

**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

**AFFIDAVIT OF BRENDA BISSELL**

I, BRENDA BISSELL, of the City of Waterloo, in the Province of Ontario, MAKE AN OATH AND SAY AS FOLLOWS:

1. I am the daughter and Power of Attorney of Gloria Bissell, who holds promissory notes of Nelson Financial Group Ltd. ("Nelson") in her own name and also in her capacity as the owner of Globis Administrators and as such I have knowledge of the matters to which I hereinafter depose. To the extent that anything in this affidavit is based on information and belief, I verily believe same to be true.

**MY FATHER'S INVESTMENT AND AILING HEALTH FROM MARCH-AUGUST 2010**

2. My dad originally purchased the investment in Nelson several years ago. While operating his successful car dealership and into his retirement he became involved in making investments. Both of my parents grew up in the Depression era and as such developed an independent existence. They worked and managed everything for themselves without requiring any intervention from my sister or me.
3. As my dad's health began to fail, my sister convinced my parents to move to Dundas, Ontario so that they could be closer to her. Shortly after they moved to Dundas, my dad was diagnosed with Alzheimer's Disease and his mobility began

to decline and he was unable to leave the house without my sister's help. The diagnosis showed that my dad had been suffering from the effects of Alzheimer's Disease for about 3 years. While he still recognized everyone, his cognitive abilities were slipping; after he died my mom told my sister that my dad had lost his ability to read in 2010.

4. Notwithstanding his ailing health, my mom was still trying to let my dad take the lead in financial affairs. As they had relocated, they did not have the professional support of a lawyer; their long-time accountant was located in Toronto. Due to their independence they did not come to my sister and me for assistance.
5. My father passed away suddenly in August 2010. My mother came to us in August and told my sister and me that our father had invested 1.1 million dollars in Nelson; she required our assistance with her banking and investments which included these proceedings and the Nelson claims process.
6. My mom did not understand what was happening to Nelson and because of my dad's health they did not attend the July meeting of Noteholders held on July 21, 2010.

#### **UNDERSTANDING OF PROCEEDINGS AS OF FALL OF 2010**

7. While mourning my father's death and taking the immediate steps necessary after my father's death to manage his estate, I could begin focusing more particularly on the complicated aspects of his estate and completing the changes of address forms that had not been completed while my mother was caring for my dad. I knew that we would require more information on my dad's affairs before we could make any decisions regarding his estate.
8. In early late summer, our long-time family accountant drove in from out of town to review the status of Nelson's CCAA proceedings and determined that we did not

need to take any action to file for a Proven Claim – Nelson acknowledged the debt at 1.1 million dollars.

9. I continued to work to understand the state of Nelson's affairs and the CCAA proceedings. I reviewed the Monitor's website and became overwhelmed with sheer volume of information on it by the Fall of 2010. Generally, I believe I reviewed some of the Reports of the Monitor, various Court Orders by Justice Pepall, the Motion Record of Representative Counsel for the Noteholders, and the Affidavit of Clifford Styles.
  
10. After reviewing the information on the website I understood the following:
  - There was a Committee established for the Noteholders in Nelson who were working in the best interests of all of the Noteholders;
  - The Noteholder Committee had a lawyer, Mr. Douglas Turner who was working to further the Noteholder Committee's interests (the "Representative Counsel");
  - There was a Monitor, who was a Chartered Accountant, that assigned to Nelson who would work with Nelson and the Noteholders to present the best alternatives and options for the Noteholders and Nelson;
  - Nelson could continue operating as a going concern and my mother could maintain her investment with Nelson (the "Going-Concern Option");
  - The Noteholders had the option of 'cashing in' their notes and receiving 25 cents on the dollar (the "Cash-Out Option"); I was under the impression that the Cash-Out Option represented the full value of Nelson; and,
  - The one of the biggest creditors was Mr. Clifford Styles, who was a preferred shareholder, and had about 4.6 million dollars invested with Nelson.

11. Based on the information available to me, I assumed that other Noteholders had more money invested in Nelson and that the Noteholder Committee work diligently to protect take my mother and the other Noteholders' investments as much as possible.
12. I assumed that the Monitor and Representative Counsel were working in harmony to protect the interests of all the Noteholders, and I assumed that the four people on the Noteholders Committee had the same interests and goals as my mother.
13. As such, I trusted the Noteholder's Committee to work with the Monitor and to make decisions which were in my mom's best interested and I focused my attention on sorting out my dad's complicated estate.

#### **MORE INFORMATION OBTAINED REGARDING THE STATUS OF NELSON**

##### **a) Initial Conversation with Ms. Tina Young and Resignation of Marc Boutet**

14. In or about early to mid October 2010, I received a call from Tina Young who was one of the four members of the Noteholder Committee. It was during this telephone call that I came to be informed that there was some discord between the various people working to move Nelson through the CCAA process, namely, the Monitor, Mr. Marc Boutet who was the officer of Nelson, and the Noteholder Committee.
15. During our call, Ms. Young advised me that the Noteholder Committee had been formed because there were a number of Noteholders who were concerned about the status of Nelson. She also advised that the Noteholder Committee was trying to gain support from the other Noteholders to remove Mr. Boutet from his managerial role of Nelson.

16. After my conversation with Ms. Young, she put my email address on the list to receive emails from the Noteholder Committee and so I became more engaged in the process.
17. After our call I requested more information from Ms. Young, like a FAQ document or informational sheet which had been forwarded to the other Noteholders, but she advised that no such document was ever created and that the bulk of the information was found in the various legal documents and court orders posted on the Monitor's website; however, she also candidly admitted that some of the information she shared with me was not available on the Monitor's website, but would be posted shortly. Attached hereto and marked as **Exhibit "A"** is a copy of the email exchange I had with Ms. Young regarding my request for additional information on October 7, 2010.
18. On or about November 15, 2010 I received an email from the Noteholder's Committee advising that Marc Boutet had resigned and that Sherry Townsend had been appointed as the Interim Operating Officer (the "IOO"). Attached hereto and marked as **Exhibit "B"** is a copy of the email from the Noteholders Committee dated November 15, 2010.
19. On November 22, 2010, I understand the Justice Pepall made an order regarding the resignation of Mr. Boutet; accordingly, the goal of the Noteholders Committee had been achieved and Mr. Boutet was removed as an officer of Nelson and Ms. Sherry Townsend was appointed as the IOO. Attached hereto and marked as **Exhibit "C"** is a copy of the November 22, 2010 Order of Justice Pepall and her corresponding endorsement.

**b) Reduction of the Monitor's Costs**

20. On or about November 24, 2010 I received an email from the Noteholders Committee advising that in Court on November 22, 2010 that Justice Pepall had noted that costs in these proceedings appeared high. The email requested that I

provide my support by replying to the email. Attached hereto and marked as **Exhibit "D"** is a copy of the email from the Noteholders Committee dated November 24, 2010.

21. I supposed that the Noteholders Committee and Justice Pepall had a better understanding of appropriate costs of these kinds of proceedings and I returned the email to the Noteholders Committee as requested. I wanted to be supportive and cooperative with the Noteholders Committee because I still believed that it was their mandate to protect my mother's investment and interests. Attached hereto and marked as **Exhibit "E"** is a copy of my email to the Noteholders Committee dated November 24, 2010.
22. On December 9, 2010, the issue of the costs of the Monitor was heard by Justice Pepall who held that the fees of the Monitor and its counsel would be reduced by \$92,423.73 and 82,475 respectively. The Noteholder Committee corresponded with me and advised that they were thrilled with these results. Attached hereto and marked respectively as **Exhibits "F"** and **"G"** is a copy of Justice Pepall's Endorsement dated December 9, 2010 and the email from the Noteholders Committee dated December 11, 2010.
23. After reviewing the Order I understood that the Monitor's role with Nelson would be limited to reduce costs. In her November 24, 2010 email, Ms. Young did not advise that this was a way in which future costs would be reduced. I was not comfortable that the Monitor's role had been limited in this manner.

**c) Apparent Financial Peril and Operating Difficulties of Nelson**

24. On or about December 3, 2010, I received an email from the Noteholders Committee updating its members on the ongoing business of Nelson. It advised that since going through CCAA proceedings Nelson lost one of its major vendors representing 65% of its business. The email advised that in order to secure better long-term financial recovery of the Noteholders' investment that Nelson's

business ought to be developed and refocused. It proposed that Noteholders with sales experience should volunteer their time to bring new vendors for Nelson. Attached hereto and marked as **Exhibit "H"** is a copy of the email from the Noteholders Committee dated December 3, 2010.

25. I became very concerned about the viability of Nelson, but did not foresee that anything could be done before Christmas holidays. With the holidays upon us, my family and I were still struggling with the impact that my dad's recent passing had on our family.

26. On or about January 27, 2011, I received an email from the IOO. It set out a laundry list of accomplishments of the IOO since her appointment. My concern after reviewing the email was the volume and complexity of the issues that the IOO was dealing with regarding the operation of Nelson; it appeared that there were internal issues for Nelson with operating costs, collections of uncollected accounts receivable, loss of a large vendor and improper lending procedures. I understood from the IOO's email that these were all issues she was working on remedying. Attached hereto and marked as **Exhibit "I"** is a copy of the email from the IOO dated January 27, 2011.

27. The IOO's email of January 27, 2011 also set out how Nelson would be restructured and what its new business plan would be moving forward. The IOO stated that she felt confident about the future of Nelson. The IOO did not provide alternatives to Going-Concern Option. In fact, this email did not even mention the Cash-Out Option either.

**d) Insufficient Financial Information Provided to Noteholders**

28. Ever since reading Mr. Styles affidavit in the Fall of 2010, I had been working under the (incorrect) assumption that my mom with a \$1.1 million investment was in the "middle of the pack" in terms of the size of her investment. I still assumed this in late February 2011. My understanding has now been clarified, but only

because I made a number of requests for information. I wondered how many other Noteholders have no real appreciation of the respective size of their debt and the sway they may have over these proceedings.

29. On or about March 3, 2011, as a result of my unsuccessful attempts to contact Representative Counsel, that I finally contacted Ms. Young from the Noteholders Committee who called me directly and provided the information which I had specifically sought from the Representative Counsel. I was disappointed that Representative Counsel did not call me directly as he was, after all, supposed to representing my mom's interests in these proceedings as well.

30. In the course of my conversation with Ms. Young she advised me about the financial position of the Noteholders. She explained the following:

- (a) there were about 300 Noteholders with claims totalling \$36-37 million;
- (b) 17 people had more than \$500,000 invested with Nelson representing \$14 million of the total notes; and,
- (c) only 5 people had more than \$1 million invested.

31. During this call, Ms. Young also advised me that there was approximately \$7 million in 'cash on hand' and about \$14 million in 'good debt' available to Nelson. This information was not provided to me previously and I was very surprised that Nelson was worth so much.

32. I determined based on this information that the Cash-Out Option previously presented to the Noteholders was not the equivalent of the liquidation value of my mom's investment in Nelson. In fact, it could be possible under a properly administered liquidation of Nelson to realize about 50 cents on the dollar – this would nearly double every Noteholders' recovery than under the Cash-Out Option.



33. Ms. Young advised me that the Monitor estimated a liquidation value of approximately 38 cents on the dollar. What she did not tell me, but what I came to realize later, is that this figure was based on data from March 31, 2010.

**e) Liquidation Not Presented as a Viable Option for Noteholders**

34. I began to make inquiries regarding a more expeditious extrication of my mom's investment from Nelson at the fastest and highest possible price. It seemed that given the operating issues faced by Nelson, that a liquidation was a viable and quick alternative to the Going-Concern Option. However, to the best of my knowledge the Noteholder Committee did not advance or explore liquidation.

35. On or about February 25, 2011, I received the Motion Record of the IOO, which enclosed the Plan of Compromise and Arrangement of Nelson Financial Group Ltd. (the "Plan"). The Plan included two options only, the Going-Concern Option and the Cash-Out Option. The Motion Record did not include any substantive discussion or analysis of liquidation. After my review of the Notice of Motion that the Noteholders Committee was favouring the Plan and did not want the liquidation of Nelson; however, I did not consider this position to be well-reasoned as the Plan and the Information Circular subsequently forwarded on March 22, 2011 appeared to still rely upon the liquidation analysis completed by the Monitor nearly one year before. Attached hereto and marked respectively as **Exhibits "J"** and **"K"** is a copy of the Notice of Motion and the Information Circular dated March 22, 2011.

36. It appeared to me that the Noteholder Committee did not try to pursue or consider the liquidation value of Nelson. In fact, The Noteholder Committee was clearly favouring the Going-Concern Option. I was worried because I knew that many of the Noteholders must be relying upon the expertise and relationship between the Monitor, Nelson and the Noteholders Committee as I had been initially. I was concerned that the Plan would be favoured by some Noteholders simply because the Noteholder Committee was championing its implementation.

**f) Discord Between the Monitor and the Noteholders Committee**

37. I understood after reviewing the Motion Record of the IOO that the date to vote on the Plan was initially scheduled for March 26, 2011. However, I later discovered that the meeting to vote on the Plan was adjourned to April 16, 2011.

38. After reviewing the Factum filed by the Representative Counsel and posted only on the Noteholders Committee's Website, the members of the Noteholders Committee were outraged that the Monitor could not attend the March 26, 2011 meeting. In fact, on or about March 3, 2011, Representative Counsel filed its factum with the Court regarding the Monitor's request to reschedule the date for the vote. Upon reviewing this document I became extremely concerned about the relationship between the Noteholder Committee and the Monitor. At this point, I realized that the Monitor and the Noteholders Committee were no longer working together to do what was best for Nelson and the Noteholders. Attached hereto and marked as **Exhibit "L"** is a copy of the Factum filed by Representative Counsel.

39. In the wake of this discord between the parties I became increasingly concerned that neither the Monitor nor the Noteholders Committee were making decisions or considering options which would benefit my mom and her investment or any other Noteholders who might need or want cash.

**g) Conduct Prior to the March 26, 2011 Meeting**

40. On or about March 14, 2011, in preparation for the March 26, 2011 meeting, the Noteholders Committee forwarded an email containing the most common questions which were purportedly asked by the Noteholders; on the same day, I responded to Ms. Young and made inquiries why my questions regarding the liquidation of Nelson were not included. I also advised that it was my perspective the explanation of the Going-Concern Option was not clear and did not accurately set out the returns which could be expected by the Noteholders.

Attached hereto and marked as **Exhibit "M"** is a copy of the email from Ms. Young dated March 14, 2011 and mine in response of the same day.

41. On or about March 19, 2011, in addition to previously voicing my concerns to Ms. Young, I also wrote directly to Representative Counsel and advised that I was very concerned about the information contained in the various documents forwarded by the Noteholders Committee. On March 21, 2011 Representative Counsel responded to my concerns, but I did not feel that he properly addressed them. In fact, I now note that his statement that the liquidation position of Nelson had deteriorated since the Monitor's First Report, has proven to be inaccurate as discussed below. Attached hereto and marked as **Exhibit "N"** is a copy of the email from me to Representative Counsel dated March 19, 2011 and his response dated March 21, 2011.

42. The Monitor, who I copied on my March 19, 2011 email to Representative Counsel requested permission to post my email on his website. It was posted for a short period of time (about 24 hours); in that time, I can advise that some people contacted me in confidence regarding their concerns and confusion regarding the upcoming vote and the Plan.

**h) Attendance at the March 26, 2011 Meeting**

43. I attended the March 26, 2011 Informal informational meeting arranged by the Noteholders Committee. After a PowerPoint Presentation regarding the Plan from the Noteholders committee and the Representative Counsel, the Noteholders were permitted to ask questions.

44. I did find it unusual and unexpected that the Noteholders Committee controlled the microphone at the March 26, 2011 meeting and would permit certain people to ask questions while cutting others off.

45. My general impression of the meeting was that many of the Noteholders in attendance were not sophisticated and did not understand the magnitude of the decisions they were being requested to make. In addition, it was also apparent that many Noteholders in attendance did not understand the benefits and pitfalls of the Plan nor the benefits and pitfalls of liquidation. I do not believe that March 26, 2011 meeting did anything to dispel mistaken understandings or impart with the Noteholders the variety of options available to them.

46. My recollection is that the Representative Counsel, the IOO and the Noteholders Committee members were obviously in favour of the Plan. I recollect that several times they advised the Noteholders in attendance to not take 'the cash exit option' and advocated the Plan and the Debenture Stock option with some regularity. In addition, I was extremely disappointed that questions regarding liquidation were deflected or not properly addressed by the Representative Counsel, the IOO and the Noteholders Committee members.

47. Prior to attending this meeting the Monitor advised me by phone that he was barred from the meeting even though he had made himself available for the occasion. In retrospect, though I do not think many of the Noteholders value the role of the Monitor, I believe that it would have been useful to have his assistance to present a more unbiased perspective of the options available to Nelson. The Noteholders Committee's refusal to have the Monitor present demonstrated to me the adversarial approach that the Noteholders Committee took towards the Monitor and his professional role.

**i) Concerns Regarding the Mandate of the Noteholders Committee**

48. During the course of my dealings with the Noteholders Committee and Representative Counsel, I began to definitely perceive that the Noteholders Committee was not representative of my mother's interests. I am also concerned about the various interrelationships among the Noteholders Committee

members, the IOO, the Representative Counsel and the consultants who have prepared the information on which the Plan was predicated.

49. On March 10, 2011, I specifically advised Ms. Young by email that I was concerned that the Noteholders Committee did not represent my mother's and perhaps the majority of the Noteholders interests. I also had a discussion in this vein with the Representative Counsel by telephone. Attached hereto and marked as **Exhibit "O"** is a copy of my email exchange with The Noteholders Committee and Ms. Young dated March 9-11, 2011.
50. In or about March 11, 2011 Representative Counsel and I had a conversation in which he advised me that Mr. Doug Davies who was a member of the Noteholders Committee was the person whose interest in Nelson most closely mirrored my mom's – he was supposed to be the representative for the elderly Noteholders. However, on or about March 18, 2011, I spoke with Mr. Davies directly and he advised that he believed that the Noteholders would be best served if they chose the Going-Concern Option – I could not see how someone representing the interests of the elderly could take the position that the Going-Concern Option, which delayed recovery of the investment (potentially indefinitely), benefitted the interests of the elderly.
51. Further, after reviewing the Plan and the Information Circular dated March 22, 2010, I realized that Ms. Townsend and Ms. Young would enjoy ongoing involvement with Nelson as members of its Board of Directors. I believe that it is in the particular interest of the IOO and Ms. Young to obtain approval for the Plan.
52. As set out above, I also have misgivings about why more was not done by the Noteholders Committee regarding investigating the liquidation of Nelson. I am disappointed with this because after working through some simple mathematics I saw that liquidation may be the most expeditious way of obtaining closure,

provide the most flexibility and individual control to the Noteholders of their money and provide the highest payout to the Noteholders.

## **ADJOURNMENT OF THE APRIL 16, 2011 VOTE IN THE BEST INTERESTS OF NELSON AND THE NOTEHOLDERS**

### **a) Contents of the Thirteenth Report of the Monitor**

53. On or about April 6, 2011, the Monitor served its Thirteenth Report (the "13<sup>th</sup> Report"). In this document, the Monitor stipulates that the liquidation value of Nelson has increased from 38 cents to 42 cents. Attached hereto and marked as **Exhibit "P"** is a copy of the 13<sup>th</sup> Report.

54. While I do believe that the 13<sup>th</sup> Report's discussion of the liquidation value does not properly set out the financial data which the Monitor used to determine the liquidation value of Nelson, I am encouraged to see that finally another option is being presented to Noteholders.

55. I am advised and verily believe that my counsel and counsel for the Monitor discussed these proceedings. From what I understand, the Monitor's counsel has advised that the Monitor would be willing to explain the 13<sup>th</sup> Report in greater detail to me and my accountant so that we can appreciate the accounting challenges the Monitor alleges prevent him from providing the financial disclosure which is required for these analyses to properly take place.

56. I would be willing to meet with the Monitor to discuss these issues, but I cannot do so before April 16, 2011; in particular, I cannot meet with the Monitor and pass onto the other Noteholders the information the Monitor provides to me by April 16, 2011.

57. I also believe that given the content of the 13<sup>th</sup> Report and the provisions of the Plan that many Noteholders would be much more inclined to take the liquidation option if the benefits of same could be properly, simply and clearly explained to them by a trusted and neutral party.

58. I am also concerned that as a consequence of the March 26, 2011 meeting, many of the Noteholders in attendance have made up their mind and submitted their vote by proxy without reviewing and considering the new information contained in The 13<sup>th</sup> Report.

59. Given the above concerns with the process and representation, I believe that it is fair and in the best interests of the Noteholders and Nelson that the April 16, 2011 meeting ought to be adjourned to permit these discussions to take place and additional information to be forwarded to the Noteholders.

**b) Provision of Noteholder Information**

60. As I stated above, the Noteholders Committee was established to be a representative committee of the Noteholders of Nelson. However, I do not believe that the members of the Noteholders Committee have representative interest of the average Noteholder.

61. Since February of this year, I have tried to work to understand these proceedings and have retained professionals independent of these proceedings to advise me about my options. I believe that I am in a unique position to be able to provide the Noteholders with additional information regarding these proceedings.

62. I can also advise that having direct access to each individual Noteholder would provide us with a better ability to assess how many Noteholders would exercise the Cash-Out Option and whether the \$10 million cap would come into play. I would also be able to determine whether other Noteholders have goals and concerns similar to my mom's and wish to proceed with a liquidation of Nelson.

63. I made repeated requests for additional information on the Noteholders throughout March 3-11, 2011 by email. Generally, it took several emails to have all of my questions answered. The process of information gathering was extremely painstaking and time-consuming. I advised Ms. Young that I wanted to use the Noteholders Committee website as a means of setting up a forum for

conversation where other opinions and concerns from Noteholders could be posted and addressed – I was advised that the website was not set up in this format and that this kind of online conversation was not possible. Attached hereto and marked as **Exhibit “Q”** is a copy of the various emails exchanged between Ms. Young and the Representative Counsel from March 3-11, 2011.

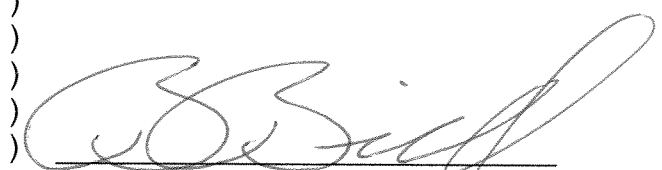
64. I have been disappointed with the manner in which these proceedings have been handled. However, I would have no problem working within the process if I felt that the Noteholders were being provided with all of the information regarding Nelson’s finances and the options available regarding their investment with transparency and without bias.

65. Further, as I discuss above, I do not believe that the Noteholders Committee carries on a mandate which represents the majority of Noteholders. As such, I would like to contact each individual Noteholder to express my concerns to them as well as present to them the important information regarding liquidation contained in the 13<sup>th</sup> Report which has not been openly discussed by the Noteholders.

66. I swear this affidavit in good faith and for a motion in support of an order seeking an adjournment of the vote scheduled for April 16, 2011 and in support of an order permitting me to have access to the contact information of the individual Noteholders and for no improper purpose.

SWORN before me at the City  
Of Waterloo, in the Province of Ontario  
This        day of April 2011.

  
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A Commissioner, etc.

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**BRENDA BISSELL**

Michael David Saccucci, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires July 6, 2013.