



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

P.O. Box 55, 19th Floor
20 Queen Street West
Toronto ON M5H 3S8

CP 55, 19^e étage
20, rue queen ouest
Toronto ON M5H 3S8

**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, C. S.5, AS AMENDED**

- AND -

**IN THE MATTER OF
NELSON FINANCIAL GROUP LTD., NELSON INVESTMENT GROUP LTD., MARC D.
BOUTET, STEPHANIE LOCKMAN SOBOL,
PAUL MANUEL TORRES, H. W. PETER KNOLL**

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Ontario Securities Commission (the "Commission") will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to section 127 of the Securities Act, R.S.O. 1990, c. S-5, as amended (the "Act"), it is in the public interest for the Commission to make certain orders in respect of Marc D. Boutet ("Boutet") and Nelson Investment Group Ltd. ("Nelson Investment") (collectively, the "Respondents").

PART II - JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission ("Staff") agree to recommend settlement of the proceeding commenced by Notice of Hearing dated May 12, 2010 (the "Proceeding") against the Respondents

according to the terms and conditions set out in Part V of this Settlement Agreement. The Respondents agree to the making of an order in the form attached as Schedule "A", based on the facts set out below.

PART III - AGREED FACTS

3. Only for the purposes of this proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondents agree with the facts as set out in Part III of this Settlement Agreement.

Overview

4. In this Proceeding, Staff allege an illegal distribution of securities in breach of the Securities Act, R.S.O. 1990, c.S.5, as amended (the "Act"), by the respondent issuer Nelson Financial Group Ltd. ("Nelson Financial"), its related investment company Nelson Investment, the directing mind of these entities Boutet, and by the other individually named respondents, H. W. Peter Knoll ("Knoll"), Paul Manuel Torres ("Torres") and Stephanie Lockman Sobol ("Sobol"), who were employees and/or agents of Nelson Financial and/or Nelson Investment.

5. Between December 19, 2006 and January 31, 2010 (the "Material Time"), Nelson Financial, through Nelson Investment and/or its employees and agents, including the individual respondents, raised investor funds of over \$50 million (net of redemptions) from approximately 500 Ontario investors by issuing non-prospectus qualified securities. Nelson Financial relied upon the Accredited Investor Exemption (defined below) and the Minimum Investment exemption in selling securities of Nelson Financial. However, a significant number of investors were not accredited.

6. Throughout the Material Time, Nelson Financial sustained operating losses each year and operated at an increasing deficit. Notwithstanding that Boutet was advised by a consultant that Nelson had a path to profitability in four to five years if it moved away from the vehicle financing business, Nelson Financial continued to budget and realize losses, and Nelson Financial was unable to meet its obligations without the receipt of new investor capital. Nelson Financial deposited investor funds in the Nelson Financial operating account. These funds were then used to fund Consumer Loans (defined below), but also to fund operational expenses and to pay investors the returns on their investment. Nelson Financial continued to accept additional investor funds after the point at which it was insolvent, and while it continued to inform investors that it was enjoying financial success.

The Respondents

7. Nelson Financial was incorporated in Ontario on September 14, 1990. Nelson Financial is not a reporting issuer and is not registered under the Act. Nelson Financial provides vendor assisted financing for the purchase of home consumable products, either through a vendor (or an aggregator of vendors), or directly to the consumer (the "Consumer Loans").

8. Nelson Investment was incorporated in Ontario on September 14, 2006 for the sole purpose of selling securities of Nelson Financial. On December 19, 2006, Nelson Investment obtained registration under the Act as a dealer in the category of limited market dealer ("LMD"), now exempt market dealer ("EMD").

9. Boutet is a resident of Ontario and began his career with a Canadian chartered bank. After a ten year tenure with the bank, Boutet joined a leasing company and worked as a senior account manager for three years. In 1990, Boutet formed Nelson Financial. At all material times, Boutet was listed as the sole officer and director of Nelson Financial and Nelson Investment, and was the directing mind of Nelson Financial. As such, he regularly received reports of the financial performance of the Nelson Entities. Throughout the Material Time, he acted as a salesperson at Nelson Investment but dealt personally only with a select group of investors. Boutet was paid a total of \$660,000 in salary and commission in the Material Time.

10. Throughout the Material Time, Boutet was registered with the Commission as a trading officer under the category of LMD with Nelson Investment. After the departure of Knoll from Nelson Financial in September 2009, Boutet registered as the ultimate designated person and chief compliance officer under the firm registration category of EMD.

11. Knoll was initially employed by Nelson Financial in the Fall of 2005 and was then employed by Nelson Investment as a salesperson and its compliance officer from at least December 19, 2006 until September 15, 2009. In that period, Knoll was registered with the Commission as a trading officer and the designated compliance officer of Nelson Investment. Knoll was responsible for the compliance function at Nelson Investment, including review of the Accredited Investor Certificates and Know-Your-Client forms. Upon Knoll's departure from Nelson Investment, Boutet took over as the compliance officer of Nelson Investment while he searched for a replacement compliance officer.

12. Torres was employed by and acted as a salesperson for Nelson Financial securities through Nelson Investment beginning in or around August 2008. Torres has been registered under the Act as a salesperson (now dealing representative) with Nelson Investment since November 13, 2008.

13. Sobol has been employed by Nelson Financial since May 2008. Sobol was a key member of the management team of Nelson Financial. Sobol has never been registered with the Commission.

BACKGROUND AND PARTICULARS

A. Illegal Distribution - Sections 25 and 53 of the Act

14. During the Material Time and through Nelson Investment, Nelson Financial raised approximately \$82 million through the sale and distribution of securities of Nelson Financial to (almost exclusively) Ontario investors. As of February 28, 2010, there were approximately 500 Nelson Financial investors with a total investment amount outstanding of approximately \$51.2 million, net of redemptions.

15. The securities sold and distributed by Nelson Financial were in the form of fixed term promissory notes and preferred shares and were offered by Nelson Financial at fixed/guaranteed annual rates of return of 12% and 10%, respectively, typically paid to investors on a monthly basis.

16. Nelson Investment, Boutet, Knoll and Torres each received commissions on the funds raised by the sale of Nelson Financial securities, including on amounts "rolled over" by investors

upon maturity of the promissory notes, i.e. where an investor opted to remain invested with Nelson Financial instead of redeeming their investment.

17. Throughout the Material Time, the scope of registration for Nelson Financial's agent Nelson Investment and its sales staff, was limited to the sale of securities for which a prescribed exemption was properly available.

18. In distributing its securities, Nelson Financial relied upon the accredited investor exemption (the "AI Exemption") as set out in section 2.3 of National Instrument 45-106 ("NI 45-106") and the minimum investment exemption as set out in section 2.10 of NI 45-106 .

19. A significant number of the investors to whom securities were issued by Nelson Financial did not meet the requirements necessary to qualify as accredited investors.

20. In some instances, Nelson Financial knew or ought to have known that the investors were not accredited. For example, some "know-your-client" forms noted that not all financial assets were liquid and no further inquiries were made by Nelson Financial staff to ensure investors were qualified. Other know-your-client forms did not include income or net worth information for the investors, or included information that, on its face, did not meet the requirements of the AI Exemption. Boutet accordingly failed to ensure that a satisfactory system of review and supervision was in place to make adequate inquiries to determine whether all investors were, in fact, accredited.

21. For each investment up to October 2009, Boutet signed the respective offering and issuance documents in his capacity as President of Nelson Financial, including the term sheet for each promissory note/preferred share, and each promissory note issued by Nelson Financial. After that time and upon Boutet's replacement of Knoll as the compliance officer of Nelson Investment, Sobol signed the issuance documents on behalf of Nelson Financial in lieu of Boutet.

22. The trades in the securities of Nelson Financial were trades in securities not previously issued and were therefore distributions. No preliminary prospectus or prospectus was filed and no receipts were issued for them by the Director to qualify the trading of the securities.

23. Nelson Financial failed to ensure that the requirements of the AI Exemption were met in every case and, therefore cannot rely on the AI Exemption in respect of many of the trades of Nelson Financial securities. Nelson Financial breached section 53 of the Act by distributing securities of Nelson Financial without a prospectus in circumstances where no exemption was properly available.

24. Further, as no exemption was properly available, the trades in the securities of Nelson Financial were beyond the registerable activity permitted by the category of registration under the Act and thus in breach of section 25 of the Act. Boutet hired registered sales and compliance staff to carry out the offering, but Boutet is responsible for these failures by Nelson Financial and for the lack of an adequate system of review and supervision.

B. Conduct Contrary to the Public Interest

25. Nelson Financial relied on investors' funds for liquidity throughout the relevant period and raised new investor funds in a manner that was misleading to investors.

26. In soliciting investors, Nelson Financial expressly and implicitly represented to investors that Nelson Financial's business model, and consequently the success of the Nelson Financial investments, was premised upon applying investor capital to fund the Consumer Loans so that Nelson Financial would generate a higher return on the Consumer Loans than the returns promised to investors, as follows: a) investors' funds are used directly to fund the Consumer Loans; b) the Consumer Loans are extended at interest rates ranging from 29.9%; c) the fixed rates of return of 10-12% on the securities are paid to investors from the high interest rates earned on the Consumer Loans; and d) the "remaining spread" is used by Nelson Financial for "portfolio management, administration, underwriting and profit".

27. Throughout the Material Time, Nelson Financial made all of its monthly interest and "dividend" payments to investors and, for those who elected to redeem their investments upon maturity or otherwise, Nelson Financial repaid investors their full principal.

28. Throughout the Material Time, however, Nelson Financial was trying to overcome past losses and Nelson's Financial operations did not generate sufficient revenue for it to cover its operating expenses, nor its interest, "dividend", and principal repayment obligations to investors. During the Material Time, Nelson Financial therefore relied on the receipt of new investor capital to meet, at least in part, its obligations to investors.

29. Accordingly, Nelson Financial used at least part of the new investor funds that it obtained in breach of ss. 25 and 53 of the Act to pay other investors their monthly returns and to repay investors their principal upon redemption. Nelson Financial's continued acceptance of new investor funds when some of the new investor funds were used to meet its obligations to investors was contrary to investor interests and the public interest.

30. While Nelson Financial was making statements to investors that it was successful, at no time did Nelson Financial advise investors that it was insolvent or that their funds were being used, in whole or in part, to pay interest or redemption to other investors. To the contrary, on a number of occasions Nelson Investment and Nelson Financial made statements to investors that were authorized or permitted by Boutet that Nelson Financial was achieving record financial success as a means of inducing investors to remain invested in Nelson Financial and to make further investments in the securities of Nelson Financial. These statements were misleading in that they did not disclose to investors all relevant facts, including negative facts, regarding Nelson Financial's financial circumstances. Moreover, until January 2010, Boutet did not take steps to stop the offering.

31. On October 15, 2009, Boutet filled out the OSC Risk Assessment Questionnaire. There were a number of inaccurate statements provided by Boutet to Staff as a result of carelessness on Boutet's part. Furthermore, in October 2009, Compliance and Registrant Regulation Staff conducted an on-site compliance review of Nelson Investment as LMD. Members of Staff were advised by Boutet on October 22nd that the assets of Nelson Financial were about \$60 million. The

financial statements of Nelson Financial, which show the correct amount of assets, were subsequently provided to Compliance Staff. Boutet acknowledges that Nelson Financial assets at the time of Staff's compliance review was approximately \$26 million, not \$60 million.

32. OSC enforcement staff commenced an investigation in about January 2010. At the direction of Marc Boutet, Nelson Financial voluntarily suspended the distribution of any of its securities pending investigation of Staff's concerns. Boutet and Nelson Investment cooperated with Staff's investigation.

33. On March 23, 2010, Nelson Financial sought and obtained an order of the Ontario Superior Court of Justice for creditor protection and restructuring under the Companies' Creditors Arrangement Act ("CCAA") on the basis that it was insolvent.

CCAA PROCEEDINGS AND CURRENT STATUS OF NELSON FINANCIAL

34. In the court-supervised CCAA process, the persons holding promissory notes issued by Nelson Financial (the "Noteholders") had the benefit of representative counsel and an advisory committee of Noteholders. A court appointed monitor, A. John Page Associates Inc., was authorized to oversee the continuing operations of Nelson Financial with Boutet.

35. Up to November, 2010 Boutet assisted the monitor to review the Nelson Financial records and affairs and Boutet responded to investor inquiries in conjunction with the monitor. On November 22, 2010, the Court made an order approving certain heads of agreement (the "Heads of Agreement") between Boutet, A. John Page & Associates Inc. and Representative Counsel which

provided for the resignation of Boutet as a director, officer and employee of Nelson Financial and the appointment of Sherry Townsend, a member of the Noteholders' Committee, as the Interim Operating Officer of Nelson Financial to direct and manage the business operations of the company and to manage its efforts to develop a restructuring plan under the CCAA. Amongst other things and in addition to the above, the Heads of Agreement required Boutet to surrender his ownership interest in Nelson Financial and to surrender and release any and all claims Boutet might otherwise have against Nelson Financial under the CCAA. The approximate face value of Boutet's financial interest surrendered in that process was \$618,000.

36. By Order entered March 4, 2011, the Ontario Superior Court ordered that the claims of Nelson Financial's creditors were to be paid in full before any claim by Nelson Financial's preferred shareholders are paid. The aggregate stated capital of the preferred shares was \$14.6 million, and those shareholders will not receive any repayment under the CCAA restructuring.

37. Also on March 4, 2011, the Ontario Superior Court accepted for filing a Plan of Compromise and Arrangement in respect of Nelson Financial. According to the Plan of Compromise and Arrangement "The effect of the Plan is that each Creditor holding a Proven Claim will receive a Capital Recovery Debenture in the principal amount of \$25.00, New Special Share with a stated capital and redemption value of \$25.00 and one Common Share with a stated capital of \$1.00 in full satisfaction of each \$100.00 of such Proven Claim". The purpose of the Plan of Compromise and Arrangement is to "enable the business...to continue as a going concern" in its reorganized form. Pursuant to the Order, Nelson Financial sent to all Noteholders an Information Circular concerning these securities.

38. Pursuant to the Order of March 4, 2011, Nelson Financial called a meeting of Noteholders (and other eligible creditors) on April 16, 2011 to approve and sanction the Plan of Compromise and Arrangement. At the meeting on April 16, 2011, the Noteholders voted strongly in favour of the Plan of Compromise and Arrangement. It was approved by the Court on April 20, 2011.

PART IV - CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST

39. By engaging in the conduct described above, Boutet and Nelson Investment have breached Ontario securities law by contravening sections 25 and 53 of the Act and have acted contrary to the public interest.

PART V - TERMS OF SETTLEMENT

40. The Respondents agree to the terms of settlement listed below.

41. The Commission will make an order pursuant to section 127(1) of the Act that:

- (a) The settlement agreement is approved;
- (b) Pursuant to clause 2 of ss. 127(1) of the Act, trading in any securities by Boutet and Nelson Investment shall cease permanently, with a carve out for trading by Boutet in his personal RRSP account after the payment set out in subparagraph (f) is paid in full;
- (c) Pursuant to clause 1 of ss. 127(1) of the Act, the registration granted to Boutet and Nelson Investment under Ontario securities law shall be terminated permanently;
- (d) Pursuant to clause 8 of ss. 127(1) of the Act, Boutet shall be prohibited from becoming or acting as a director or an officer of any issuer, for a period of 15 years;

- (e) Pursuant to clause 3 of ss. 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Boutet and Nelson Investment, permanently;
- (f) Pursuant to clause 9 and 10 of ss. 127(1) of the Act, Boutet and Nelson Investment shall pay the amount of \$550,000 to be allocated to or for the benefit of third parties under s. 3.4(2)(b) of the *Act*, with payment of \$200,000 to be made by certified cheque at the time of the settlement hearing; and
- (g) the Respondents consent to reciprocal orders in other provinces if requested by other regulators.

Boutet has represented to the Commission that he does not have the means to make a higher settlement payment, and that Nelson Investments is no longer operating and has no assets.

PART VI - STAFF COMMITMENT

42. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding against the Respondents under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 44 below.

43. If the Commission approves this Settlement Agreement and the Respondents fail to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondents. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT

44. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for May 16, 2011, or on another date agreed to by Staff and the Respondents, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Practice.

45. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondents' conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.

46. If the Commission approves this Settlement Agreement, the Respondents agree to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

47. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.

48. Whether or not the Commission approves this Settlement Agreement, the Respondents will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART X - DISCLOSURE OF SETTLEMENT AGREEMENT

49. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:

(a) This Settlement Agreement and all discussions and negotiations between Staff and the Respondents before the settlement hearing takes place will be without prejudice to Staff and the Respondents; and

(b) Staff and the Respondents will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.

50. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

PART X - EXECUTION OF SETTLEMENT AGREEMENT

51. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.
52. A fax copy of any signature will be treated as an original signature.

DATED at Toronto this 12th day of May, 2011.

“Marc D. Boutet”

Marc D. Boutet
Respondent, personally and on behalf
Nelson Investment Group Ltd.

“Scott Madger”

Witness

“Tom Atkinson”

Tom Atkinson
Director, Enforcement Branch



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

P.O. Box 55, 19th Floor
20 Queen Street West
Toronto ON M5H 3S8

CP 55, 19^e étage
20, rue queen ouest
Toronto ON M5H 3S8

SCHEDULE "A"

IN THE MATTER OF THE SECURITIES ACT R.S.O. 1990, c.S.5, AS AMENDED

- AND -

IN THE MATTER OF NELSON FINANCIAL GROUP LTD., NELSON INVESTMENT GROUP LTD., MARC D. BOUTET, STEPHANIE LOCKMAN SOBOL, PAUL MANUEL TORRES, H. W. PETER KNOLL

ORDER

WHEREAS on May 12, 2010, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing in connection with a Statement of Allegations issued by Staff of the Commission in this matter pursuant to section 127 and 127.1 of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "*Act*");

AND WHEREAS on November 10, 2010, the Staff of the Commission amended the Statement of Allegations;

AND WHEREAS Marc D. Boutet ("Boutet") and Nelson Investment Group Ltd. ("Nelson Investment") entered into a settlement agreement with Staff of the Commission ("Staff") dated May 12th, 2011 (the "Settlement Agreement"), subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement, and upon hearing submissions from counsel for Staff and for Boutet and Nelson Investment.

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this order;

IT IS ORDERED THAT

- (a) The settlement agreement is approved;
- (b) Pursuant to clause 2 of ss. 127(1) of the Act, trading in any securities by Boutet and Nelson Investment shall cease permanently, with a carve out for trading by Boutet in his personal RRSP account after the payment set out in subparagraph (f) is paid in full;
- (c) Pursuant to clause 1 of ss. 127(1) of the Act, the registration granted to Boutet and Nelson Investment under Ontario securities law shall be terminated permanently;
- (d) Pursuant to clause 8 of ss. 127(1) of the Act, Boutet shall be prohibited from becoming or acting as a director or an officer of any issuer, for a period of 15 years;
- (e) Pursuant to clause 3 of ss. 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Boutet and Nelson Investment, permanently;
- (f) Pursuant to clause 9 and 10 of ss. 127(1) of the Act, Boutet and Nelson Investment shall pay the amount of \$550,000 to be allocated to or for the benefit of third parties under ss. 3.4(2)(b) of the *Act*, with payment of \$200,000 to be made by certified cheque at the time of the settlement hearing;

DATED at Toronto this th day of May, 2011.
