



ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MADAM)

FRIDAY, THE 27TH DAY

)

JUSTICE PEPALL)

OF AUGUST, 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.

APPLICANT

ORDER

THIS MOTION made by A. John Page & Associates Inc., in its capacity as the Court-appointed monitor of the Applicant (the "**Monitor**"), for the relief set out in its Notice of Motion dated August 23, 2010 (the "**Notice of Motion**") was heard this day at 330 University Avenue, Toronto, Ontario.

UPON READING the Monitor's Sixth Report to the Court dated August 23, 2010 and upon hearing from counsel for the Monitor, counsel for the Applicant, counsel for Staff of the Ontario Securities Commission, counsel for Douglas Turner Q.C. in his capacity as Court-appointed Representative Counsel for the holders of promissory notes issued by the Applicant (the "**Representative Counsel**"), counsel for Foscarini Mackie Holdings Inc. and Glen and Lisa

Mackie, no one else appearing although duly served as appears from the Affidavit of Service filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Sixth Report is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.

THE PREFERRED SHAREHOLDER MOTION

2. **THIS COURT ORDERS** that the Representative Counsel is authorized and directed to make a motion to this Court at 10:00 a.m. on September [✓]27[✓], 2010 for an Order that all claims and potential claims of the holders of preferred shares of the Applicant (the **“Preferred Shareholders”**) relating directly or indirectly to the ownership, purchase or sale of such preferred shares are “equity claims” within the meaning of the *Companies’ Creditors Arrangement Act* (Canada) and that the Preferred Shareholders are to constitute a separate class in any plan of arrangement, are not entitled to vote at any meeting of creditors and that such claims shall not participate in any distribution by the Applicant to its creditors pursuant to any plan of compromise or arrangement in this proceeding until all creditors of the Applicant have been paid in full (the **“Preferred Shareholder Motion”**).

3. **THIS COURT ORDERS** that the Representative Counsel shall serve its motion record in respect of the Preferred Shareholder Motion by no later than September 2, 2010 and that the Monitor shall post such motion record on the Monitor’s website.

4. **THIS COURT ORDERS** that the Order of this Court made June 15, 2010 in this proceeding (the “**Representative Counsel Appointment Order**”) be and the same is hereby amended and varied to include the bringing and prosecution of the Preferred Shareholder Motion and any related motions or appeals that may arise therefrom within the scope of the Mandate of the Representative Counsel.

5. **THIS COURT ORDERS** that the costs and disbursements of the Representative Counsel incurred in preparing and prosecuting the Preferred Shareholder Motion shall be subject to review and reasonable approval by the Monitor without waiver of any privilege by the Representative Counsel, shall thereupon be reimbursed and paid by the Applicant and shall not be subject to the terms and limitations of paragraph 6 of the Representative Counsel Appointment Order.

6. **THIS COURT ORDERS** that the Monitor shall serve the Preferred Shareholders with notice of the Preferred Shareholder Motion by sending a letter to each of the Preferred Shareholders (the “**Preferred Shareholder Letter**”), by ordinary prepaid mail to the Preferred Shareholder’s last known address based on the books and records of the Applicant by no later than September 3, 2010, enclosing a copy of the Representative Counsel’s Notice of Motion in respect of the Preferred Shareholder Motion, and advising the Preferred Shareholders as follows:

- (a) the Monitor has obtained an opinion from the Monitor’s Independent Counsel (the “**Opinion**”) and setting out the conclusions contained therein;
- (b) the Representative Counsel will make the Preferred Shareholder Motion to this Court at 10:00 a.m. on the date set forth in paragraph 2 above. The Monitor shall

advise that a copy of the complete motion record is available on the Monitor's website;

(c) the Monitor agrees with the conclusions of the Independent Counsel set out in the Opinion and will file a report in support of the Preferred Shareholder Motion;

(d) pursuant to the Order of the Honourable Madam Justice Pepall dated July 7, 2010, the Opinion does not constitute issue estoppel or *res judicata* with respect to any matters of fact or law referred to in the Opinion.

(e) if the Preferred Shareholder wishes to oppose the Preferred Shareholder Motion and assert that it is entitled to rank equally with the Applicant's creditors, it is free to do so; and

(f) the Monitor recommends that, if the Preferred Shareholder wishes to oppose the Preferred Shareholder Motion and assert that it is entitled to rank equally with the Applicant's creditors, that the Preferred Shareholder should obtain legal advice and retain legal counsel to represent it.

SNP

but seeing + filing materials on or before Sept 17, 2010

SNP

7. **THIS COURT ORDERS** that Monitor shall publish a notice to the Preferred Shareholders once in each of the Globe & Mail and the Toronto Star by no later than September 7, 2010.

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DISCLOSURE OF OPINION

8. **THIS COURT ORDERS** that, in connection with the Preferred Shareholder Motion, the Monitor shall post a copy of the Opinion on its website and report to the stakeholders and this Court on the conclusions of the Opinion.

9. **THIS COURT ORDERS** that the Monitor's disclosure of the Opinion shall not constitute a waiver of the solicitor-client privilege of the Monitor with respect to any matters pertaining to the Opinion.

10. **THIS COURT ORDERS** that the Opinion shall not constitute evidence and the legal conclusions contained in any Monitor's report and the Preferred Shareholder Letter shall not constitute expert opinion evidence in this proceeding, or any subsequent proceeding, and the Monitor, its counsel and its Independent Counsel shall not be cross-examined on these documents or any of them.

11. **THIS COURT ORDERS** that the Monitor is hereby authorized, *nunc pro tunc*, to redact the Opinion attached as Exhibit "D" to the version of the Sixth Report served upon any party other than this Court.

MONITORS ACTIVITIES

12. **THIS COURT ORDERS** that the Sixth Report and the conduct and activities of the Monitor described therein be and are hereby approved.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

AUG 27 2010

PER / PAR:

MB

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Court File No.: 10-8630-00CL

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

Proceedings commenced at **Toronto**

ORDER

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