

**Court File No. CV-15-10961-00CL**

**Nelson Education Ltd.  
Nelson Education Holdings Ltd.**

**FIFTH REPORT OF THE MONITOR**

**September 24, 2015**

**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 EDUCATION LTD. AND NELSON EDUCATION HOLDINGS LTD.

**FIFTH REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

**INTRODUCTION**

1. On May 12, 2015, Nelson Education Ltd. and Nelson Education Holdings Ltd. (together, “**Nelson**”) made an application (the “**Initial Application**”) under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) and an initial order (the “**Initial Order**”) was made by the Honourable Mr. Justice Newbould of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), granting, *inter alia*, a stay of proceedings against Nelson until June 10, 2015, (the “**Stay Period**”) and appointing Alvarez & Marsal Canada Inc. (together with its affiliates, “**A&M**”) as monitor of Nelson. The proceedings commenced by Nelson under the CCAA will be referred to herein as the “**CCAA Proceedings**”.

2. The Initial Order provided for a “comeback date” of May 29, 2015 (the “**Comeback Date**”). On the Comeback Date, Royal Bank of Canada (“**RBC**”)<sup>1</sup> sought the appointment of FTI Consulting Canada Inc. (“**FTI**”) in place of A&M. Pursuant to the Order of the Honourable Mr. Justice Newbould, FTI was appointed as Monitor (the “**Monitor**”).
3. Pursuant to the Order of the Honourable Mr. Justice Newbould granted on June 8, 2015 (the “**Amended Initial Order**”), the Stay Period was extended to July 17, 2015. The Stay Period has been further extended on a number of occasions and currently expires on September 30, 2015.
4. On September 8, 2015, the Honourable Mr. Justice Newbould issued an endorsement *inter alia* approving the sale of substantially all of the property and assets of Nelson as contemplated by an asset purchase agreement (the “**APA**”) to be entered into between Nelson Education Ltd. as Seller and 682534 N.B. Inc. as Purchaser, a special purpose vehicle through which the lenders under the First Lien Credit Agreement (the “**First Lien Lenders**”) will acquire the business and assets of Nelson if the transaction contemplated by the APA (the “**FLL Transaction**”) closes. The FLL Transaction is currently scheduled to close in escrow by the end of September with Closing being effective October 1, 2015.
5. The Monitor has to date filed four reports in respect of various aspects of the CCAA Proceedings<sup>2</sup>. This report is the Monitor’s fifth report, the purpose of which is to inform the Court on the following:

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<sup>1</sup> RBC is Administrative Agent and Collateral Agent (the “Second Lien Agent”) pursuant to a Second Lien Credit Agreement dated as of July 5, 2007 (the “Second Lien Credit Agreement”), a lender under the Second Lien Credit Agreement, a lender under the First Lien Credit Agreement dated as of July 5, 2007 (the “First Lien Credit Agreement”) and the provider of cash management services

<sup>2</sup> In addition to the reports filed by the Monitor, A&M filed a pre-filing report dated May 11, 2015 (the “**Pre-Filing Report**”) and a supplement to the Pre-Filing Report dated May 26, 2015.

- (a) Nelson's request for approval of a cash management services transition agreement to be entered into between Nelson, RBC, the Purchaser and Bank of Montreal (the "**Cash Management Services Transition Agreement**") and the Monitor's recommendations thereon; and
- (b) Nelson's request for an extension of the Stay Period to December 15, 2015 and the Monitor's recommendation thereon.

#### **TERMS OF REFERENCE**

- 6. In preparing this report, the Monitor has relied upon unaudited financial information of Nelson, Nelson's books and records, certain financial information prepared by Nelson and discussions with various parties (the "**Information**").
- 7. Except as described in this Report:
  - (a) The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook;
  - (b) The Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
- 8. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.

9. The Monitor has prepared this Report in connection with Nelson's motions for approval of the Cash Management Services Transition Agreement and an extension of the Stay Period to December 15, 2015 (together, the "**September 24 Motions**"). The Report should not be relied on for other purposes.
10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.
11. Capitalized terms not otherwise defined herein have the meanings defined in the Initial Order, the affidavit of Mr. Greg Nordal sworn May 11, 2015 filed in support of the Initial Application (the "**Nordal May 11 Affidavit**") or in the previous reports of the Monitor.

#### **CASH MANAGEMENT SERVICES TRANSITION AGREEMENT**

12. The Cash Management Services Transition Agreement is attached as Exhibit A to the affidavit of Mr. Greg Nordal sworn September 24, 2015 and filed in support of the September 24 Motions (the "**September 24 Affidavit**").
13. The Monitor understands that the purpose of the Cash Management Services Transition Agreement is to enable the continuation of services by RBC so that unpresented cheques issued by Nelson can continue to be cashed after closing of the FLL Transaction, rather than the Purchaser having to issue new cheques and so that any amounts remitted to Nelson's accounts with RBC after closing of the FLL Transaction can be delivered to the Purchaser in accordance with the APA and subject to the terms of the Cash Management Services Transition Agreement.

14. The Cash Management Services Transition Agreement also provides certain protections to RBC in connection with the post-closing operation of the Nelson accounts. RBC has requested those protections as the Cash Management Charge granted in the Amended Initial Order and RBC's contractual security interest for cash management services will be discharged upon closing of the FLL Transaction. In addition, RBC will be reimbursed by Nelson for fees and expenses in connection with the cash management services, including legal fees incurred in respect of the negotiation of the Cash Management Services Transition Agreement.
15. The Monitor has been informed that RBC has requested that Nelson seek Court approval of the Cash Management Services Transition Agreement.
16. The Monitor is of the view that no party of interest is prejudiced by the Cash Management Services Transition Agreement and respectfully recommends that Nelson's request for its approval be granted.

#### **EXTENSION OF THE STAY PERIOD**

17. The Stay Period currently expires on September 30, 2015. Additional time is required for Nelson to undertake the post-closing activities described in the September 24 Affidavit following the closing of the FLL Transaction. The FLL Transaction is currently scheduled to close in escrow by the end of September with Closing being effective October 1, 2015. The continuation of the stay of proceedings is necessary to provide the stability needed during that time. Accordingly, Nelson now seeks an extension of the Stay Period to December 15, 2015.

18. Based on the information provided to the Monitor, it appears that the Cash Reserve of \$1.15 million will provide Nelson with sufficient liquidity to fund the post-closing activities and the CCAA Proceedings to December 15, 2015. The Cash Reserve will be held by the Monitor for the purposes set out in the Approval and Vesting Order for the FLL Transaction. Any funds remaining in the Cash Reserve after payment of all outstanding costs for which the Cash Reserve is held will be returned to the Purchaser in accordance with the APA and the Approval and Vesting Order.
19. Based on the information currently available, the Monitor believes that creditors would not be materially prejudiced by an extension of the Stay Period to December 15, 2015.
20. The Monitor also believes that Nelson has acted, and is acting, in good faith and with due diligence and that circumstances exist that make an extension of the Stay Period appropriate.
21. The Monitor therefore respectfully recommends that this Honourable Court grant Nelson's request for an extension of the Stay period to December 15, 2015.

The Monitor respectfully submits to the Court this, its Fifth Report.

Dated this 24<sup>th</sup> day of September, 2015.

FTI Consulting Canada Inc.  
In its capacity as Monitor of  
Nelson Education Ltd. and Nelson Education Holdings Ltd.



Nigel D. Meakin  
Senior Managing Director

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COMMERCIAL LIST**

Proceeding commenced at Toronto

**FIFTH REPORT OF THE MONITOR**

**Norton Rose Fulbright Canada LLP**  
Royal Bank Plaza, South Tower, Suite 3800  
200 Bay Street, P.O. Box 84  
Toronto, Ontario M5J 2Z4 CANADA

**Orestes Pasparakis** LSUC# 36851T  
Tel: (416) 216-4815  
Email: [Orestes.Pasparakis@nortonrosefulbright.com](mailto:Orestes.Pasparakis@nortonrosefulbright.com)

**Evan Cobb** LSUC #:55787N  
Tel: (416) 216-1929  
Email: [Evan.Cobb@nortonrosefulbright.com](mailto:Evan.Cobb@nortonrosefulbright.com)

Fax: (416) 216-3930

Lawyers for FTI Consulting Canada Inc.,  
in its capacity as court-appointed Monitor