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Superintendent of  
Financial  
Services



Surintendant des  
services  
financiers

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**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 Make an Order under section 69(1)(a) and (b), section 55(2), and section 87(2)(c) of the *PBA* relating to the Pension Plan for the Employees of Journal Printing, Registration Number 0387878

**TO:**

**Alman Publishers and Printers (Espanola) Limited**

34 Fir Lane, P.O. Box 307  
Sudbury, ON P3E 4P2

**Attention:** Klaus Haring

**Employer and Administrator of the Plan**

## **NOTICE OF INTENDED DECISION**

**I INTEND TO MAKE AN ORDER** that the Pension Plan for the Employees of Journal Printing, Registration Number 0387878 (the “Plan”) be wound up effective September 14, 2012 pursuant to sections 69(1)(a) and (b) of the *PBA*.

**I ALSO INTEND TO MAKE AN ORDER** that Alman Publishers and Printers (Espanola) Limited (“Alman”) remit all outstanding contributions, plus interest, to the Plan within thirty (30) days from the date on this Notice of Intended Decision pursuant to sections 55(2) and 87(2)(c) of the *PBA*.

### **REASONS:**

1. Alman is the employer and administrator of the Plan.
2. The Plan is a defined contribution pension plan with a fiscal year end of April 30th.

**A. Wind Up**

3. Sections 69(1)(a) and (b) of the *PBA* state as follows: 69(1) The Superintendent by order may require the wind up of a pension plan if,
  - a. there is a cessation or suspension of employer contributions to the pension fund;
  - b. the employer fails to make contributions to the pension fund as required by this Act or the regulations.
4. Alman ceased making timely and regular employer contributions to the Plan in February of 2011, though contributions continued to be made by Alman from time to time thereafter until all employer contributions finally ceased in June of 2012. However, members of the Plan continued to make regular voluntary contributions after that date, the last employee contributions, which were due on August 25, 2012, being remitted to the Plan on September 14, 2012. Therefore there are grounds to wind up the Plan effective September 14, 2012 pursuant to sections 69(1)(a) and (b) of the *PBA*.

## **B. Remittance of Contributions**

5. Section 55(2) of the *PBA* states that an employer who is required to make contributions under a pension plan shall make the contributions in accordance with the prescribed requirements for funding in the prescribed manner and at the prescribed times.
6. Section 4(d) of the Plan requires Alman to contribute to the Plan an amount equal to four and a half percent (4.5%) of each Plan member's earnings for each Plan member for each full or partial year of membership in the Plan. In addition, section 4(d) of the Plan requires Alman to contribute an amount equal to each union member's optional contributions, if any.
7. Section 4(a) of the Plan, as amended effective January 1, 2009, permits both union and salaried members to make optional employee contributions equal to two percent (2%) of the member's earnings and provides that such optional contributions, which must be matched pursuant to section 4(d) of the Plan by Alman for union members, will be treated as member required contributions under the Plan. Prior to January 1, 2009 the Plan provided for optional contributions for union members only.
8. Notwithstanding the fact that section 4(d) was not amended effective January 1, 2009 to explicitly require matching for salaried as well as union members, Alman began to match salaried members' voluntary contributions in October of 2009.
9. Section 4(e) of the Plan requires Alman to remit contributions to the Plan within 30 days after the end of the month for which contributions are payable.
10. Section 4(4) 3.1 of Ontario Regulation 909 states that where all the pension benefits provided under the plan are defined contribution benefits, employer contributions for the

plan's fiscal year are due in monthly instalments within 30 days after the month for which contributions are payable.

11. Section 87(2)(c) of the *PBA* states that the Superintendent may make an order requiring an administrator or any other person to take any action in respect of a pension plan or a pension fund if the Superintendent is of the opinion, upon reasonable and probable grounds, that the administrator or employer of the pension plan is contravening a requirement of the *PBA* or the regulations.
12. The Superintendent is of the opinion that Alman has failed to make employer contributions to the Plan since Alman ceased making timely and regular employer contributions to the Plan in February of 2011; thereafter the only contributions made to the Plan were in respect of the periods ending August 13th and 27th, 2011, March 10th and 24th, 2012, and April 7th and 21st, 2012; and all required employer contributions ceased in June of 2012.
13. Such further and other reasons as may come to my attention.

**YOU ARE ENTITLED TO A HEARING** by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the *PBA*. **To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Intended Decision is served on you.**<sup>1</sup>

**YOUR WRITTEN NOTICE** must be delivered to:

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

Attention: The Registrar

**FOR FURTHER INFORMATION** on a Form for the written notice, please see the Tribunal website at [www.fstontario.ca](http://www.fstontario.ca) or contact the Registrar of the Tribunal by phone at 416- 590-7294, toll free at 1-800-668-0128, ext. 7294, or by fax at 416-226-7750.

**IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY CARRY OUT THE INTENDED DECISION AS DESCRIBED IN THIS NOTICE.**

**THE ADMINISTRATOR IS REQUIRED** pursuant to section 89 (5) of the *PBA* to transmit a copy of this Notice of Intended Decision to the following persons: all members, former members, and retired members of the Plan and other beneficiaries; and any trade union representing members of the Plan.

**DATED** at Toronto, Ontario, this **11th** day of **March, 2014**.

*Original Signed By*

**Brian Mills**  
Deputy Superintendent, Pensions

*<sup>1</sup>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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