

Superior Court of Justice
Commercial List

FILE/DIRECTION/ORDER

Re Nelson Financial Group Ltd.
Plaintiff(s)

AND

Defendant(s)

Case Management Yes No by Judge: Repeal

Counsel	Telephone No.:	Facsimile No.:
<u>See attached</u>		

- Order Direction for Registrar (No formal order need be taken out)
- Above action transferred to the Commercial List at Toronto (No formal order need be taken out)
- Adjourned to: _____
- Time Table approved (as follows): _____

The Applicant seeks approval of the settlement agreement between the Applicant + Hendicare; the appointment of its counsel for the noteholders; a stay extension to July 30, 2010; approval of the Monitor's Third Report.

Really, putting with the Hendicare agreement, the Applicant asserted that \$670,942.00 was due to it by Hendicare as a result of some contract cancellations, commissions improperly taken by Hendicare, + recourse contracts in pd. Subject to court approval, the parties have now agreed that Hendicare would pay the Applicant \$158,182.32 in satisfaction of those claims plus certain other amounts until Dec 31, 2010. Additionally, the Applicant may now solicit financing opportunities from

June 15, 2010
Date

St. Peal, J
Judge's Signature

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Judges Endorsement Continued

one of hindcare's customers (See para 3.1 of Amendment + Termination Agreement). Under the terms of the settlement, the Business Protection Agreement dated Aug 20, 2007, the Agreement regarding Future Financing dated Dec 6, 2007 + the Amending Agreement dated Dec 21, 2009 between the parties are terminated + releases are exchanged.

In my view this is a fair + reasonable settlement agreement + should be approved. It is supported by the monitor + no one opposes the request for approval. (The schedules to the agreement have been returned, to counsel for hindcare, telephonically based).

As to the stay extension request, the Applicant has modified its objections with respect to the Plan particularly given the absence of external financing + the arrangements with hindcare. The monitor continues to be of the view that there is a reasonable prospect of a successful restructuring albeit a scaled down business. There is also support for a restructuring from certain stakeholders + again no one opposes the request for a stay extension. There are adequate funds available for the proposed stay extension period. The Applicant is proceeding with due diligence. The monitor is of the view that the Applicant is acting in good faith.

I am prepared to accept the monitor's opinion for the purposes of the stay extension + am satisfied that the extension is appropriate in light of the circumstances + the position of

this document is not to be used for any other purpose

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Judges Endorsement Continued

These Other Stakeholders also are represented.

As to the request for the appointment of aip counsel for the noteholders, I am of the view that it is desirable for them to have aip counsel as contemplated. They would then have a collective voice which would benefit the restructuring + the interests of the Applicant + its Stakeholders. That said, in considering the selection of aip counsel, the court may consider a variety of factors including the expertise required for the retainer.

In this case, Mr Turner is very experienced counsel having been called to the bar in 1967 + apparently has extensive experience in this litigation + corporate law. He also practices in Vaughan upon where many of the noteholders reside. All of this is highly advantageous in the factual context of this case. That said, it is important that aip counsel in a CAA proceeding have some CAA experience. In the circumstances, Mr Turner had already contacted Mr. Richard Jones, experienced CAA counsel, to serve as special counsel. As such, on the terms set forth in the proposed order, I am satisfied with the proposed aip counsel arrangements.

The Third Report of the Monitor is also approved.

Nelson Financial Group Ltd.

Unofficial Transcription of the Endorsement of Madam Justice Pepall

June 15, 2010

The Applicant seeks approval of the settlement agreement between the Applicant and Lendcare, the appointment of rep counsel for the noteholders, a stay extension to July 30, 2010, and approval of the Monitor's Third Report.

Dealing firstly with the Lendcare agreement, the Applicant asserted that \$270,942.08 was owing to it by Lendcare as a result of some contract cancellations, commissions improperly taken by Lendcare, and recourse contracts in PQ. Subject to court approval, the parties have now agreed that Lendcare would pay the Applicant \$158,182.32 in satisfaction of those claims plus certain sundry amounts until Dec 31, 2010. Additionally, the Applicant may now select financing opportunities from one of Lendcare's customers (see paragraph 3.1 of Amendment and Termination Agreement). Under the terms of the settlement, the Business Protection Amendment dated Aug 20, 2007, the Amendment regarding Future Financings dated Dec 6, 2007 and the Amending Agreement dated Dec 21, 2009 between the parties are terminated and releases are exchanged.

In my view this is a fair and reasonable settlement agreement and should be approved. It is supported by the Monitor and no one opposes the request for approval. (The schedules to the agreement have been returned to the counsel for Lendcare, on the relevancy being based on the amounts in total and not the individual identities.)

As to the stay extension request, the Applicant has modified its intentions with respect to the Plan particularly given the absence of external financing and the arrangements with Lendcare. The Monitor continues to be of the view that there is a reasonable prospect of a successful restructuring albeit of a scaled down business. There is also support for a restructuring from certain stakeholders and again no one is opposed the request for a stay extension. There are adequate funds available for the proposed stay extension period. The Applicant is proceeding with due diligence. The monitor is of the view that the Applicant is acting in good faith.

I am prepared to accept the Monitor's opinion for the purposes of the stay extension and am satisfied that the extension is appropriate in light of the circumstances and the position of these other stakeholders who are unrepresented.

As to the request for the appointment of rep counsel for the noteholders, I am of the view that it is desirable for them to have rep counsel as contemplated. They would then have a collective voice which would benefit the restructuring and the interests of the Applicant and its stakeholders. That said, in considering the selection of rep counsel, the court may consider a variety of factors including the expertise required for the retainer.

In this case, Mr. Turner is very experienced counsel having been called to the bar in 1967 and apparently has extensive experience in tax litigation and corporate law. He also

practices in Durham Region where many of the noteholders reside. All of this is highly advantageous in the factual matrix of this case. That said, it is important that rep counsel in a CCAA proceeding have some CCAA experience. In the circumstances, Mr. Turner had already contacted Mr. Richard Jones, experienced CCAA counsel, to serve as special counsel. As such, on the terms set forth in the proposed order, I am satisfied with the proposed rep counsel arrangements.

The Third Report of the Monitor is also Approved.

Madam Justice Pepall

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