

**IN THE MATTER OF** the *Pension Benefits Act*, R.S.O. 1990, c. P.8 (the “Act”), in particular section 62.1(5);

**AND IN THE MATTER OF** Spicers Canada Pension Plan for Employees, Registration Number 0212159 (the “Plan”).

### NOTICE OF INTENDED DECISION

**TO:** Spicers Canada ULC  
200 Galcat Drive  
Vaughan, ON L4L 0B9

Attention: Meherab Chothia  
*Administrator*

**AND TO:** LifeWorks  
895 Don Mills Road  
Tower One, Suite 700  
Toronto, ON M3C 1W3

Attention: Jai Persaud  
*Consultant*

**TAKE NOTICE THAT** pursuant to section 62.1(5) of the Act, and by delegated authority from the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the “Chief Executive Officer”), the Head, Pension Plan Operations and Regulatory Effectiveness, intends to consent to payment from the pension fund in respect of the Plan to Spicers Canada ULC., in the amount of \$127,370.51 as at May 21, 2021, plus investment earnings to the actual date of payment.

**SI VOUS DÉSIREZ RECEVOIR CET AVIS EN FRANÇAIS**, veuillez nous envoyer votre demande par courriel immédiatement à: [contactcentre@fsrao.ca](mailto:contactcentre@fsrao.ca).

**YOU ARE ENTITLED TO A HEARING BY THE FINANCIAL SERVICES TRIBUNAL (THE “TRIBUNAL”) PURSUANT TO SUBSECTION 89(6) OF THE ACT.** A hearing by the Tribunal about this Notice of Intended Decision may be requested by completing the enclosed Request for Hearing Form (Form 1) and delivering it to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you. The Request for Hearing Form (Form 1) must be mailed, delivered, faxed or emailed to:

Address: Financial Services Tribunal

5160 Yonge Street  
14th Floor, Box 85  
Toronto ON M2N 6L9

Attention: Registrar

Fax: 416-226-7750

Email: [contact@fstontario.ca](mailto:contact@fstontario.ca)

**TAKE NOTICE THAT if you do not deliver a written request for a hearing to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you, an order will be issued as described in this Notice of Intended Decision.**

For additional copies of the Request for Hearing Form (Form 1), visit the Tribunal's website at [www.fstontario.ca](http://www.fstontario.ca).

The hearing before the Tribunal will proceed in accordance with the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* ("Rules") made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22. The Rules are available at the website of the Tribunal: [www.fstontario.ca](http://www.fstontario.ca). Alternatively, a copy can be obtained by telephoning the Registrar of the Tribunal at (416) 590-7294, or toll free at 1-800-668-0128 extension 7294.

## **REASONS FOR INTENDED DECISION**

1. Spicers Canada ULC. is the employer and administrator as defined in the Plan (the "Employer").
2. The Plan was wound up effective February 28, 2019.
3. The Plan had a wind up deficit of \$567,000 as per the wind up funding report as at the wind-up date.
4. The Employer has been funding the deficit under section 75 of the Act.
5. The Employer made a payment of \$113,502 in November 2020, to fully fund the deficit.
6. A deferred member was un-located at the settlement date, consequently a deferred annuity was purchased on their behalf from an insurance company.
7. Subsequent to the annuity purchase, the Employer became aware that the un-located member passed away in 2018. The insurer verified the death of the un-located member and determined the premium refund to the Plan to be \$127,303.
8. The un-located member's surviving spouse requested their death benefit payable as an immediate cash transfer payout. As the refund from the insurer was still

pending, the Employer decided to settle the full death benefit from the general revenues of the Employer.

9. Evidence of the full death benefit payment by the Employer to the pension fund on December 23, 2020 has been submitted to the Financial Services Regulatory Authority of Ontario.
10. An overpayment of \$127,370.51 was made to the Plan, which consists of a payment of \$127,303 on May 14, 2021 and interest of \$67.51 on May 21, 2021.
11. Section 62.1(4) of the Act states that if an employer makes an overpayment into the pension fund, the application for reimbursement must be filed before the later of: (a) 24 months after the date on which the employer made the overpayment; and (b) six months after the date on which the administrator, acting reasonably, becomes aware of the overpayment.
12. The Employer's application for reimbursement of the overpayment was made on May 28, 2021. This date is within 24 months after the date on which the employer made the overpayment. Accordingly, the application has been filed within the time limits set out in subsection 62.1(4) of the Act.
13. Such further and other reasons as come to my attention.

**DATED** at Toronto, Ontario, August 19, 2021



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Jennifer Rook  
Head, Pension Plan Operations and Regulatory Effectiveness

By delegated authority from the Chief Executive Officer