

**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.**

**NOTICE OF MOTION
(Discharge of Interim Operating Officer)**

Sherry Townsend, in her capacity as the Interim Operating Officer of Nelson Financial Group Ltd. appointed by this Court (the "IOO"), will make a motion before a judge of the Ontario Superior Court of Justice sitting on the Commercial List on a date to be fixed by Order of the Registrar or as soon after that time as the motion can be heard at 330 University Avenue, in the City of Toronto.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR an Order substantially in the form attached hereto as Schedule "A" granting, *inter alia*, the following relief:

1. an Order abridging the time for service of the Notice of Motion and Motion Record herein, if necessary, and dispensing with any further service thereof such that the motion is properly returnable on the date fixed by the Court;

2. an Order approving the activities of the IOO, as set out in her reports filed dated February 18, 2011, March 24, 2011, April 18, 2011 and August 8, 2011;
3. an Order approving the fees and expense reimbursements paid to the IOO by the Applicant pursuant to the Engagement Letter;
4. an Order discharging and releasing the IOO as Interim Operating Officer of the Applicant of and from all duties, authorities and responsibilities imposed upon the IOO pursuant to the Order of the Honourable Madam Justice Pepall made on November 22, 2010, provided however that notwithstanding her discharge the IOO shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of the IOO in her capacity as Interim Operating Officer; and
5. such further and other relief as counsel may request and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

- a) Pursuant to an Order of the Honourable Madam Justice Pepall dated November 22, 2010 (the “IOO Appointment Order”), the Court appointed Sherry Townsend as the Interim Operating Officer (the “IOO”) of Nelson Financial Group Ltd., the Applicant;

- b) The appointment of the IOO became fully effective on December 13, 2010 and the IOO proceeded to review the business and assets of the Applicant and prepared a plan for the restructuring of the Applicant by means including the filing of a Plan of Compromise and Arrangement and by way of Articles of Reorganization;
- c) The Plan of Compromise and Arrangement in respect of the Applicant was dated February 11, 2011, subsequently amended, approved at a meeting of affected creditors held pursuant to Order of the Court on April 16, 2011 and sanctioned by an Order of the Honourable Justice Morawetz dated April 21, 2011 (the “Sanction Order”);
- d) In accordance with the Sanction Order, the IOO caused the Articles of Reorganization to be filed with the Ministry of Government Services of Ontario on April 21, 2011 and she convened a meeting of the persons named in the Articles of Reorganization as the members of the board of directors of the Applicant at 7:00 p.m. on April 21, 2011, then renamed as Provider Capital Group Inc., met and by unanimous action enacted by-laws and passed resolutions for the appointment of officers for the conduct of business by Provider Capital Group Inc., including the appointment of Sherry Townsend as the President and Chief Executive Officer;
- e) Provider Capital Group Inc. has proceeded to implement the Plan of Compromise and Arrangement in accordance with the Sanction Order;

- f) All functions and responsibilities of the IOO pursuant to the IOO Appointment Order have been fully performed and all accounts for the services and reimburseable expenses of the IOO rendered by her consulting company, ST Consulting Inc., were in accordance with the terms of the Ioo Appointment Order, have been approved by the board of directors of the Applicant and have been paid in full;
- g) There are no further functions or other duties necessitating the continuing appointment of an interim operating officer for the Applicant and it is appropriate that the IOO should be discharged and her activities as reported to this Honourable Court should be approved;
- h) Section 11 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c.C36, as amended;
- i) Rules 2.03, 3.02 and 37 of the *Rules of Civil Procedure*; and,
- j) Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- a) The Interim Operating Officer Appointment Order made by the Honourable Madam Justice Pepall on November 22, 2010;

- b) The First Report of the IOO dated February 18, 2011 and the Supplement dated March 24, 2011;
- c) The Second Report of the IOO dated April 18, 2011;
- d) The Third Report of the IOO dated August 8, 2011;
- e) The Affidavit of Sherry Townsend sworn September 30, 2011; and
- f) Such further and other material as counsel may advise and this Honourable Court may permit.

~~August 8, 2011~~ October 4, 2011

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Counsel for the Interim Operating Officer

TO: **THE SERVICE LIST ATTACHED**

SCHEDULE "A"

[DRAFT ORDER]

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Court File No. CV-10-8630-00CL

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SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**AMENDED NOTICE OF MOTION
(Discharge of Interim Operating Officer)**

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