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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 pension fund for the Former Banner Corp. Pension Plan for Unionized Employees, Registration Number 0249268 (the “Plan”).

TO:

**Former Banner Corp.
5965 Coopers Avenue
Mississauga ON L4Z 1R9**

Attention:

**Joyce Lee
EVP & Chief Financial Officer**

Applicant and Employer

AND TO:

**Dominic Bourbonnais, FSA, FCIA
Conduent Human Resources Services
1000 – 201 City Centre Drive
Mississauga ON L5B 4E4**

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 Former Banner Corp. in the amount of \$85,668 as at April 30, 2015, with no adjustments 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, 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 you.**[1](#)

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 Ontario
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. Former Banner Corp. is the employer and administrator as defined in the Plan (the "Employer").
2. The Plan was wound up effective October 1, 2014.
3. Between October 1, 2014, and April 30, 2015, the Employer made six monthly payments totalling \$85,668 to the pension fund of the Plan on the basis of an actuarial report for which the effective date had passed at the Plan wind up date.
4. The wind up report, which was filed with the Superintendent on March 31, 2015, indicated a Plan surplus of \$163,100 as at the wind up date.
5. The Employer's application to the Superintendent for reimbursement of the Employer overpayment (the "Application"), prepared by the Plan's actuary as at August 10, 2017, indicated that there were assets in the amount of \$101,800 remaining in the Plan's pension fund after all annuities had been purchased as part of the Plan wind up. These assets consist of \$16,132 in surplus assets and \$85,668 in overpayments to the pension fund, the latter being the total of six payments made by the Employer between October 1,

2014, and April 30, 2015 (without any attributed interest).

6. Evidence of the overpayment to the pension fund has been submitted to the Financial Services Commission of Ontario.
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 Application was made on August 10, 2017. This date is within six months after the date on which the administrator of the Plan, acting reasonably, became aware of the payment described in paragraph 3. 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 5th day of December, 2017.

Original Signed By

Lester J. Wong
Deputy Superintendent, Pensions
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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