 2010~~


November 12, 2010

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A. John Page & Associates Inc., in its capacity as Monitor of Nelson Financial Group Ltd.

Per: 

A. John Page


Douglas Turner, Q.C., in his capacity as Representative Counsel appointed by the Court

**Exhibit 2 to Report of Representative Counsel to Court
November 15, 2010**

SHERRY TOWNSEND

PROFILE

A high-calibre executive with a focus on operational management, process improvement and team leadership. An energetic team leader able to communicate effectively with people of all ages and backgrounds working collaboratively to resolve issues and to motivate team members to achieve personal and organizational objectives. Able to identify and implement successful process improvements that increase accuracy, consistency and efficiency through analysis and attention to detail.

BUSINESS EXPERIENCE

BUSINESS
1992 - present
OWNER

PROMOTIONAL PRINT AND PACKAGING INC., Scarborough

Responsibilities:

- Oversees management of entire business including daily operations, monitoring cash flow, budget and overhead, and performs safety and compliance checks
- Provides leadership and strategic vision to guide all aspects of the business
- Conducts strategic planning to manage business growth and maintenance
- Manages 50 employees on a daily basis
- Liaises with management on production meetings
- Develops and nurtures business relationships with clients
- Manages clients on a day to day basis
- Negotiates company contracts with clients

Accomplishments:

- Built the business from the ground up to \$8 million in annual sales
- Expanded the business from packaging and printing by developing and integrating promotions and fulfillment house capability, thereby creating a one stop shop for clients
- Employ and manage 50 employees
- Fostered a positive work environment achieving a high employee retention rate
- Boasts top tier list of clients
- Selected as a preferred supplier to manage warehouse management system for a client's retail products and packaging

- Achieved several million dollars in cost savings for a client through effective cost management and negotiation
- Developed and implemented stringent, high quality packaging standards
- Awarded and recognized by a client for achieving 100% accuracy in our business output
- Developed and implemented promotional activities which achieved 35% increase in sales

BUSINESS

COMMERCIAL HAND LABOUR, Scarborough
1983-1992

OWNER

Responsibilities:

- Management of general business day to day operations
- Supervising and training employees
- Development of customer relationships

Accomplishments:

- Launched new packaging company in 1983
- Achieved \$1.5 million sales volume in 2 years
- Expanded the business to include printing in 1988
- Secured top tier clients

HEAD CASHIER

DOMINION STORES LTD, Scarborough
1973-1983

Responsibilities:

- Forecast planning
- Customer care
- Inventory control
- Staff recruitment
- Staff training

Accomplishments:

- Promoted to head cashier at 21 years of age

EDUCATION

INTERIOR

SENECA COLLEGE, Toronto
1985-1986

DESIGN

OTHER
ACCOMPLISHMENTS

- Raised \$282K for breast cancer through fundraising efforts

OTHER SKILLS

- Proficient in Microsoft Office, Word, Excel, PowerPoint, Outlook, Warehouse Management systems

IAN TOWNSEND

[REDACTED]

[REDACTED]

[REDACTED]

PROFESSIONAL EXPERIENCE:

AVANZARE INC.

CEO/Principal

Avanzare Inc. is a consulting agency whose mission is to help clients build high-performance organizations that drive breakthrough results. We do this by developing and linking Business Strategy, Business Design and Business Process. The agency has developed and utilizes proprietary processes for strategy, process design and organizational development. Avanzare maintains a tier client roster with a primary sector focus in Financial Services. Other industries include Retail, Pharma, Telecom, Packaged Goods, CRM/Loyalty, E-Commerce, Sports Marketing and Non-Profits

GOLDEN BOOKS

Executive Vice-President, Sales & Marketing

FAMILY ENTERTAINMENT

- responsible for all USA Sales & Marketing, Canadian subsidiary
- \$500MM in annual sales

UNILEVER

Director of Sales, Lipton USA

- directed account teams for major food wholesale customers
- \$750MM in annual sales

Regional Sales Director, Lipton Canada

- responsible for Ontario and Atlantic Canada
- \$200MM in annual sales

Supply Chain Reengineering Director, Lipton Canada

Customer Marketing Director, Lipton Canada (1992-4)

CANADA TRUST

Marketing Officer

EDUCATION

Bachelor of Commerce, McMaster University, 1985
Certified Management Consultant (CMC)



NELSON FINANCIAL GROUP LTD. ("Nelson")

CONSULTING PROJECT TERMS OF REFERENCE

November 11, 2010

Background

On March 23, 2010 Nelson filed for protection under the CCAA. A. John Page & Associates Inc. was named as Monitor.

In May/June 2010 the Monitor completed a viability review, a loan portfolio review and a liquidation analysis with respect to Nelson based upon its historical business activity and its loan portfolio as at March 31, 2010.

These reviews contained a number of assumptions and raised a number of questions about Nelson's business and prospects that were beyond the scope of the review undertaken by the Monitor to validate or address at that time.

Since March 2010 there have been a number of changes to Nelson's business. In particular, Nelson's lending has dropped significantly and is of a shorter term nature than in the past. Nelson has made some changes to its business practices to address issues raised by the Monitor relating to its collection and bad debt reserve practices.

It seems that Nelson is about to change its senior management.

The new senior management, in consultation with the Monitor, would like Avanzare Inc., building on the work done by the Monitor, to further and more extensively evaluate Nelson's strategic options ie:

- Ongoing concern
- Sale
- Dissolution

as well as its business practices.

Avanzare Inc. Initial Observations and Understanding

- Sub-prime market crash coupled with poor operating practice has been the primary driver of company insolvency
 - The Risk function in particular is the root cause of most problems
 - Risk function includes the following processes:
 - Customer adjudication/scoring
 - Credit line assignment
 - Pricing
 - Customer behaviour monitoring
 - Fraud
 - Collections
 - Bad debt
 - Overall portfolio monitoring
 - Compliance
- Poor capital raising and cash management practices have exacerbated the problem
- Some partners and vendor clients have abandoned Nelson due to its insolvency putting a further strain on resources
- The investors appear willing to keep capital in the business by restructuring debt if they see, by way of an assessment and a viable go-forward business plan, a way to recoup more of their money than through alternatives

Objective of the Project

The objectives of the consulting project are to:

- i. evaluate the viability of Nelson as an ongoing concern under the new management team
- ii. provide an opinion on other strategic options (sale, dissolution)
- iii. provide recommendations and oversee implementation of Risk function remedial actions if deemed strategically appropriate (pursuant to findings of i. and ii.)

Staffing

This project will be undertaken primarily by:

- Mr. Ian Townsend
 - Project Leader
 - 25% of time
 - CV attached
- Other partner contributors
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - 75% of time overall
 - specific individual to be assigned according to needs as they are identified
 - CVs attached

Project Scope & Deliverable

1. Evaluate:
 - current portfolio quality
 - overall Company operations

2. Recommend:
 - as an ongoing concern:
 - business strategy
 - required operational fixes
 - other strategic options
 - sale
 - likelihood of potential buyers
 - opinion on range of value for the book
 - Dissolution

3. Risk function-specific:
 - Problem assessment
 - Recommend remedial action
 - Estimate write-offs
 - Recommend bad debt action plan
 - Initial oversight of fixes and technology install

Project Structure, Timing & Budget Estimate

Phase 1:

- 1 & 2 from above (Evaluate, Recommend)
- Activity includes:
 - Reviews of existing reports, documentation
 - Subject-specific information requests made by consultants and prepared by staff
 - Staff interviews
 - Site visit
- Project to be completed no later four weeks after installation of the IOO (Interim Operating Officer)
- Cost of \$14,000 (7 days @ \$2,000/day) plus taxes and expenses

Phase 2:

To be commenced only after approval has been given to commence this phase by the IOO and the Monitor

- 3 from above (Risk function)
- Commences only after completion of Phase 1, completed no later than ten weeks after completion of Phase 1
- Cost of approximately \$61,000 (consulting fees of \$26,000 representing 16 days @ \$1,600/day + estimated software cost of \$35,000) plus taxes and expenses

Key Contacts

- Project Owner – Ms. Sherry Townsend (IOO)
- Monitor – Mr. John Page

Approvals:

On Behalf of Nelson:

On Behalf of Avanzare Inc.

Name: _____

Mr. Ian Townsend

Title: _____

CEO

Date: _____

Date: _____

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")

Court File No.: 10-8630-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

**SECOND REPORT OF DOUGLAS TURNER,
Q.C., REPRESENTATIVE COUNSEL FOR
NOTEHOLDERS - NOVEMBER 15, 2010**

**Douglas Turner Q.C. as Representative Counsel
for the Noteholders of Nelson Financial Group
Ltd.**
Barrister & Solicitor
63 Albert Street
P.O. Box
Uxbridge, Ontario
L9P 1E5

Tel: (905) 852-6196
Fax: (905) 852-6197
Email: doug@pdturner.com