

Court File No. 31-1687015

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE *MR*

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TUESDAY, THE 1ST DAY

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JUSTICE *NEWBOLD*

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OF OCTOBER, 2013

IN THE MATTER OF THE PROPOSAL OF
SAMUEL PROPERTY MANAGEMENT LTD.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

**ORDER APPROVING AMENDED PROPOSAL
(Section 60(5))
(DIVISION 1 – PART III)**

UPON the application of the Trustee, Albert Gelman Inc., and upon reading the Report of the Trustee and upon hearing the Trustee and the Court being satisfied that the required majority of creditors have duly accepted the Amended Proposal in the terms contained in the paper writing marked as Scheduled "A" annexed hereto and being satisfied that the said terms are reasonable and calculated to the benefit of the general body of creditors and that no offences or facts have been proven to justify the Court in withholding its approval,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the documentary evidence used at the within hearing be and is hereby abridged so that this motion is properly returnable this day.
2. **THIS COURT ORDERS** the Amended Proposal annexed hereto be and is hereby approved.

26 Newb.

Scheduled "A"

District of Ontario
Division No. 09-Toronto
Estate No.: 31-1687015
Court No.: 31-1687015

**ONTARIO
SUPERIOR COURT OF JUSTICE
(In Bankruptcy and Insolvency)**

IN THE MATTER OF THE PROPOSAL OF

SAMUEL PROPERTY MANAGEMENT LTD.

A company duly incorporated under the laws
of the Province of Ontario and having its head office in the
City of Toronto in the Province of Ontario

AMENDED PROPOSAL

(Dated September 12, 2013)

Samuel Property Management Ltd., the above named Debtor, hereby submits the following Proposal under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. (1985), c.B-3, as amended (the "BIA").

BACKGROUND

Pursuant to this Amended Proposal, the Debtor proposes to complete the Asset Purchase Agreement for the sale of the Debtor's assets and business operations to Canlight Hall Corporation (the "Purchaser") and the proceeds from the Asset Purchase Agreement are to be distributed to creditors in accordance with the terms set out in this Amended Proposal.

1. DEFINITIONS

In this Proposal, the following terms have the meaning herein set out:

- (a) **Asset Purchase Agreement.** The agreement contemplated between Samuel Property Management Ltd. as Vendor and Canlight Hall Corporation as Purchaser, for the sale to the Purchaser of all of the Debtor's assets;
- (b) **Claim.** Any right of any person against the Debtor in connection with any indebtedness, liability or obligation of the Debtor of any kind which was in existence at the NOI Date, whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future,

known, unknown, by guarantee, surety or otherwise, and whether or not such a right is executory in nature, including, without limitation, any claim referred to in this Proposal in respect of the termination or disclaimer by the Debtor of a lease, any product warranty liability and the right or ability of any person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause of action or chose in action, whether existing at present or commenced in the future based in whole or in part on facts which existed prior to or on the NOI Date;

- (c) **Closing Date.** Closing of the Asset Purchase Agreement contemplated between Samuel Property Management Ltd. as Vendor and Canlight Hall Corporation as Purchaser.
- (d) **Debtor.** Samuel Property Management Ltd.;
- (e) **Final Approval.** Approval of the Proposal by the Creditors and the Court and any appeal period with respect to the Court Approval having expired;
- (f) **NOI Date.** Date of the filing of the Notice of Intention to make a Proposal with the Official Receiver being November 15, 2012;
- (g) **Ordinary Creditors.** Unsecured Creditors, excluding the Preferred Creditors;
- (h) **Post NOI Liabilities.** The Debtor's unpaid liabilities incurred subsequent to the NOI Date, which have not been paid as of the Closing Date, excluding the unpaid accounts of the Debtor's solicitor Lipman Zener & Waxman LLP ("Lipman") and the Debtor's accountant Segal LLP ("Segal") (collectively the "Professionals") A listing of the estimated Post NOI Liabilities are attached hereto as **Schedule "A"**. The purchase price payable pursuant to the Asset Purchase Agreement, contemplated between the Debtor and the Purchaser, includes an amount of \$15,000 for professional fees that will be paid to the Professionals. Furthermore, following closing of the Asset Purchase Agreement, the Proposal Trustee will remit to the Professionals an aggregate sum of \$10,000, from funds held by the Proposal Trustee in its retainer account, which it received from the Debtor.
- (i) **Preferred Creditors.** Creditors with proven claims for which the BIA prescribes payment in priority to claims of Ordinary Creditors;
- (j) **Proposal.** This Proposal, as it may be amended from time to time;
- (k) **Proposal Date.** Date of the filing of the Proposal with the Official Receiver;

- (l) **Proven Claim.** Any claim which was the subject of a proof of claim in accordance with the BIA, filed with the Trustee and considered admissible by it;
- (m) **Secured Creditors.** Royal Bank of Canada, Honda Canada Finance Inc. and Financialinx Corporation;
- (n) **Trustee.** Albert Gelman Inc., as Trustee to the Proposal of the Debtor;
- (o) **Unsecured Creditors.** Collectively, the Preferred Creditors, the Ordinary Creditors, including Claims of the Unsecured Landlord, the Unsecured Employees, Unsecured Equipment and Vehicle Lessors and RBC Unsecured Claim;
- (p) **Unsecured Employees.**
 - i. Those former employees of the Debtor who have been offered employment by the Purchaser and have chosen not to accept employment. Claims of these former employees may be filed in accordance with the Employment Standards Act (Ontario) and will rank as Unsecured Creditors.
 - ii. Those former employees set out below, whose employment agreements were Disclaimed or Resiliated by the Debtor:
 - 1. Mary Majidi whose employment agreement was Disclaimed or Resiliated by the Debtor;
 - 2. Georgina Chan whose employment agreement was Disclaimed or Resiliated by the Debtor; and,
 - 3. Silus Stanciu whose employment agreement was Disclaimed or Resiliated by the Debtor;
- (q) **Unsecured Equipment and Vehicle Lessors.** Pitney Bowes of Canada Ltd., CBSC Capital Inc. and Nissan Canada Finance a division of Nissan Canada Inc., whose agreements were Disclaimed or Resiliated by the Debtor.
- (r) **Unsecured Landlord.** Century Standard Developments Corporation whose commercial lease was disclaimed or resiliated pursuant to Section 65.2(1) of the BIA on April 30, 2013.

The Claim of the Unsecured Landlord is to be calculated pursuant to section 65.2(4)(b) of the BIA as follows:

The lesser of:

(i) the aggregate of:

(A) the rent provided for in the lease for the first year of the lease following the date on which the disclaimer or resiliation becomes effective, and

(B) fifteen per cent of the rent for the remainder of the term of the lease after that year, and

(ii) three years' rent.

2. SECURED CREDITORS

(a) This Proposal is not made to Secured Creditors, other than Royal Bank of Canada ("RBC"). Payment of the claims of Secured Creditors (other than Royal Bank of Canada) shall be made in the usual manner or as may be agreed between the Debtor and the Secured Creditors (other than Royal Bank of Canada).

(b) This Proposal is made to RBC as follows:

- i. following the Closing Date, the Debtor shall remit to the Trustee, for distribution to the RBC (less the Superintendent's Levy of 5%), all amounts owing under the RBC Operating Line of Credit "**RBC Line of Credit**", to a maximum of \$175,000.00. Upon payment of the RBC Line of Credit in accordance with this Proposal, RBC will release Gennaro (a.k.a. Gino) Sisera from his personal guarantee with RBC in relation to all debts owing by the Debtor to the RBC; and,
- ii. Any other unpaid amounts owing by the Debtor to RBC, including but not limited to VISA account number 4516 0700 0229 1955 in the amount of \$15,106.39, VISA account number 4516 0700 0229 2011 in the amount of \$1,529.71, unpaid accrued interest on the RBC Line of Credit and RBC's legal fees shall rank as an Unsecured Creditor and RBC shall be entitled to file a Claim as an Unsecured Creditor ("**RBC Unsecured Claim**").

3. DEBTS OWED TO THE CROWN

(a) Proven claims of Her Majesty in right of Canada or a province of all amounts of a kind that could be subject to a demand under subsection 224(1.2) of the Income Tax Act or under any substantially similar provision of provincial legislation that were outstanding at the NOI Date shall be paid in full within six (6) months of Court Approval of this Proposal unless Her Majesty in Right of Canada or a province consents to some other arrangement.

4. PREFERRED CREDITORS

- (a) Proven Claims of Preferred Creditors, without interest, shall be paid in full in priority to all Unsecured Creditors;
- (b) Claims of employees, former employees and Unsecured Employees of amounts equal to the amounts that they would be qualified to receive under paragraph 136(1)(d) of the BIA as well as wages, salaries, commissions or compensation for services rendered after the NOI Date and on or before the Closing Date, together with, in the case of travelling salesmen, disbursements properly incurred by those salesmen in and about the bankrupt's business during the same period shall be paid by the Debtor immediately after Final Approval of this Proposal.

5. POST NOI LIABILITIES AND UNSECURED CREDITORS

- (a) Following the Closing Date, the Purchaser shall remit to the Debtor a sum of \$150,000 ("Proposal Fund") to be used by the Debtor to pay all Post NOI Liabilities.
- (b) Following payment of the Post NOI Liabilities, the Debtor shall pay the balance of funds on hand to the Trustee for distribution in the order set out below:
 - i. Those amounts set out under paragraphs 7(a) and 7(b);
 - ii. Those amounts required to be made under paragraph 4(a);
 - iii. To Unsecured Creditors with Proven Claims under the Proposal on a *pro rata pari passu* basis.

Creditors shall accept these payments as full, final and complete satisfaction of their claims.

6. SETTLEMENT

This Amended Proposal provides the terms on which all Claims will be fully and finally resolved, compromised and settled. Creditors will accept the payments referred to in this Amended Proposal in complete satisfaction of their Claims and shall agree that any security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims they each may have, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise will have no effect in law or in equity against the assets of the Debtor or against the Purchaser.

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7. GENERAL PROVISIONS

- (a) All proper fees of the Trustee commencing from the date of the Amended Proposal dated August 23, 2013 plus all expenses and disbursements of the Trustee incurred prior to or subsequent to the Proposal Date, incidental to the proceedings arising out of the Proposal, including, without limitation, accounting fees and consulting fees and the fees and disbursements of its legal counsel in connection with the preparation and facilitation of this Proposal and any amendments thereto, including advice to the Debtor in connection therewith and fees incurred by the Trustee in administering the Proposal shall be paid from the Proposal Fund in priority to all Claims;
- (b) From the Proposal Fund, and prior to any distribution to any Unsecured Creditors in the administration, an amount of \$15,000 shall be held separately, in trust, by the Trustee ("Proposal Default Fund"). The sole purpose of the Proposal Default Fund will be to contribute to the costs of a bankruptcy administration in the event the Debtor is deemed to have filed an Assignment in Bankruptcy and/or to fund an application to annul the Proposal in the event of a default which has not been waived by the Inspector(s) or remedied by the Debtor. In the latter case, upon Instructions from the Inspector(s), the Trustee shall make an application to the Court to have the Proposal annulled. Once a certificate of completion has been issued to the Debtor this provision of this Proposal will no longer apply and the Proposal Default Fund will be available for distribution to the Creditors in accordance with the terms of this Proposal.
- (c) Albert Gelman Inc., of the City of Toronto, in the Province of Ontario, shall be the Trustee of this Proposal.
- (d) The Trustee is acting in its capacity as trustee under this Proposal and shall not be responsible or liable for any obligations of the Debtor. The Trustee shall have the powers granted to it by the Proposal, by the Act, and by any order of the Court. The Trustee will be exempt from all personal liability in fulfilling any duties or exercising any powers conferred upon it by the Proposal or generally in carrying out the terms of this Proposal unless such acts have been carried out in bad faith and constitute a wilful or wrongful act or default. Sections 91 to 101 of the Act (with the exception of Section 97(3)) shall not apply in connection with this Proposal or any dealing by the Debtor prior to the NOI Date, and the Trustee shall have no responsibility, liability or authority whatsoever in connection therewith. The Trustee shall not monitor or in any way manage the Debtor's business.
- (e) The Trustee under this Proposal is acting solely as Trustee and not in its personal capacity and shall not be responsible or liable for any obligations of the Debtor.

- (f) All monies payable under the terms of this Proposal, with the exception of the amount to be paid pursuant to paragraph 4(b), shall be paid over to the Trustee who shall make all payments in accordance with the terms of this Proposal.
- (g) Upon making all payments in accordance with the terms of this Proposal, the Trustee shall be entitled to be discharged.
- (h) The Creditors, at the meeting of creditors to consider this Proposal, may appoint up to five Inspectors who will have, in addition to any powers of Inspectors under the BIA, the power to:
 - i. receive any notice of default in the performance of the Proposal and waive any such default;
 - ii. advise the Trustee in respect of such matters as may be referred to the inspectors by the Trustee;
 - iii. approve any amendment to the Proposal without calling a meeting of creditors, where the amendment would alter the schedule for and the amounts of payments to be made by the Debtor, but would not change the total amount to be paid; and
 - iv. extend the time for any payment due under this Proposal.
- (i) Upon this Proposal being completed, each and every present and former director of the Debtor shall be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, options, liens and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Creditor may be entitled to assert, against any such director, including, without limitation, any and all claims in respect of the potential statutory liabilities of the present or former directors of the Debtor and any and all claims relating to the obligations of the Debtor, where the present or former directors are or may be by law liable in their capacity as directors for payment of such obligations, and provided that nothing herein shall release or discharge any of the present or former directors of the Debtor from the exceptions set out in Section 50(14) of the BIA.
- (j) All proper claims against the Debtor arising with respect to goods supplied, services rendered, or other consideration given or provided after the NOI Date, up to the date of approval of this Proposal by the Superior Court of Justice in Bankruptcy, and not otherwise dealt with pursuant to this Proposal, shall be paid in full by the Debtor in the ordinary course, in priority to the claims of all other Creditors.
- (k) The provisions of this Proposal will be binding on the creditors with Claims and the Debtor, and their respective heirs, executors, administrators, successors and assigns, upon issuance of the Final Approval.

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- (l) In the event that any date on which any action is required to be taken herewith is not a business day, such action will be required to be taken on the next succeeding day that is a business day.
- (m) The Debtor may propose amendments to this Proposal at any time prior to the conclusion of the meeting of creditors called to vote on the Proposal, provided that any such amendment does not reduce the rights and benefits given to the Creditors pursuant to this Proposal before such amendment and any or all such amendments shall be deemed to be a part of and incorporated into this Proposal.
- (n) Upon Final Approval, the directors shall be released and discharged by all Creditors from all Claims, which any Preferred Creditors or Ordinary Creditors may have or have been entitled to assert against any of the directors for which they would be, by law, liable in their capacity as directors for the payment of such Claims which arose prior to the NOI Date, provided that nothing herein shall release or discharge any of the directors from Claims that:
 - i. Relate to contractual right of one or more of the Ordinary Creditors arising from contract with one or more of the directors; or
 - ii. Are based on allegations of misrepresentation made by the directors to the Ordinary Creditors or of wrongful or oppressive conduct by the directors.
- (o) The payment, compromise or other satisfaction of any Claim under this Proposal will be binding upon such creditor, its heirs, executors, administrators, successors and assigns, for all purposes and will also be effective to relieve any third party directly or indirectly liable for such indebtedness, whether as guarantor, indemnitor, tenant, director, joint covenantor, principal or otherwise.
- (p) The following creditors have agreed not to file a Claim in this Proposal and will not participate in distributions to Unsecured Creditors under this Proposal:
 - i. Mrs. Deborah Sisera for her claim in the amount of approximately \$888,690; and,
 - ii. Mrs. Dolly Catena for her claim in the amount of approximately \$137,479.
- (q) Any notices or communication to be made or given hereunder shall be in writing and shall refer to this Proposal and may, subject as hereinafter provided, be made or given by personal delivery, by prepaid mail or by telecopier (except for Proofs of Claim which may only be sent by personal delivery, telecopier or registered mail) addressed to the respective parties as follows:

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- i. if to the Debtor:

c/o Lipman Zener & Waxman LLP
1220 Eglinton Avenue West
Toronto ON M6C 2E3

Attention: Allan Lipman
Telecopier: 416-789-9015

- ii. if to an Unsecured Creditor, to the address or telecopier number for such Unsecured Creditor specified in the Proof of Claim filed by such Unsecured Creditor or, if no proof of Claim has been filed, to such other address or telecopier number at which the notifying party may reasonably believe that the Unsecured Creditor may be contacted; and
- iii. if to the Trustee:

Albert Gelman Inc.
100 Simcoe Street, Suite 125
Toronto ON M5H 3G2
Attention: Bryan A. Gelman, *CIRP, Trustee in Bankruptcy*
Telecopier: 416.504.1655

or to such other address or telecopier number as any party may from time to time notify the others in accordance with this section. In the event of any strike, lock-out and other event which interrupts postal service in any part of Canada, all notices and communications during such interruption may only be given or made by personal delivery or by telecopier and any notice or other communication given or made by prepaid mail within the five (5) Business Day period immediately preceding the commencement of such interruption will be deemed not to have been given or made. All such notices and communications will be deemed to have been received, in the case of notice by telecopier or by delivery prior to 5:00 p.m. (local time) on a Business Day, when received or if received after 5:00 p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day and in to case of notice mailed as aforesaid, on the fifth (5th) Business Day following the date on which such notice or other communication is mailed. The unintentional failure to give a notice contemplated hereunder to any particular Creditor will not invalidate this Proposal or any action taken by any Person pursuant to this Proposal.

- (r) For purposes of this Proposal, Claims denominated in a currency other than Canadian funds will be converted to Canadian Dollars at the closing spot rate of exchange of the Bank of Canada on the NOI Date.

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Dated at Toronto Ontario this 12th day of September, 2013.

SAMUEL PROPERTY MANAGEMENT LTD.

Per: _____

Name: Gennaro Sisera, President

I have authority to bind the corporation.

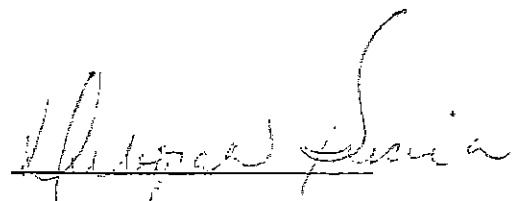
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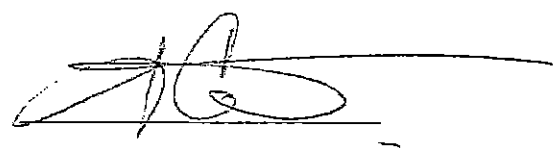
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Pursuant to Paragraph 6(p) of this Proposal, the following creditors hereby confirm that they will not file a Claim in this Proposal and will not participate in any distributions to Unsecured Creditors under this Proposal.

DEBORAH SISERA

DOLLY CATENA





Date: Sept. 11, 2013

Date: Sept 11, 2013

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Samuel Property Management Ltd
 Estimated Post NOI Liabilities
 For the Period ending September 27, 2013

<u>Company or Description</u>	<u>Billing Period or Description</u>	<u>Est amount</u>
Bell Long Distance	Beginning of October for Sept/13	30.00
Konica Minolta Copies	Beginning of October for Sept/13	15.00
Critical Path	One Week ending Sept 27/13	75.00
Payroll (one day)	Payroll for Sept 30/13 (1 day)	6,000.00
WSIB (one day)	WSIB calc for Sept 30/13 (1 day)	182.40
Car Leases	I assume paid in arrears	2,045.66
HST	July - Sept/13 due Oct 31/13	50,000.00
Contingency		2,500.00 (Note 1)
Total		60,848.06

Note 1: Represents a contingent amount for payment Post NOI Liabilities which are unknown to the Vendor as this time.

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SAMUEL PROPERTY MANAGEMENT LTD.
OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO

Court File No. 31-1687015

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at
TORONTO

**ORDER APPROVING AMENDED
PROPOSAL**

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Albert Gelman Inc.