

FORM 31 / 36  
Proof of Claim / Proxy

In the matter of the bankruptcy or proposal of

\_\_\_\_\_ (name of bankrupt/debtor) (the "Debtor")

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

\_\_\_\_\_

In the matter of the bankruptcy or proposal of the Debtor and the claim of \_\_\_\_\_, creditor.

I, \_\_\_\_\_, of the city of \_\_\_\_\_, a creditor in the above matter, hereby appoint the trustee identified below or \_\_\_\_\_, 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.

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 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 bankruptcy or proposal, namely the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, and still is, indebted to the creditor in the sum of \$ \_\_\_\_\_, as specified in the statement of account (or affidavit or solemn declaration) 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 and credits.)

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

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

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

\_\_\_\_\_  
Witness

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

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

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

RETURN TO:

Powell Associates Ltd. - Trustee

\_\_\_\_\_  
PO Box 985, 55 Drury Cove Rd.  
Saint John NB E2L 4E3  
Phone: (506) 638-9220 Fax: (506) 638-1428

Claims can be mailed or faxed (see information to the left) or emailed to mail@MaritimeTrustee.ca

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 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.

## INSTRUCTIONS & 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 (at the top of the proof of claim 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. 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. A **detailed statement of account** must be attached to the proof of claim and marked "Schedule A" and **must** show the date, number and amount of all invoices or charges, together with the date, number and amount of all credits or payments. The amount on the statement of account must correspond to the amount indicated on the proof of claim.

**Paragraph 4A** 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 4B** 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 4C** 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.

**Paragraph 4D** 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 4E** 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 4F** 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 4G** 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 4H** 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

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.