

# DODICK LANDAU

March 17, 2016

## **CREDITOR PACKAGE**

**To the Creditors of 2331131 Ontario Inc., o/a Elliott Underground, ("2331131" or the ("Company"))**

Please be advised that on March 11, 2016, Dodick Landau Inc., in its capacity as Proposal Trustee (the "**Proposal Trustee**") of the Estate of 2331131 Ontario Inc. o/a Elliott Underground, filed with the Official Receiver a proposal in the name, and on behalf, of 2331131 Ontario Inc. (the "**Proposal**").

The reason you are receiving this letter and the enclosed creditor information ("**Creditor Package**") is because 2331131 advised the Proposal Trustee that you are a creditor of 2331131 and may be eligible to vote in the Proposal. The purpose of the Creditor Package is to provide you with the information you require to evaluate, and vote on, the Proposal.

Enclosed in this Creditor Package are the following documents:

- 1) Notice of Proposal to Creditors;
- 2) Proposal;
- 3) Trustee's Report on Proposal;
- 4) Statement of Affairs;
- 5) Proof of Claim form with instructions;
- 6) Proxy;
- 7) Voting Letter;

**A Meeting of the Creditors to consider the Proposal will be held at the office of the Proposal Trustee, located at 4646 Dufferin Street, Suite 6, Toronto, Ontario M3H 5S4 on April 1, 2016 at 11:00 a.m.**

In order to be eligible to attend and vote at the meeting of creditors, creditors must have filed with the Proposal Trustee before the meeting, a proof of claim form signed and witnessed as required and accompanied by a statement of account. Those Creditors who do not intend to have a personal representative at the meeting held on April 1, 2016, may complete and submit the voting letter which is enclosed in this Creditor Package prior to the meeting indicating their vote for or against the acceptance of the Proposal. The Trustee has also enclosed a form of proxy should a Creditor wish to appoint a proxy to represent them at the meeting. Additional details relating to the filing of claims prior to the meeting of creditors are outlined in the Report of the Trustee on the Proposal.

# DODICK LANDAU

Completed proofs of claim, and other documents, may be returned to the Trustee to the attention of Brenda McKnight by fax (416-649-7725) or electronic mail ([Brenda.mcknight@dodick.ca](mailto:Brenda.mcknight@dodick.ca)). Should you need further assistance, you may contact our office by telephone at 416-645-0542.

To access further information pertaining to the 2331131 Ontario Inc. proceedings, including an electronic copy of the Creditor Package, please visit the Trustee's website (<http://dodick.ca/public-documents/>).

**Dodick Landau Inc.,**

Proposal Trustee of the estate of 2331131 Ontario Inc.  
o/a Elliott Underground, and not in its personal or  
corporate capacity.

Per:



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Rahn Dodick, CPA, CA, CIRP, LIT

# NOTICE OF PROPOSAL

District of Ontario  
Division No. 03 – Barrie  
Court No. 31-2087522  
Estate No. 31-2087522

FORM 92  
Notice of Proposal to Creditors  
(Section 51 of the Act)

In the matter of the proposal of  
2331131 Ontario Inc., o/a Elliott Underground  
Of the Village of Schomberg, in the Province of Ontario

Take notice that 2331131 Ontario Inc., o/a Elliott Underground, of the Village of Schomberg, in the Province of Ontario has lodged with us a proposal under the Bankruptcy and Insolvency Act.

A copy of the proposal, a condensed statement of the debtor's assets, and liabilities, and a list of the creditors affected by the proposal and whose claims amount to \$250 or more are enclosed herewith.

A general meeting of the creditors will be held at 4646 Dufferin Street, Suite 6, Toronto, Ontario on the 1<sup>st</sup> day of April, 2016 at 11:00 A.M.

The creditors or any class of creditors qualified to vote at the meeting may by resolution accept the proposal either as made or as altered or modified at the meeting. If so accepted and if approved by the court the proposal is binding on all the creditors or the class of creditors affected.

Proofs of claim, proxies and voting letters intended to be used at the meeting must be lodged with us prior to the commencement of the meeting.

Dated at the City of Toronto, in the Province of Ontario, this 17<sup>th</sup> day of March, 2016.

Dodick Landau Inc. – Trustee

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4646 Dufferin St., Suite 6  
Toronto, ON M3H 5S4  
Phone: (416) 645-0542 Fax: (416) 649-7725

# PROPOSAL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE PROPOSAL OF**  
**2331131 ONTARIO INC. O/A ELLIOTT UNDERGROUND**  
**of the City of Schomberg, in the Province of Ontario**

**PROPOSAL**

**2331131 ONTARIO INC.** hereby submits the following Proposal under the provisions of the *Bankruptcy and Insolvency Act*.

**PART I**  
**INTERPRETATION**

**Definitions**

1. In this Proposal:
  - (a) "Act" means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.
  - (b) "Administrative Fees and Expenses" means the fees and expenses of the Trustee incidental to the NOI and the preparation and facilitation of this Proposal and any amendments thereto, including, without limitation, fees incurred by the Trustee in the administration of the Funded Proposal Payments; and, the legal fees and expenses of the Trustee before and following execution, acceptance and approval of this Proposal and in connection with the NOI and the preparation of this Proposal, as well as advice to the Trustee in connection therewith;
  - (c) "Affected Creditors" means those Creditors of the Company forming Class I, as defined in Part III of this Proposal;
  - (d) "Approval Order" means an order of the Court approving this Proposal to be granted pursuant to the provisions of the Act, the appeal period having

expired and no appeal having been filed or any appeal therefrom having been dismissed and such dismissal having become final;

- (e) "Bankruptcy Reserve" means a reserve amount of \$15,000 to be held by the Trustee as security for the administrative costs of the bankruptcy of the Company, in the event that this Proposal is annulled and the Company becomes bankrupt;
- (f) "Business Day" means a day, other than a Saturday, Sunday or statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (g) "Claim" means any right of any Person with indebtedness, liability or obligation of any kind against the Company which indebtedness, liability or obligation is in existence at the Date of Filing, whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known, unknown, by surety or otherwise and whether or not such a right is executory in nature including, without limitation, the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause, chose in action, whether existing at present or commenced in the future based in whole or in part on facts which exist prior to or at the time of Date of Filing;
- (h) "Company" means 2331131 Ontario Inc.;
- (i) "Court" means the Ontario Superior Court of Justice in Bankruptcy and Insolvency;
- (j) "Court Approval Date" means the date on which the Approval Order is issued;
- (k) "Creditor" means any Person having a Claim;
- (l) "Creditors Meeting" means the meeting of the Affected Creditors called for the purpose of considering and voting upon this Proposal;
- (m) "Crown Priority Claims" means Claims of Her Majesty in right of Canada or any province of all amounts of a kind contemplated by section 60(1.1) of the Act;
- (n) "Date of Filing" means the date on which the Company filed the NOI;
- (o) "Deficiency Claim" means the value of the Claim of a Secured Creditor which is in excess of the value of the Secured Property in respect of that Claim;

- (p) "Employee Preferred Claim" means a Claim by a current or former employee of the Company, or such portion of such Claim, that would be payable in priority under Subsection 136(1) of the Act;
- (q) "Effective Date" means the date on which the transactions and agreements provided for in this Proposal are to become effective which shall be the date on which the Approval Order is issued;
- (r) "Event of Default" has the meaning given to it in Part VIII of this Proposal;
- (s) "Funded Proposal Payments" shall mean funds which will be advanced to the Trustee for distribution pursuant to Part V of this Proposal;
- (t) "Inspectors" means the inspectors appointed pursuant to Part X of this Proposal;
- (u) "Levy" means the levy imposed by the Superintendent of Bankruptcy under the Act;
- (v) "Maturity Date" means the date on which all payments to the Creditors have been made, provided that no Event of Default has occurred that has not been cured or waived;
- (w) "NOI" means the Notice of Intention to Make a Proposal filed by the Company on February 11, 2016;
- (x) "Person" means any individual, partnership, joint venture, trust corporation, unincorporated organization, government or any agency or instrumentality thereof, or any other entity howsoever designated or constituted;
- (y) "Post-Filing Crown Claims" means all Claims of Her Majesty in right of Canada or any province of all amounts that became due or shall become due on or after the Date of Filing;
- (z) "Post-Filing Goods and Services" means the goods supplied, services rendered and other consideration given or provided to the Company on or after the Date of Filing;
- (aa) "Pre-Filing Crown Claims" means all Claims of Her Majesty in right of Canada or any province of all amounts that were outstanding as at the Date of Filing;
- (bb) "Preferred Claim" means any claim that is afforded priority under Section 136(1) of the Act;
- (cc) "Preferred Creditor" means any Unsecured Creditor holding a Preferred Claim, solely in respect to that Preferred Claim;



- (dd) "Proposal" means this proposal dated March 11, 2016, together with any amendments or additions thereto;
- (ee) "Proposal Period" means the period between the Court Approval Date and the Maturity Date;
- (ff) "Proven" as used in relation to any Claim means such Claim as finally accepted or determined by the Trustee in accordance with the provisions of the Act and this Proposal, subject to the Creditor's right of appeal to Court, the Court's determination of that Claim or any applicable appeal periods having expired and no appeal having been made,
- (gg) "Secured Claim" means the value of any Claim to the extent of the value of the Secured Property;
- (hh) "Secured Creditor" means a Creditor holding a mortgage, hypothec, pledge, charge, lien or privilege on or against the property of the Company or any part thereof as security for a Claim
- (ii) "Secured Property" mean the property against which a Creditor holds a mortgage, hypothec, pledge, charge, lien or privilege in respect of a Claim;
- (jj) "Trustee" means Dodick Landau Inc., solely in its capacity as proposal trustee of the Company;
- (kk) "Unsecured Claim" means the value of any Proven Claim which is not secured against any Secured Property or the portion of any Proven Claim which is in excess of the value of the Secured Property in respect of that Claim; and
- (ll) "Unsecured Creditors" means those Persons with Claims in respect of which no Security is held and which is not afforded priority under Section 136(1) of the Act and includes, without limitation, Deficiency Claims.

### **Headings**

2. The division of this Proposal into parts, paragraphs and subparagraphs, and the insertion of headings herein, is for convenience of reference only and is not to affect the construction or interpretation of this Proposal.

### **Number, etc.**

3. In this Proposal, where the context requires, a word importing the singular includes the plural and vice versa, and a word importing gender includes the masculine, feminine and neuter genders.

#### **Date for Action**

4. In the event that any date on which any action is required to be taken hereunder is not a Business Day, such action will be required to be taken on the next succeeding day that is a Business Day.

#### **Accounting Principles**

5. Accounting terms not otherwise defined in this Proposal have the meanings assigned to them in accordance with generally accepted Canadian accounting principles.

## **PART II PURPOSE AND EFFECT OF THIS PROPOSAL**

#### **Purpose of Proposal**

6. The purpose of this Proposal is to effect a restructuring of the indebtedness of the Company in the manner contemplated herein and as permitted by the Act in the expectation that all Creditors will derive a greater benefit from the restructuring and the continued operation of the business and affairs of the Company than would result from a bankruptcy of the Company.

#### **Effect of Proposal**

7. This Proposal restructures the indebtedness of the Company and provides the essential terms on which all Claims will be fully and finally resolved and settled. During the Proposal Period, and provided that an Event of Default has not occurred and is continuing hereunder, all Creditors will be stayed from commencing or continuing any proceeding or exercising any remedy against the Company or any of its property or assets in respect of a Claim including, without limitation, any proceeding or remedy to recover payment of any monies, to recover or enforce any judgment against the Company in respect of a Claim or to commence any formal legal proceedings against it other than as provided for under this Proposal.

## **PART III CLASSIFICATION OF CREDITORS**

8. For the purpose of this Proposal, the Creditors of the Company shall be comprised of a single class, consisting of Creditors having Preferred Claims and Unsecured Claims ("Class 1"). For greater certainty, Preferred Creditors entitled to vote pursuant to the Act shall vote in this class; Secured Creditors holding Deficiency Claims are entitled to vote in this class to the extent of such claim; and, claims of Her Majesty in right of Canada and any province for all amounts other than Crown Priority Claims shall vote in this class.

**PART IV  
SECURED CREDITORS**

9. Secured Creditors shall not be affected by this Proposal to the extent of their Secured Claims – i.e., the value of the subject Secured Property. However, the Deficiency Claims of Secured Creditors shall be treated as Unsecured Claims. A Secured Creditor may vote on all questions relating to the Proposal as part of Class 1 as an Unsecured Creditor in respect of the amount equal to such Secured Creditor's Proven Deficiency Claim.

**PART V  
TREATMENT OF VARIOUS CLAIMS,  
FUNDING OF PROPOSAL AND DISTRIBUTION**

**Subordinated Claims**

10. As of the Date of Filing, the Company's principal, Jason Elliott, and a related party, 1049042 Ontario Inc., have Claims against the Company (the "**Subordinated Claims**"), which Subordinated Claims shall be subordinated under this Proposal to all other Claims.

**Crown Priority Claims**

11. At the date of this Proposal, the Company owed the Canada Revenue Agency ("CRA") approximately \$130,000 for employee source deductions withheld but not remitted, excluding related penalties and interest calculated up to December 31, 2015. In addition to the Funded Proposal Payments, all Proven Pre-Filing Crown Priority Claims (less any amounts received by CRA from and after February 11, 2016 on account of such claims by way of garnishment or otherwise) shall be paid out of additional funds to be delivered by the Company to the Trustee and shall be remitted by the Trustee to Her Majesty in the Right of Canada or of any province, as applicable, within six (6) months of the Court Approval Date.

**Secured Claims**

12. Proven Secured Claims, to the extent of the value of the Secured Property, shall be paid out of the Funded Proposal Payments in priority to Unsecured Creditors. To the extent the Claim of a Secured Creditor exceeds the value of the Secured Property, the difference between the Proven claimed amount and the value of the Secured Property, being a Deficiency Claim, shall be treated as an Unsecured Claim.

**Employee Preferred Claims and Wages**

13. All Employee Preferred Claims, in addition to the Funded Proposal Payments, shall be paid out of additional funds to be delivered by the Company to the Trustee and

shall be remitted by the Trustee to the entitled claimants immediately after the Court Approval Date and in priority to the Unsecured Claims.

14. The Company shall continue to pay employees, not to include independent contractors, all wages, salaries, commissions or compensation for services rendered before, and after, the Court Approval Date.

#### **Preferred Claims (in addition to Employee Preferred Claims)**

15. Proven Preferred Claims, other than Employee Preferred Claims (which shall be satisfied pursuant to Paragraph 13 of this Proposal), shall be paid in full, out of the Funded Proposal Payments, without interest, in priority to Proven Unsecured Claims.

#### **Unsecured Claims**

16. Proven Unsecured Claims shall be paid out of the Funded Proposal Payments on a *pro rata* basis.

#### **Funding the Proposal**

17. Upon the full satisfaction of the Crown Priority Claims and Employee Preferred Claims, the Company will cause to be paid to the Trustee the Funded Proposal Payments in the form of cash instalments in the aggregate amount of \$10,000 every three months.
18. The Company's obligation to commence funding of the Funded Proposal Payments shall commence on the earlier of:
  - (i) the last day of the month following the month in which the Crown Claims are paid in full; and
  - (ii) 30-days following the day that is six (6) months after the Court Approval Date.
19. The Funded Proposal Payments will be made until an amount is paid to the Trustee equal to the lesser of:
  - (i) 100% of the Proven Secured Claims, to the extent of the value of the Secured Property, plus 35% of the value of the Proven Unsecured Claims (not including the Crown Priority Claims and the Employee Preferred Claims); and
  - (ii) \$200,000.

#### **Distribution**

20. Interim distributions will be made to Secured Creditors and the Unsecured Creditors when sufficient Funded Proposal Payments have, in the Trustee's discretion, accumulated to warrant the interim distribution.
21. The Funded Proposal Payments shall be distributed by the Trustee in the following order of priority:
  - (a) first, to the Administrative Fees and Expenses;
  - (b) second, to establish the Bankruptcy Reserve, to be held in trust by the Trustee, which amount shall be used to fund the administrative costs of the bankruptcy of the Company in the event that this Proposal is annulled and the Company becomes bankrupt, failing which such amount shall be distributed in accordance with Subparagraphs 21(c) and 21(d) of this Proposal;
  - (c) third, to Proven Claims of the Secured Creditors to the extent of the value of the Secured Property in respect of the Claim;
  - (d) fourth, to Proven Claims of Preferred Creditors (if any), other than Employee Preferred Claims which will have been paid, without interest; and,
  - (e) fifth, the balance of the Funded Proposal Payments shall be distributed *pro rata* among all of (i) the Unsecured Creditors on account of Proven Unsecured Claims and (ii) the Secured Creditors on account of Proven Deficiency Claims, without regard to whether the Claims are the Claims of Secured Creditors or Unsecured Creditors.

#### **Amendments to Agreements**

22. Notwithstanding the terms and conditions of all agreements or other arrangements with Creditors entered into before the Date of Filing, provided that no Event of Default has occurred and is continuing hereunder, all such agreements or other arrangements will be deemed to be amended to the extent necessary to give effect to all the terms and conditions of this Proposal. In the event of any conflict or inconsistency between the terms of such agreements or arrangements and the terms of this Proposal, the terms of this Proposal will govern. All Creditors will provide such acknowledgements, agreements, discharges or other documentation as may be necessary to give effect to the intent of this Proposal.

#### **Treatment of Claims**

23. For purposes of this Proposal, each Creditor holding a Claim will receive the treatment provided for in this Proposal on account of such Claim.

### **PART VI**

## **POST-FILING OBLIGATIONS**

### **Payment of Post-Filing Goods & Services**

24. During the Proposal Period, all Post-Filing Goods and Services shall be paid in full in the ordinary course of business by the Company

### **Post-Filing Crown Claims**

25. During the Proposal Period, the Company shall remit and pay all Post-Filing Crown Claims as and when due.

### **Reporting by the Company**

26. During the Proposal Period, the Company shall provide to the Trustee every three months commencing on first day of the month following the month in which the Approval Order is issued, a report containing the information set out below:
- (i) a cash flow statement for the Company's business and affairs for the prior three months; and
  - (ii) evidence of Company's filing and remittance of source deductions and HST.

## **PART VII**

### **LEVY, MANDATORY PAYMENTS AND PREFERRED CLAIMS**

#### **Levy**

27. The Levy, if applicable, shall be deducted by the Trustee from payments to Creditors by the Trustee.

#### **Payment of Fees and Expenses**

28. The Administrative Fees and Expenses shall be paid in priority to the Crown Claims, the Claims of Preferred Creditors, Secured Creditors and Unsecured Creditors.

#### **Employee Claims**

29. As per Part V of this Proposal, all Employee Preferred Claims will be paid in priority to other Claims immediately after the issuance of the Approval Order.

#### **Preferred Claims**

30. As per Part V of this Proposal, Proven Claims of Preferred Creditors, without interest, are to be paid in full priority to all Claims of the Unsecured Creditors

including, without limitation, any entitlement of the Unsecured Creditors to the payments to be made under Part V of this Proposal.

#### **PART VIII EVENTS OF DEFAULT**

31. The following events will constitute Events of Default for purposes of section 63 of the Act and otherwise under this Proposal:
- (a) the non-payment by the Company of any of its obligations hereunder within thirty (30) days after written notice has been given by the Trustee that such payment is past due; and
  - (b) the breach or failure by the Company to observe and perform any other covenant and provision of this Proposal, other than payment as provided for in this Paragraph 30(a) which is not remedied within thirty (30) days after written notice thereof has been given to the Company by the Trustee.

#### **PART IX TRUSTEE**

32. The Trustee is acting solely in its capacity as proposal trustee under the Act and not in its personal capacity and no officer, director, employee or agent of the Trustee shall incur any obligations or liabilities in connection with this Proposal or in connection with the business or liabilities of the Company.
33. Any payments made by the Trustee to Creditors hereunder shall be made by the Trustee net of any levies payable or due under the Act.

#### **PART X INSPECTORS**

##### **Appointment of Inspectors**

34. At the Creditors Meeting, the Affected Creditors will be entitled to appoint one or more, but not exceeding five (5) Inspectors in total.

##### **Powers of Inspectors**

35. The Inspectors, by way of majority, will have the following powers, but will have no personal liability to the Company or other Creditors:

- (a) the power to extend the dates the Funded Proposal Payments are due under this Proposal;
- (b) the power to waive any default in the performance of any provision of this Proposal; and
- (c) the power to advise the Trustee in respect of such matters as may be referred to the Inspectors by the Trustee.

## PART XI CONDITIONS PRECEDENT

### **Creditor Approval**

36. The Trustee shall call a meeting of the Affected Creditors of the Company to seek creditor approval for the Proposal in the requisite majority in number and value of the classes, as set out in the Act, of each of the classes of creditors described in this Proposal. The performance of this Proposal by the Company shall be conditional upon approval of the Affected Creditors. If the Affected Creditors do not approve the Proposal, the Trustee shall report on the result of the vote as required under section 57 of the Act and the Company shall be deemed bankrupt.

### **Court Approval**

37. In the event the Proposal is approved by the Affected Creditors the Proposal Trustee shall, within five (5) days of such approval, apply to the Court for a hearing to seek the Approval Order. The performance of this Proposal by the Company shall be conditional upon the issuance of the Approval Order. In the event that the Court does not approve the Proposal, the Company shall be deemed bankrupt.

## PART XII RELEASE

38. As at 12:01 a.m. on the Effective Date, the Company and each and every present and former officer and director of the Company (collectively, the "Released Parties"), 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, liens and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Creditor or person may be entitled to assert as of the Date of Filing, including without limitation, any and all claims in respect of the potential statutory liabilities of the former, present and future directors and officers of the Company, and any and all claims relating to any obligations of the Company where the present, former or future directors or officers are or may be by law liable in their capacity as directors or officers for the payment of such obligations, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter



arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Date of Filing relating to, arising out of or in connection with the claims, the business and affairs of the Company, this Proposal, and provided that nothing herein shall release or discharge any of the Released Parties from any claims coming within the exceptions set out in section 50(14) of the Act. **This release shall have no force or effect if the Company goes bankrupt before the terms of the Proposal are performed.**

### **PART XIII MISCELLANEOUS**

#### **Preferential Payments**

39. Sections 95 to 101 of the Act shall not apply to any dealings by the Company at any time prior to the Date of Filing. The releases contemplated in Paragraph 38 of this Proposal include releases in favour of the Released Parties from all claims, actions, or remedies available to Creditors or others pursuant to Sections 95 to 101 of the Act, provided that nothing herein shall release any director of the Company from any claims coming within the exceptions set out in Section 50(14) of the Act.

#### **Consents, Waivers and Agreements**

40. On the Effective Date, all Creditors will be deemed to have consented and agreed to all of the provisions of this Proposal in its entirety. For greater certainty, each such Creditor will be deemed to have waived any default by the Company in any provision, express or implied, in any agreement existing between the Creditor and the Company that has occurred on or prior to the Date of Filing, and to have agreed that, to the extent that there is any conflict between the provisions of any such agreement and the provisions of this Proposal, the provisions of this Proposal take precedence and priority and the provisions of any such agreement are amended accordingly.

#### **Further Actions**

41. The Company and the Creditors will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of this Proposal and to give effect to the transactions contemplated hereby.

#### **Performance**

42. All obligations of the Company under this Proposal will commence as of the Effective Date. All obligations of the Company under this Proposal will be fully performed for the purposes of Section 65.3 of the Act only upon the Company having made the payments to the Trustee provided for herein.

#### **Acceleration of Payments**

43. Notwithstanding the payment structure set out in Part V of this Proposal, nothing herein prevents or restricts the Company from accelerating any of the Funded Proposal Payments or from satisfying the full amount of the Funded Proposal Payments in advance of the time period contemplated in Part V of this Proposal.

**Binding Effect**

44. The provisions of this Proposal will be binding on the Creditors and the Company, and their respective heirs, executors, administrators, successors and assigns, upon issuance of the Approval Order after all appeal periods have expired.

**PART XIV  
ANNULMENT OF PROPOSAL**

45. If this Proposal is annulled by an order of the Court, all payments on account of Claims made pursuant to the terms of this Proposal will reduce the Claims of Creditors.

**PART XV  
AMENDMENTS**

46. The Company may propose amendments to the Proposal at any time prior to the conclusion of the Creditors Meeting provided that any such amendment does not reduce the rights and benefits given to the Creditors pursuant to the Proposal before such amendment and that any and all amendments shall be deemed to be a part of and incorporated into the Proposal.

**DATED** at the City of Schomberg, in the Province of Ontario, this 11<sup>th</sup> day of March, 2016.

**2331131 ONTARIO INC. O/A ELLIOTT  
UNDERGROUND**

Per: 

Name: Jason Elliott

Title: Director

# REPORT ON PROPOSAL

IN THE MATTER OF THE PROPOSAL OF  
2331131 ONTARIO INC. O/A ELLIOTT UNDERGROUND  
OF THE CITY OF SCHOMBERG  
IN THE PROVINCE OF ONTARIO

REPORT OF TRUSTEE ON PROPOSAL

March 16, 2016

INTRODUCTION

1. On February 11, 2016, 2331131 Ontario Inc. o/a Elliott Underground (the "**Company**" or "**Elliott**") filed a Notice of Intention to Make a Proposal ("**NOI**") to its creditors pursuant to subsection 50.4 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and Dodick Landau Inc. ("**DLI**") was named Proposal Trustee (the "**Proposal Trustee**").
2. On March 11, 2016, pursuant to section 62 of the BIA, Elliott filed with the Official Receiver a proposal (the "**Proposal**").
3. The purpose of this report ("**Report**") is to provide information to the creditors of Elliott (the "**Creditors**") to assist in their evaluation of the Proposal.
4. The Proposal has been developed to effect a restructuring of the business and affairs of the Company with the expectation that all existing creditors will derive a greater benefit from the continued operation and affairs of the business than would result from a forced sale of its assets in a liquidation.
5. **A meeting of the Creditors to consider the Proposal will be held at the office of the Proposal Trustee, Dodick Landau Inc., located at 4646 Dufferin St., Suite 6, Toronto, Ontario, M3H 5S4, on April 1, 2016 at 11:00 a.m. Details relating to the filing of claims, and other documents, prior to the meeting of the creditors, are outlined in this report and will be mailed to each known creditor of the Company, or their duly appointed representative.**

DISCLAIMER

6. In preparing this Report, the Proposal Trustee has relied upon certain unaudited, draft and/or internal financial information, the Company's books and records, discussions with the Company's

management ("**Management**"), Creditors and information from other third-party sources (collectively, the "**Information**"). Except as described in this Report:

- a) the Proposal Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and, accordingly, the Proposal Trustee expresses no opinion or other form of assurance in respect of the Information;
  - b) some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Canadian Institute of Chartered Accountants handbook, has not been performed; and
  - c) the Proposal Trustee has prepared this Report in its capacity as a Court appointed officer and has made a copy of this Report available on DLI's website at [www.dodick.ca](http://www.dodick.ca). Parties using this Report, other than for the purpose of evaluating the Proposal, are cautioned that it may not be appropriate for their purposes. DLI will continue to maintain on its website copies of any court orders, reports and other material public filings it considers relevant to this proceeding.
7. Future oriented financial information referred to in this Report was prepared based on Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
8. The capitalized terms not defined in this report are defined in the Proposal and this Report should only be read in conjunction with the Proposal. While this Report summarizes key aspects of the Proposal, Creditors are advised to carefully read the Proposal in full. Should there be any discrepancy between the summary contained in this Report and the Proposal, the Proposal shall govern.
9. Unless otherwise stated, all monetary amounts contained herein are in Canadian dollars.

## **BACKGROUND**

### *Operations*

10. Elliott's primary business is horizontal tunneling/boring services, and in carrying out this business, it acts as a subcontractor for contractors throughout the Greater Toronto Area. Elliott continues to operate its business.
11. The Company currently operates from leased premises at 5950 Aurora Road, R.R. #1, Schomberg, Ontario, L0G 1T0, and currently employs eight full time staff.
12. The Company was founded by Mr. Jason Elliott and was incorporated under the Ontario *Business Corporations Act* on June 8, 2012.

### *Financial Results*

13. Elliott's internally prepared financial statements indicate that for its fiscal years ended May 31, 2013, May 31, 2014, May 31, 2015 and the approximately 8-months ended February 8, 2016, it:
  - a) incurred operating (losses)/income of approximately (\$875,000), (\$182,000), 278,000 and (\$389,000), respectively, or total accumulated operating losses of approximately \$1.2 million over these periods;
  - b) had total debt (excluding related party debt) at the end of each period of approximately \$305,000, \$445,000, \$263,000 and \$649,000, respectively; and
  - c) had a shareholder deficiency of approximately \$875,000, \$1.1 million, \$779,000 and \$1.2 million, respectively.

## **CAUSES OF FINANCIAL DIFFICULTIES**

14. According to Management, reasons for the Company's operating losses include, increased labour costs due to scheduling delays and poor ground conditions, as well as increased competition resulting in pressures to decrease prices. As well, the Company has experienced delays in the collection of accounts receivable, and, in particular, amounts held-back beyond the holdback period at the conclusion of its contracts, which has decreased its liquidity and cash flow available to fund its operations.

15. According to the Company, Canada Revenue Agency ("CRA") is owed approximately \$130,000 in unremitted source deductions, excluding interest and penalties, relating to several years of operations dating back from February 8, 2016.
16. On October 9, 2015, CRA issued requirements to pay ("RTP") to the Company's bank, and to a number of the Company's customers. The RTPs sent to the Company's bank required that all the funds in its bank accounts be remitted to CRA. At that time, the Company's net cash balance in its bank accounts were \$462.79 which was paid to CRA. The RTPs sent to the Company's customers required that all accounts receivables owing to Elliott be instead paid to CRA. As a result, \$32,035.32 was paid to CRA from one of its customers.
17. According to Management, despite its best efforts, it did not have sufficient cash flow generated from its operations to fund the amount outstanding to CRA. Management entered into discussions with CRA in an attempt to enter into a settlement and payment plan with CRA, however, these discussions ceased in January 2016.
18. Following the filing of the NOI on February 11, 2016, and as a result of the stay of proceedings arising therefrom, CRA could no longer proceed with the enforcement of any debts owing to it, including proceeding with the enforcement of the RTPs.
19. In addition to CRA issuing its requirements to pay, the Universal Workers Union, Labourers' International Union of North America, Local 183 ("**Local 183**") and International Union of Operating Engineers, Local 793 ("**Local 793**"), issued notices of garnishment to certain customers of the Company with regards to amounts owing to each at the time totalling \$59,939.58 and \$13,861.58, respectively. Following the filing of the NOI on February 11, 2016, and as a result of the stay of proceedings arising therefrom, Locals 183 and 793 could no longer proceed with the enforcement of any debts owing to them.

#### *Secured and Unsecured Debt*

20. A search conducted of the Ontario Personal Property Security Registry on February 5, 2016 in respect of Elliott revealed no security registrations. According to Management, the Company has no secured creditors.
21. As described above, the Company currently has estimated unremitted source deductions owing to CRA totalling approximately \$130,000 which ranks ahead of all other creditors in a Proposal. According to Management, the employees net wages have been kept current. However, as

described above, there are amounts owing to Locals 183 and 793 with respect to the unionized employees.

22. According to Management, unsecured trade debt totaled approximately \$1.2 million at the date of the NOI, February 11, 2016. The unsecured indebtedness is owed to approximately 55 unsecured creditors.

## THE PROPOSAL

### *Class*

23. For the purpose of this Proposal, the Creditors of the Company are comprised of a single class, consisting of Creditors having preferred and unsecured claims ("**Class 1**"). For greater certainty, the Creditors entitled to vote in Class 1 consist of:
- a) ordinary Unsecured Creditors (i.e., holding claims without priority under the BIA);
  - b) Preferred Creditors pursuant to the BIA;
  - c) Secured Creditors holding Deficiency Claims (i.e., the value of the claim of a Secured Creditor which is in excess of the value of the secured property in respect of that claim);  
and
  - d) claims of Her Majesty in right of Canada and any province for all amounts other than Crown Priority Claims.
24. Crown Priority Claims are all proven pre-filing claims of CRA, or any province, contemplated by section 60(1.1) of the BIA, consisting of unremitted source deductions. Crown Priority Claims will be paid in full, and shall be paid by the Company from operating funds to the Proposal Trustee and remitted by the Proposal Trustee to CRA, or the province, as applicable, within six (6) months of the Court Approval Date.
25. Secured Creditors, if any, are not affected by this Proposal to the extent of their Secured Claims. Proven Secured Claims, to the extent of the value of the Secured Property, shall be paid out of the Funded Proposal Payments in priority to Unsecured Creditors. However, the Deficiency Claims of Secured Creditors are treated as Unsecured Claims. A Secured Creditor may vote on all questions relating to the Proposal as part of Class 1 as an Unsecured Creditor in respect of the amount equal to its proven Deficiency Claim.



26. Employee Preferred Claims, being Preferred Claims of current or former employees of the Company payable in priority under Subsection 136(1) of the Act, will be paid out of additional funds to be delivered by the Company to the Proposal Trustee and shall be remitted by the Proposal Trustee to such employees immediately following the Court Approval Date.
27. Preferred Claims, if any, other than Employee Preferred Claims, shall be paid in full, without interest, in priority to Unsecured Claims from the Funded Proposal Payments as described below.

#### *Funding the Proposal*

28. The Funded Proposal Payments to be paid to the Proposal Trustee will commence after the Crown Priority Claims are paid and will be composed of cash instalments in the aggregate amount of \$10,000 every three months.
29. The initial three-month period will commence the earlier of: i) the last day of the month following the month in which the Crown Claims are paid in full; and ii) 30 days following the day that is six (6) months after the Court Approval Date.
30. The Funded Proposal Payments shall continue to be made until an amount is paid to the Proposal Trustee equal to the lesser of (a) 100% of the Proven Secured Claims (if any), to the extent of the value of the Secured Property, plus 35% of the value of the Proven Unsecured Claims (not including the Crown Priority Claims and the Employee Preferred Claims) and (b) \$200,000.

#### *Distribution*

31. The Funded Proposal Payments will be held by the Proposal Trustee in a trust account until a sufficient balance has accumulated, in the Proposal Trustee's discretion, to warrant an interim distribution to the creditors. All distributions are subject to the Superintendent's Levy, if it is applicable.
32. The Funded Proposal payments will be distributed in the following order of priority:
  - a) *Administrative Fees and Expenses* - To fund all administrative fees and expenses of the Proposal Trustee.
  - b) *Bankruptcy Reserve* - To establish a reserve of \$15,000 to be held in trust by the Proposal Trustee, which amount shall be used to fund the administrative costs of the bankruptcy of the Company in the event that the Proposal is annulled and the Company becomes bankrupt, failing which such amount shall be distributed to the Creditors.

- c) *Proven Claims of Secured Creditors* – To pay all proven claims of Secured Creditors, if any, to the extent of the value of the Secured Property;
- d) *Proven Claims of Preferred Creditors* – To pay all Proven Preferred Claims, if any, other than the Employee Preferred Claims, which would have been paid immediately following Court approval.
- e) *Proven Claims of Unsecured Creditors* – To be distributed among the Unsecured Creditors, who will share *pro rata* out of the funds available after payment of the foregoing.

## LIQUIDATION ANALYSIS / ESTIMATED RECOVERY IN BANKRUPTCY

### *Liquidation Analysis*

33. In the event that the Proposal is not accepted by the Creditors and the Company is deemed bankrupt, the following liquidation analysis represents the estimated value of the Company's assets should the assets be realized in a forced liquidation scenario.
34. The Proposal Trustee has relied on representations of the Company in determining the estimated liquidation value of the assets. The liquidation analysis was prepared at a point in time, being February 8, 2016. However, the value of the cash-on-hand and accounts receivable are changing daily as work is performed, receipts are collected and payments are made. Accordingly, in the event that the Company were to become bankrupt and a liquidation of the assets was conducted, the realizable value of the assets at that time may be different than presented below.

### Summary of Estimated Liquidation Value As at February 8, 2016 (000's)

	<u>Book Value</u>	<u>Estimated Liquidation Value</u>	<u>Notes</u>
<i>Assets</i>			
Cash	\$13	\$13	(a)
Accounts Receivable	\$818	\$300	(b)
<b>Total Assets</b>	<u><u>\$831</u></u>	<u><u>\$313</u></u>	

Notes:

- a) *Cash is the balance in the bank account on February 8, 2016. The balance in the bank accounts will change as receipts are collected and disbursements are made.*
- b) *Accounts Receivable represent amounts owing from clients for work performed. There exists approximately \$168,000 and \$350,000 in accounts receivable book value which relate to an insurance claim and to cost overruns, respectively. The cost overruns experienced by the Company were not in its original quote and, therefore, have been charged back to the customers. At this time, collection of these amounts remain uncertain and, therefore, have been excluded from the estimated liquidation value calculation.*

*Estimated Recovery – Bankruptcy vs. Proposal Scenario*

- 36. The following chart sets out the expected recovery to CRA (Crown Priority Claims), the Preferred Creditors and the Unsecured Creditors under a Bankruptcy scenario and the Proposal scenario. As can be seen below, the net estimated recovery to CRA for Crown Priority Claims in a bankruptcy scenario is 100% and in the Proposal scenario is 100%. The net estimated recovery to the Preferred Creditors, if any, in a bankruptcy scenario is unknown versus 100% under the Proposal scenario. The net estimated recovery to the Unsecured Creditors in a bankruptcy scenario is approximately 13% versus approximately 32% under the Proposal scenario. The analysis under the Proposal scenario assumes that the Company makes all Funded Proposal Payments as required under the Proposal's terms.

<u>Estimated Recovery in a Bankruptcy Scenario</u>		<u>Estimated Recovery in a Proposal Scenario</u>	
		Funds paid in respect of Crown Priority Claim	\$130
Liquidation Value of Assets (based on the estimated liquidation value calculated above)	\$313	Estimated Funded Proposal Payments (Note 1)	\$200
Less: Crown Priority Claims - Deemed Trust Portion (Note 2)	<u>(130)</u>	Less: Crown Priority Claims - Deemed Trust Portion (Note 2)	<u>(130)</u>
Gross amount available for Preferred and Unsecured Creditors	183	Gross amount available for Preferred and Unsecured Creditors	200
Less: Estimated professional fees and expenses (Note 3)	(15)	Less: Estimated Professional fees and expenses (Note 3)	(15)
Less: Superintendent's Levy (Note 4)	<u>(8)</u>	Less: Superintendent's Levy (Note 4)	<u>(9)</u>
Net amount available for Preferred and Unsecured Creditors	160	Net amount available for Preferred and Unsecured Creditors	176
Estimated Claims of Preferred and Unsecured Creditors (Note 5)	<u>1,212</u>	Estimated Claims of Preferred and Unsecured Creditors (Note 5)	<u>623</u>
Estimated Recovery to Unsecured Creditors	<u>13%</u>	Estimated Recovery to Unsecured Creditors	<u>28%</u>
Estimated Recovery to Preferred Creditors (Note 6)	<u>Unknown</u>	Estimated Recovery to Preferred Creditors (Note 6)	<u>100%</u>
Recovery on Crown Priority Claims	<u>100%</u>	Recovery on Crown Priority Claims	<u>100%</u>

Notes:

1. The estimated Funded Proposal Payments amount is based on the terms of the Proposal and the calculation of the amount assumes the Claims of the Creditors are equal to the value as recorded in the Company's records. Should the actual value of the Claims be different, the actual estimated recovery to the Creditors will be different.
2. In a bankruptcy scenario, CRA's deemed trust for Crown Priority Claims only extends over the employee portion of deductions, not the employer contributions or the interest and penalties. In a bankruptcy scenario the liability for employer contributions and the interest and penalties would be an Unsecured Claim. The Proposal Trustee was not able to determine from the Company's records what portion of the liability to CRA represents a deemed trust amount. For purposes of the liquidation analysis we have assumed the entire portion is a deemed trust amount. In the proposal

*scenario, CRA will receive the same deemed trust entitlement as it would receive in the bankruptcy scenario.*

3. *This amount represents a provision for the estimated professional fees associated with realization of the assets in the bankruptcy scenario or, in the case of a proposal, administering the proposal after Court approval.*
4. *The Superintendent's Levy is not applicable to payments made to satisfy deemed trust claims. It is applicable to payments made to Preferred and Unsecured Creditors and is calculated as 5% of each payment.*
5. *In accordance with the terms of the Proposal, certain related party claims totalling approximately \$589,000 have been subordinated resulting in the Funded Proposal Payments being paid only to the remaining Unsecured Creditors and in an increased distribution to the Unsecured Creditors in the proposal scenario. In a bankruptcy scenario these related party claims may not be subordinated and, therefore, would participate in dividend distributions to Unsecured Creditors on a pro-rata basis, thereby diluting the dividend distributions available to the Unsecured Creditors.*
6. *Currently, there are no known Preferred Creditors. The proposal scenario assumes that should there be any Preferred Creditors, they will be paid 100% in accordance with the terms of the Proposal. The bankruptcy scenario reflects no payments to Preferred Creditors since there are no known Preferred Creditors at this time, however, should there be Preferred Creditors, they would reduce the realizable value to the unsecured creditors in a bankruptcy scenario. The claims in respect of Employee Preferred Claims is not reflected in the analysis because any such claims will be paid at 100% from separate funds paid to the Proposal Trustee.*

## **CREDITORS' MEETING/VOTING PROCEDURE AND CLASSES OF CREDITORS**

### *Creditors' Meeting/Voting Procedure*

37. The primary purpose of the Creditors' Meeting is to permit Creditors to consider the acceptance or rejection of the Proposal. For the Proposal to be accepted, at least two-thirds (66.67%) of each creditor class by dollar value, and more than 50% of each creditor class by number, must vote in favour of the Proposal at the meeting either in person, by proxy or by mailing a voting letter to the Proposal Trustee in advance of the meeting. Only Creditors who actually vote are counted for the purpose of determining whether the necessary thresholds have been reached.
38. **To be eligible to vote on the Proposal, Creditors must have filed with the Proposal Trustee, before the meeting, a proof of claim form signed and witnessed as required and accompanied by a statement of account or affidavit in support of the claim. Those Creditors who do not intend to have a personal representative at the meeting, to be held on April 1, 2016, may complete and submit the voting letter which is enclosed in the creditor package prior to the meeting indicating their vote for or against the acceptance of the Proposal. The Proposal Trustee has also enclosed a form of proxy should a Creditor wish to appoint a**

**proxy to represent them at the meeting. If the Proposal is not accepted by the requisite majority of unsecured creditors, the Company will be deemed bankrupt.**

39. If the Proposal is accepted by the statutory majorities referenced above, the Proposal Trustee will then make an application to the Court for approval of the Proposal. If the Court provides such approval ("**Approval Order**"), the Proposal will be binding on all Creditors and such Creditors, and their respective heirs, executors, administrators, successors and assigns, shall have no further Claim against the Company other than for the distributions provided in the Proposal (subject to the Company funding its obligations under the Proposal).

#### *Class of Creditors*

40. For purposes of considering, and voting on, the Proposal, and receiving a distribution pursuant to the Proposal, the Creditors are grouped in one (1) class.
41. The Proposal does not compromise or otherwise affect certain creditor claims, specifically:
- a) claims for goods and/or services delivered to the Company on or after the Date of Filing, February 11, 2016, including Administrative Fees and Expenses;
  - b) Crown Priority Claims; and
  - c) Proven Claims of Preferred Creditors, if any, payable in priority to all claims of Unsecured Creditors in accordance with the scheme of distribution set forth in the BIA.
42. Distributions to Creditors will be made as described in the "Distribution" section of this Report.

#### **ALTERNATIVES TO THE PROPOSAL**

43. At the Creditors' Meeting, the Creditors are being asked by the Proposal Trustee to choose between two alternatives, namely accepting the Proposal or rejecting the Proposal.
44. The Proposal Trustee believes that, if the Proposal is not approved by the Creditors, the most likely alternative would be a forced liquidation of the assets of the Company pursuant to the BIA, or other statute, and the distribution of the net proceeds from such a forced liquidation to the Creditors in accordance with their respective priorities. Any forced liquidation process would be fraught with considerable execution risk and cost. For the reasons described above, the Proposal Trustee is of the view that the Proposal will produce a more favourable result for the Creditors of the Company than would a forced liquidation of the assets in a bankruptcy.

## **CONDUCT OF THE DEBTOR**

### *Preference Transactions and Transfers at Undervalue*

45. The Proposal contemplates that Sections 95-101 of the BIA shall not apply in connection with this Proposal and as a result the Proposal Trustee shall have no responsibility, liability or authority whatsoever in connection herewith. Accordingly, the Proposal Trustee has not undertaken a detailed review for possible preference transactions or transfers at undervalue.
46. If the Company was to become bankrupt, and either preference transactions or transfers at undervalue did exist, it is possible that some of these transactions could be voided. The Proposal Trustee is not aware of any such transactions existing.

### *Conduct Post-Filing*

47. Pursuant to Section 50(10) of the BIA, the Proposal Trustee is required to monitor the affairs of the Company until the Proposal is approved by the Court.
48. During the NOI period, the Company worked diligently with the Proposal Trustee to prepare its Proposal, as well as to manage costs and continue operations. The Company is working diligently to complete the Proposal. The Company continues to actively solicit new business and is reducing costs where possible to improve its cash flow and meet its liquidity needs in order to be able to successfully implement the Proposal.

## **CREDITORS' CLAIMS**

49. To date, no provable claims in the Proposal have been received by the Proposal Trustee.

## **PREVIOUS BUSINESS DEALINGS WITH THE DEBTOR**

50. The Proposal Trustee has not had any business dealings with the Company prior to its appointment as Proposal Trustee and is not in a conflict of interest.

## **SUMMARY COMMENTS/RECOMMENDATION**

51. It is the Proposal Trustee's opinion that the Proposal will allow for a greater recovery to the Creditors of the Company than they would receive in a liquidation of the Company.
52. For the reasons set out in this Report, it is the opinion of the Proposal Trustee that acceptance of the Proposal is in the best interest of the Creditors. If the Proposal is rejected by the Creditors, the Company will be deemed automatically bankrupt and it is uncertain what the actual realizable

values of the assets will be in a forced liquidation scenario. Accordingly, the Proposal Trustee recommends that the Creditors vote in favour of the Proposal.

Yours very truly,

**DODICK LANDAU INC.**  
Trustee *re* the Proposal of 2331131 Ontario Inc.

Per:

A handwritten signature in black ink, appearing to read 'R. Dodick', written over a horizontal line.

Rahn Dodick, CPA, CA, CIRP, LIT



# STATEMENT OF AFFAIRS

District of: Ontario  
 Division No. 03 - Barrie  
 Court No. 31-2087522  
 Estate No. 31-2087522

Original  Amended

-- Form 78 --

Statement of Affairs (Business Proposal) made by an entity  
 (Subsection 49(2) and Paragraph 158(d) of the Act / Subsections 50(2) and 62(1) of the Act)

In the matter of the proposal of  
 2331131 Ontario Inc., o/a Elliott Underground  
 of the Village of Schomberg, in the Province of Ontario


To the debtor:

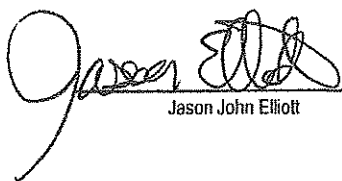
You are required to carefully and accurately complete this form and the applicable attachments showing the state of your affairs on the date of the filing of your proposal (or notice of intention, if applicable), on the 10th day of February 2016. When completed, this form and the applicable attachments will constitute the Statement of Affairs and must be verified by oath or solemn declaration.

LIABILITIES (as stated and estimated by the officer)	ASSETS (as stated and estimated by the officer)
1. Unsecured creditors as per list "A" .....	1. Inventory .....
1,211,865.00	0.00
Balance of secured claims as per list "B" .....	2. Trade fixtures, etc. ....
129,673.59	0.00
Total unsecured creditors .....	3. Accounts receivable and other receivables, as per list "E"
1,341,538.59	Good .....
2. Secured creditors as per list "B" .....	162,000.00
0.00	Doubtful .....
3. Preferred creditors as per list "C" .....	0.00
0.00	Bad .....
4. Contingent, trust claims or other liabilities as per list "D"	0.00
estimated to be reclaimable for .....	Estimated to produce .....
0.00	162,000.00
Total liabilities .....	4. Bills of exchange, promissory note, etc., as per list "F" .....
1,341,538.59	0.00
Surplus .....	5. Deposits in financial institutions .....
NIL	12,947.00
	6. Cash .....
	0.00
	7. Livestock .....
	0.00
	8. Machinery, equipment and plant .....
	0.00
	9. Real property or immovable as per list "G" .....
	0.00
	10. Furniture .....
	0.00
	11. RRSPs, RRIFs, life insurance, etc. ....
	0.00
	12. Securities (shares, bonds, debentures, etc.) .....
	0.00
	13. Interests under wills .....
	0.00
	14. Vehicles .....
	0.00
	15. Other property, as per list "H" .....
	0.00
	If debtor is a corporation, add:
	Amount of subscribed capital .....
	0.00
	Amount paid on capital .....
	0.00
	Balance subscribed and unpaid .....
	0.00
	Estimated to produce .....
	0.00
	Total assets .....
	174,947.00
	Deficiency .....
	1,166,591.59

I, Jason John Elliott, of the city of Schomberg in the Province of Ontario, do swear (or solemnly declare) that this statement and the attached lists are to the best of my knowledge, a full, true and complete statement of my affairs on the 11th day of March 2016 and fully disclose all property of every description that is in my possession or that may devolve on me in accordance with the Act.

SWORN (or SOLEMNLY DECLARED)  
 before me at the city of Toronto in the Province of Ontario, on this 11th day of March 2016.

  
 \_\_\_\_\_  
 Howard Landau, Commissioner of Oaths  
 For the Province of Ontario  
 Expires May, 16, 2017

  
 \_\_\_\_\_  
 Jason John Elliott

Howard Landau, a Commissioner, etc.,  
 Province of Ontario for Dodick & Associates Inc.,  
 Trustee in Bankruptcy, and Dodick Landau Inc.,  
 Trustee in Bankruptcy. Expires May 16, 2017.

District of: Ontario  
 Division No. 03 - Barrie  
 Court No. 31-2087522  
 Estate No. 31-2087522

FORM 78 -- Continued


List "A"  
 Unsecured Creditors

2331131 Ontario Inc., o/a Elliott Underground

No.	Name of creditor	Address	Unsecured claim	Balance of claim	Total claim
25	EHT Ontario Employer Health Tax Attr: Insolvency Unit	PO Box 627 6th Floor 33 King Street West Oshawa ON L1H 8H5	5,490.00	0.00	5,490.00
26	Finnerty Equipment	6-2400 Dundas Street West Mississauga ON L5K 2R8	2,000.00	0.00	2,000.00
27	Gord Davenport Automotive Inc.	74 First Street Orangeville ON L9W 2E4	3,530.00	0.00	3,530.00
28	Gro-Pak Farms	PO Box 201 Schomberg ON L0G 1T0	4,070.00	0.00	4,070.00
29	Home Depot c/o Citi Cards Canada (Acct 603529)	PO Box 2052, Str B Mississauga ON L4Y 0B5	5,420.00	0.00	5,420.00
30	Hydro One	PO Box 4102 Stn A Toronto ON M5W 3L3	3,300.00	0.00	3,300.00
31	I.U.O.E. Local 793	2245 Speers Road Oakville ON L6L 6X8	21,810.00	0.00	21,810.00
32	Ideal Solutions	3 Poplar Plains Road Brampton ON L7A 2E3	6,150.00	0.00	6,150.00
33	J. Hart Hydraulics Inc.	1017 Rifle Road Cambridge ON N1R 5S3	1,780.00	0.00	1,780.00
34	J. S. Auto Body	PO Box 607 Nobleton ON L0G 1N0	1,560.00	0.00	1,560.00
35	Jason Elliott	5950 Aurora Road, R.R.#1 Schomberg ON L0G 1T0	31,350.00	0.00	31,350.00
36	K. Winter Sanitation Inc.	2816 6th Line Innisfil ON L9S 4S4	1,510.00	0.00	1,510.00
37	Keewatin Group Inc.	2900 Langstaff Road, Unit 21 Concord ON L4K 4R9	7,390.00	0.00	7,390.00
38	Lenworth Air Tool Company Ltd.	279 Mill Street East Acton ON L7J 1J7	410.00	0.00	410.00
39	Liuna Local 183 Members' Benefit Fund Attr: Jennifer Brum	1263 Wilson Avenue North York ON M3M 3G3	47,000.00	0.00	47,000.00
40	Miller Concrete Attr: Stewart Valentine	287 Ramforest Drive Gormley ON L0H 1G0	7,320.00	0.00	7,320.00
41	Nitro Industrial Sales	8520 Jane St., Units 7-9 Concord ON L4K 5A9	250.00	0.00	250.00
42	Northway Tire Ltd.	1674 Hwy. #27, RR#1 Schomberg ON L0G 1T0	410.00	0.00	410.00
43	P & M Truck & Trailer Repairs Inc.	RR #3 Schomberg ON L0G 1T0	390.00	0.00	390.00
44	Pro-Line Fittings East Inc.	17-740 Huronia Road Barrie ON L4N 6C6	46,820.00	0.00	46,820.00
45	Rogers Payment Centre	PO Box 4100 Don Mills ON M3C 3N9	390.00	0.00	390.00
46	Sara Fodero & Innes Valente Rent & Taxes	113 Lime Drive Woodbridge ON L4L 5P4	13,500.00	0.00	13,500.00
47	Scotiabank Visa c/o BankruptcyHighway.com Attr: Joanne Fenech	PO Box 57100 Etobicoke ON M8Y 3Y2	15,000.00	0.00	15,000.00
48	Scotiabank Visa c/o BankruptcyHighway.com Attr: Joanne Fenech	PO Box 57100 Etobicoke ON M8Y 3Y2	20,800.00	0.00	20,800.00

11-Mar-2016

Date

  
 Jason John Elliott

District of: Ontario  
Division No. 03 - Barrie  
Court No. 31-2087522  
Estate No. 31-2087522

FORM 78 - Continued

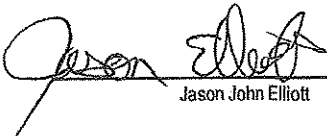
List "B"  
Secured Creditors

2331131 Ontario Inc., o/a Elliott Underground

No.	Name of creditor	Address	Amount of claim	Particulars of security	When given	Estimated value of security	Estimated surplus from security	Balance of claim
1	Canada Revenue Agency 808281281RP0001	45 Talbot Street, 3rd Floor London ON N6A 4R3	129,673.59			0.00		129,673.59
Total:			129,673.59			0.00	0.00	129,673.59

11-Mar-2016

Date

  
Jason John Elliott

District of: Ontario  
Division No. 03 - Barrie  
Court No. 31-2087522  
Estate No. 31-2087522

FORM 78 -- Continued

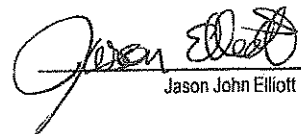
List "D"  
Contingent or Other Liabilities

2331131 Ontario Inc., o/a Elliott Underground

No.	Name of creditor or claimant	Address and occupation	Amount of liability or claim	Amount expected to rank for dividend	Date when liability incurred	Nature of liability
Total:			0.00	0.00		

11-Mar-2016

Date

  
Jason John Elliott

District of: Ontario  
Division No. 03 - Barrie  
Court No. 31-2087522  
Estate No. 31-2087522

FORM 78 -- Continued

List "F"

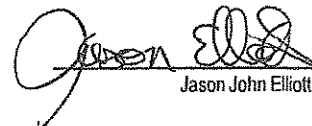
Bills of Exchange, Promissory Notes, Lien Notes, Chattel  
Mortgages, etc., Available as Assets

2331131 Ontario Inc., o/a Elliott Underground

No.	Name of all promissory, acceptors, endorsers, mortgagors, and guarantors	Address	Occupation	Amount of bill or note, etc.	Date when due	Estimated to produce	Particulars of any property held as security for payment of bill or note, etc.
Total:				0.00		0.00	

11-Mar-2016

Date

  
Jason John Elliott

District of: Ontario  
 Division No. 03 - Barrie  
 Court No. 31-2087522  
 Estate No. 31-2087522

FORM 78 -- Concluded

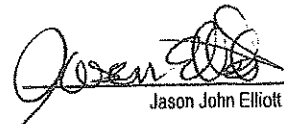
List "H"  
 Property

2331131 Ontario Inc., o/a Elliott Underground  
 FULL STATEMENT OF PROPERTY

Nature of property	Location	Details of property	Original cost	Estimated to produce
(a) Stock-in-trade			0.00	0.00
(b) Trade fixtures, etc.			0.00	0.00
(c) Cash in financial institutions			0.00	0.00
(d) Cash on hand		Cash on hand	12,947.00	12,947.00
(e) Livestock			0.00	0.00
(f) Machinery, equipment and plant			0.00	0.00
(g) Furniture			0.00	0.00
(h) Life insurance policies, RRSPs, etc.			0.00	0.00
(i) Securities			0.00	0.00
(j) Interests under wills, etc.			0.00	0.00
(k) Vehicles			0.00	0.00
(l) Taxes			0.00	0.00
(m) Other			0.00	0.00
			<b>Total:</b>	<b>12,947.00</b>

11-Mar-2016

Date

  
 Jason John Elliott

# PROOF OF CLAIM WITH INSTRUCTIONS



District of: Ontario  
Division No. 03 - Barrie  
Court No. 31-2087522  
Estate No. 31-2087522

- FORM 31 -  
Proof of Claim  
(Sections 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2), 124(2), 128(1),  
and Paragraphs 51(1)(e) and 66.14(b) of the Act)

In the matter of the proposal of  
2331131 Ontario Inc., o/a Elliott Underground  
of the Village of Schomberg, in the Province of Ontario

All notices or correspondence regarding this claim must be forwarded to the following address:

\_\_\_\_\_  
\_\_\_\_\_

In the matter of the proposal of 2331131 Ontario Inc., o/a Elliott Underground of the city of Schomberg in the Province of Ontario and the claim of \_\_\_\_\_, creditor.

I, \_\_\_\_\_ (name of creditor or representative of the creditor), of the city of \_\_\_\_\_ in the province of \_\_\_\_\_, do hereby certify:

1. That I am a creditor of the above named debtor (or I am \_\_\_\_\_ (position/title) of \_\_\_\_\_, creditor).

2. That I have knowledge of all the circumstances connected with the claim referred to below.

3. That the debtor was, at the date of proposal, namely the 10th day of February 2016, and still is, indebted to the creditor in the sum of \$ \_\_\_\_\_, as specified in the statement of account (or affidavit) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)

4. (Check and complete appropriate category.)

A. UNSECURED CLAIM OF \$ \_\_\_\_\_

(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and  
(Check appropriate description.)

Regarding the amount of \$ \_\_\_\_\_, I claim a right to a priority under section 136 of the Act.

Regarding the amount of \$ \_\_\_\_\_, I do not claim a right to a priority.  
(Set out on an attached sheet details to support priority claim.)

B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ \_\_\_\_\_

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:  
(Give full particulars of the claim, including the calculations upon which the claim is based.)

C. SECURED CLAIM OF \$ \_\_\_\_\_

That in respect of this debt, I hold assets of the debtor valued at \$ \_\_\_\_\_ as security, particulars of which are as follows:  
(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.2(1) of the Act for the unpaid amount of \$ \_\_\_\_\_  
(Attach a copy of sales agreement and delivery receipts.)

- E. CLAIM BY WAGE EARNER OF \$ \_\_\_\_\_
- That I hereby make a claim under subsection 81.3(8) of the Act in the amount of \$ \_\_\_\_\_,
- That I hereby make a claim under subsection 81.4(8) of the Act in the amount of \$ \_\_\_\_\_,
- F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF \$ \_\_\_\_\_
- That I hereby make a claim under subsection 81.5 of the Act in the amount of \$ \_\_\_\_\_,
- That I hereby make a claim under subsection 81.6 of the Act in the amount of \$ \_\_\_\_\_,
- G. CLAIM AGAINST DIRECTOR \$ \_\_\_\_\_

*(To be completed when a proposal provides for the compromise of claims against directors.)*  
 That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:  
*(Give full particulars of the claim, including the calculations upon which the claim is based.)*

- H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$ \_\_\_\_\_

That I hereby make a claim as a customer for net equity as contemplated by section 262 of the Act, particulars of which are as follows:  
*(Give full particulars of the claim, including the calculations upon which the claim is based.)*

5. That, to the best of my knowledge, I \_\_\_\_\_ (am/am not) (or the above-named creditor \_\_\_\_\_ (is/is not)) related to the debtor within the meaning of section 4 of the Act, and \_\_\_\_\_ (have/has/have not/has not) dealt with the debtor in a non-arm's-length manner.

6. That the following are the payments that I have received from, and the credits that I have allowed to, and the transfers at undervalue within the meaning of subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act: *(Provide details of payments, credits and transfers at undervalue.)*

7. *(Applicable only in the case of the bankruptcy of an individual.)*

- Whenever the trustee reviews the financial situation of a bankrupt to redetermine whether or not the bankrupt is required to make payments under section 68 of the Act, I request to be informed, pursuant to paragraph 68(4) of the Act, of the new fixed amount or of the fact that there is no longer surplus income.
- I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to subsection 170(1) of the Act be sent to the above address.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
 Witness

\_\_\_\_\_  
 Creditor

Phone Number: \_\_\_\_\_  
 Fax Number : \_\_\_\_\_  
 E-mail Address : \_\_\_\_\_

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may, pursuant to subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 20(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

## Appendix A

### Checklist for Proof of Claim

This checklist is provided to assist you in preparing the proof of claim form and, if appropriate, the proxy form in a complete and accurate manner. Please check each requirement.

#### General

- The **signature of a witness** is required.
- The document **must be signed** by the individual completing the declaration.
- **Provide the complete address** where all notices or correspondence are to be forwarded along with your phone number, fax number and email address where appropriate.

#### Notes

- It is permissible to file a proof of claim by fax or electronics mail.
- A creditor may vote either in person or by proxy at any meeting of creditors if the proof of claim is filed with the trustee prior to the time appointed for the meeting.
- A quorum at any meeting of creditors consists of at least one creditor with a valid proof of claim in attendance in person or by proxy.
- A corporation may vote through an authorized agent or mandatary at meetings of creditors.
- In order for a duly authorized person to have a right to vote, they must be a creditor or be the holder of a properly executed proxy. The name of the creditor must appear in the proxy.
- A creditor who is participating in any distribution from an estate must have filed a proof of claim prior to the distribution being declared.
- In the case of an individual bankrupt, by checking the appropriate box or boxes at the bottom of the proof of claim form, you may request that the trustee advise you of any material change in the financial situation of the bankrupt or the amount the bankrupt is required to pay into the bankruptcy, and a copy of the trustee's report on the discharge of the bankrupt.

#### Paragraph 1

- The creditor must state the full and complete legal name of the individual, company or firm.
- If the individual completing the proof of claim is a representative of the creditor, the individual's position or title must be identified.

#### Paragraph 3

- The amount owing must be set out in paragraph 3.

#### Paragraph 4

##### Notes

- **Paragraph A** applies to *ordinary unsecured claims*. In addition to recording the amount of the claim, please indicate whether the claim has a priority pursuant to section 136 of the Act.
- **Paragraph B** applies to *lessor claims* in a commercial proposal. Please ensure that the claim applies to a commercial proposal and, if so, include the full particulars of the claim.
- **Paragraph C** applies to *secured claims*. Please indicate the dollar value of the security and attach copies of the security document. In addition, please attach copies of the security registration documents, where appropriate. If you are a noteholder, attaching these documents is not necessary if you are in agreement with the amount on the Schedule "A" provided to you.
- **Paragraph D** applies to *inventory claims of farmers, fishermen and aquaculturists*. Please note that such claims apply only to inventory supplied from farmers, fishermen and aquaculturists within 15 (fifteen) days of the date of bankruptcy. In addition, please attach copies of any applicable sales agreements and delivery slips.
- **Paragraph E** applies to *claims by wage earners*. Please note that such claims apply only for unpaid wages owed upon the bankruptcy of an employer or when the employer becomes subject to a receivership.
- **Paragraph F** applies to *claims by employees for unpaid amounts regarding pension plans*. Please note that such claims apply only to unremitted pension contributions outstanding when the sponsoring employer becomes bankrupt or is subject to a receivership.
- **Paragraph G** applies to *claims against directors*. Please note that such claims apply only to directors of corporations that have filed a commercial proposal to creditors that includes a compromise of statutory claims against directors.
- **Paragraph H** applies to *claims of customers of a bankrupt securities firm*. Please ensure that the claim of the customer is for net equity and, if so, include the full particulars of the claim, including the calculations upon which the claim is based.

#### Paragraph 5

- All claimants must indicate whether or not they are related to the debtor, as defined in section 4 of the Act, or dealt with the debtor in a non-arm's-length manner.

#### Paragraph 6

- All claimants must attach a detailed list of **all payments or credits** received or granted as follows:
  - a. **within the three (3) months preceding** the initial bankruptcy event (including the bankruptcy or the proposal);
  - b. **within the twelve (12) months preceding** the initial bankruptcy event (including the bankruptcy or the proposal) in the case where the claimant and the debtor **were not** dealing at arm's length.

#### Proxyholder

##### Note

The Act permits a proof of claim to be made by a duly authorized representative of a creditor but, in the absence of a properly executed proxy, does not give such an individual the power to vote at the first meeting of creditors nor to act as the proxyholder of the creditors.

## **General**

- In order for duly authorized persons to have a right to vote, they must themselves be creditors or be the holders of a properly executed proxy. The name of the creditor must appear in the proxy.

## **Notes**

- A creditor may vote either in person or by proxyholder.
- A proxy may be filed at any time prior to a vote at a meeting of creditors.
- A proxy can be filed with the trustee in person, by mail or by any form of telecommunication.
- A proxy does not have to be under the seal of a corporation unless required by its incorporating documents or its bylaws.
- The individual designated in a proxy cannot be substituted unless the proxy provides for a power of substitution.
- Bankrupts/debtors may not be appointed as proxyholders to vote at any meeting of their creditors.
- The trustee may be appointed as a proxyholder for any creditor.
- A corporation cannot be designated as a proxyholder.

**PROXY**

District of: Ontario  
Division No. 03 - Barrie  
Court No. 31-2087522  
Estate No. 31-2087522

- FORM 36 -  
Proxy  
(Subsection 102(2) and paragraphs 51(1)(e) and 66.15(3)(b) of the Act)

In the matter of the proposal of  
2331131 Ontario Inc., o/a Elliott Underground  
of the Village of Schomberg, in the Province of Ontario

I, \_\_\_\_\_, of \_\_\_\_\_, a creditor in the above matter, hereby  
appoint \_\_\_\_\_, of \_\_\_\_\_, to be  
my proxyholder in the above matter, except as to the receipt of dividends, \_\_\_\_\_ (with or without)  
power to appoint another proxyholder in his or her place.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Individual Creditor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Corporate Creditor

Per \_\_\_\_\_  
Name and Title of Signing Officer

Return To:

Dodick Landau Inc. - Trustee

\_\_\_\_\_  
4646 Dufferin St., Suite 6  
Toronto ON M3H 5S4  
Phone: (416) 645-0542 Fax: (416) 649-7725  
E-mail: [brenda.mcknight@dodick.ca](mailto:brenda.mcknight@dodick.ca)

# VOTING LETTER



District of: Ontario  
Division No. 03 - Barrie  
Court No. 31-2087522  
Estate No. 31-2087522

FORM 37

Voting Letter  
(Paragraph 51(1)(f) of the Act)

In the matter of the proposal of  
2331131 Ontario Inc., o/a Elliott Underground  
of the Village of Schomberg, in the Province of Ontario

I, \_\_\_\_\_, creditor (or I, \_\_\_\_\_, representative  
of \_\_\_\_\_, creditor), of \_\_\_\_\_, a creditor in the above matter  
for the sum of \$ \_\_\_\_\_, hereby request the trustee acting with respect to the proposal of 2331131  
Ontario Inc., o/a Elliott Underground, to record my vote \_\_\_\_\_ (for or against) the acceptance of  
the proposal as made on the \_\_\_\_\_ day of \_\_\_\_\_.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Individual Creditor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name of Corporate Creditor

Per \_\_\_\_\_

\_\_\_\_\_  
Name and Title of Signing Officer

Return To:  
Dodick Landau Inc. - Trustee  
Per:

\_\_\_\_\_  
Rahn Dodick  
4646 Dufferin St., Suite 6  
Toronto ON M3H 5S4  
Phone: (416) 645-0542 Fax: (416) 649-7725  
E-mail: [brenda.mcknight@dodick.ca](mailto:brenda.mcknight@dodick.ca)