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Superintendent of
Financial
Services



Surintendant des
services
financiers

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the “PBA”);

AND IN THE MATTER OF a Notice of Intended Decision of the Superintendent of Financial Services to Consent, under section 62.1(5) of the PBA, to a payment out of the Henniges Automotive Sealing Systems Canada Inc. Salaried Pension Plan, Registration Number 0345512 (the “Plan”).

TO:

Henniges Automotive Sealing Systems Canada Inc.
2750 High Meadow Circle
Auburn Hills MI 48326
USA

Attention:

Christine D. Falls
Senior Human Resources Specialist

Applicant and Employer

AND TO:

Diane Liu
AON Hewitt
1600 – 225 King St. W.
Toronto ON M5V 3M2

NOTICE OF INTENDED DECISION

I INTEND TO CONSENT, under section 62.1(5) of the PBA, to the payment from the pension fund for the Plan to Henniges Automotive Sealing Systems Canada Inc. in the amount of \$166,900 as at March 31, 2018, plus investment earnings thereon to the date of payment.

Si vous désirez recevoir cet avis en français, veuillez envoyer votre demande immédiatement à: Adjointe, audiences, Greffe, Commission des services financiers de l'Ontario, 5160 rue Yonge, boîte 85, Toronto ON M2N 6L9.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the “Tribunal”) pursuant to section 89(6) of the PBA. **A hearing before the Tribunal about this Notice of Intended Decision may be requested by completing the enclosed Request for Hearing (Form 1) and submitting it to the Tribunal within thirty (30) days after this Notice of**

Intended Decision is served on you¹ Additional copies of the enclosed Form 1 can be obtained by visiting the Tribunal's website at www.fstontario.ca.

If a Request for Hearing (Form 1) is submitted to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you, sections 89(8) and 89(9) of the PBA provide that the Tribunal shall appoint a time for and hold a hearing, and by order may direct the Superintendent of Financial Services (the "Superintendent") to make or refrain from making the intended decision indicated in this notice and to take such action as the Tribunal considers the Superintendent ought to take in accordance with the PBA and the regulations, and for such purposes, the Tribunal may substitute its opinion for that of the Superintendent.

IF NO WRITTEN REQUEST FOR A HEARING IS MADE within thirty (30) days after this Notice is served on you, TAKE NOTICE THAT the Superintendent will carry out the CONSENT pursuant to section 89(7) of the PBA.

A completed Request for Hearing form must be received by the Tribunal within 30 days of this Notice is served on you. The Request for Hearing form may be mailed, faxed or delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto ON M2N 6L9

Attention: The Registrar
Fax: 416-226-7750

The hearing before the Tribunal will proceed in accordance with the Rules of Practice and Procedures for Proceedings before the Financial Services Tribunal made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22. Those Rules are available at the website of the Tribunal: 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 ext. 7294.

REASONS FOR DECISION:

1. Henniges Automotive Sealing Systems Canada Inc. is the employer and administrator as defined in the Plan (the "Employer").
2. The Plan was wound up effective October 31, 2011.
3. The Plan had a liability on wind up under section 75 of the PBA as per the wind up report as at October 31, 2011, filed by the Plan's actuary.
4. The Employer made payments totalling \$3,185,951 to fund the liability.
5. Information provided by the Plan's actuary on April 25, 2018, as part of the Employer's application under section 62.1 of the PBA, showed that there were assets in the amount of \$166,900 as at March 31, 2018, remaining in the Plan's pension fund after all benefits have been settled.
6. In these circumstances, section 32(4) of Regulation 909 states that the money remaining in the pension fund may be paid to the employer in accordance with section 62.1 of the PBA, as if the money was an overpayment into the pension fund by the employer within the meaning of section 62.1(1)(b) of the PBA.

7. Section 62.1(4) of the PBA states that if an employer makes an overpayment into the pension fund, the application to the Superintendent for reimbursement for the payment must be made 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.
8. The Employer's application for reimbursement of the overpayment was made on April 25, 2018. This date is within six months after the date on which the Employer, acting reasonably as administrator of the Plan, became aware of the overpayment. The Employer has indicated that it became aware of the overpayment on December 4, 2017. Accordingly, the application has been filed within the time limits set out in section 62.1(4) of the PBA.
9. Such further and other reasons as may come to my attention.

DATED at Toronto, Ontario, this 9th day of October, 2018.

Original Signed By

Gino Marandola
Deputy Superintendent, Pensions (Acting)
By delegated authority from the
Superintendent of Financial Services

1 NOTE - Pursuant to section 112 of the PBA any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by regular mail and any document sent by regular mail shall be deemed to be given, served or delivered on the fifth day after the date of mailing.

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