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Enforcement Matters - Ongoing Cases under the PBA and Regulations

The original announcements concerning the following two cases were uploaded to the PCO's Telix Computer System on June 5, 1996. The announcements have been amended.

Thorco Equipment Inc.

On May 31, 1996, charges were laid against Thorco Equipment Inc. ("Thorco") as employer and administrator of The Thorco Equipment Inc. and Affiliated Companies Pension Plan. Charges were also laid against a director and officer of Thorco. The charges relate to:

- failure to remit funds to the pension plan in accordance with s. 55(2) of the PBA
- failure to comply with a request for information made by the Superintendent of Pensions under s. 98 of the PBA
- failure to file a valuation report in accordance with s. 14(1) and 14(7) of the Regulation
- failure to file annual information returns in accordance with s. 20(1) of the PBA
- failure to file financial statements in accordance with s. 76(1) and 76(4) of the Regulation

The matter is scheduled for November 5, 1996 in the Ontario Court (Provincial Division), Courtroom L, 60 Queen Street West at 9:00 a.m.

Mimik Industries Inc.

On April 18, 1996, charges were laid against Mimik Industries Inc. ("Mimik"), as an employer required to make contributions under its pension plan, and Mimik's President. The charges relate to a failure to remit contributions to the pension plan in accordance with clause 55(2)(a) of the Act. The plan was not funded for the period January 1991 to the present.

The matter is scheduled for January 7, 1997 in the Ontario Court (Provincial Division), Courtroom L, 60 Queen Street West at 9:00 a.m.

Maysfield Property Management (1987) Inc.

On August 15, 1996, charges were laid against Maysfield Property Management (1987) Inc. ("Maysfield") as employer and administrator of the pension plan registered as Pension Commission registration number PN 0103046 (C-103046). Charges were also laid against a director and officer of Maysfield. The charges relate to:

- failure to comply with a request for information made by the Superintendent of Pensions under s. 98 of the PBA,
- failure to file a valuation report in accordance with ss. 14(1) and 14(7) of the Regulation,
- failure to file annual information returns in accordance with s. 20(1) of the PBA, and
- failure to file financial statements in accordance with s. 76(1) and 76(4) of the Regulation.

The matter is scheduled for December 17, 1996 in the Ontario Court (Provincial Division), Courtroom L, 60 Queen Street West at 9:00 a.m.

Cases Concluded Under the PBA and Regulations

Union Drawn Steel Company Limited

This announcement was uploaded to the BBS on March 27, 1996

On March 19, 1996, charges were laid against Union Drawn Steel Company Limited ("UDS"), as administrator of the company's hourly pension plan, and a former officer of UDS. The charges relate to:

- failure to remit contributions to the pension plan in accordance with clause 55(2)(a) of the Act,
- failure to ensure that the pension plan was administered in accordance with the Act and Regulation under subsections 19(1) and 19(3) of the Act,
- failure to apply to the Superintendent for registration of 1990 and 1991 plan amendments in accordance with section 12 of the Act,
- failure to file valuation reports with respect to the plan amendments in accordance with subsection 20(2) of the Act and subsections 3(1) and 3(2) of the Regulation,
- failure to file triennial valuation reports in 1988 and 1991 in accordance with subsection 20(2) of the Act and subsection 18(1) of the Regulation,
- failure to file annual information returns for the years 1988 to 1991,
- failure to file audited financial statements in accordance with subsections 76(1), 76(2) and 76(4) of the Regulation, and
- failure to file a statement of investment policies and goals in accordance with subsection 67(5) of the Regulation.

The first appearance was on May 7, 1996 at 9:00 a.m. in Courtroom C, Ontario Court (Provincial Division), 60 Queen Street West in Toronto followed by a second appearance on October 29, 1996.

This announcement concerning the Union Drawn Steel Company Limited was uploaded to the PCO's Telex Computer System on October 30, 1996.

On October 29, 1996, a former director and vice president-finance of Union Drawn Steel Company Limited ("UDS") pleaded guilty to four counts under s. 110(3) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8.

These counts related to plan amendments made by UDS in 1990 and 1991 which increased contributions and created or changed a going concern unfunded liability and a solvency deficiency. UDS failed to file the amendments with the PCO and

failed to file valuation reports within 8 months of the date of those plan amendments as required by ss. 3(1) and 3(2) of R.R.O. 1990, Reg. 909.

The defendant knew that UDS did not file the amendments or the reports and he took no steps to cause UDS to make those filings. The defendant was fined \$2,500 on each count for a total fine of \$10,000. UDS is currently in bankruptcy and the charges against UDS were withdrawn on October 29, 1996.

The following announcements were uploaded to the PCO's Telix Computer System on May 14, 1996.

Forum Sport Inc.

On April 30, 1996, in the Ontario Court (Provincial Division), the defendants, Forum Sport Inc. and the former President and Director of Forum Sport, Inc., pleaded guilty to all the charges laid under the *Pension Benefits Act*. The Court suspended the sentence against both defendants and ordered the former President and Director to make restitution to the pension fund in the amount of \$8,429.21. Restitution consisted of the total employer and employee contributions not remitted to the fund, plus interest, for the time periods: 1989 to September 1991 and October 1, 1993 to December 31, 1994.

Peoples Jewellers Limited

On April 29, 1996, a former officer and director and, a former officer of Peoples Jewellers pleaded guilty to charges under the Act and Regulations. The officer was fined \$5,000 and the director and officer of the company was fined \$10,000. The charges against Peoples Jewellers Limited were withdrawn.

The charges were under s. 62 of the Act and s. 70(1) of the Regulations and related to investments made with the assets of the pension fund in situations where the officers were aware that the percentage of Peoples' shares held by the fund exceeded the 10 per cent limit in s. 70(1) of the Regulation. This caused a loss to the pension fund when the employer was petitioned into bankruptcy.

The Pritchard Andrews Company of Ottawa Limited

On April 25, 1996, the Ontario Court (Provincial Division) sentenced the defendants, a director and officer of the company and the Pritchard Andrews Company of Ottawa Limited, to make restitution to the pension fund in the amount of \$26,400. This amount represents the total employee contributions deducted but not remitted to the fund, plus interest, for the following time periods: February 1, 1986 to December 15, 1987, October 1, 1988 to December 22, 1990 and May 1, 1991 to January 1, 1993.

For more information about these matters, please refer to the Winter-Spring 1996 issue of the *PCO Bulletin* or the item indexed as E100-001.