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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 **Ball Packaging Products Canada Corp. Retirement Plan for Employees – IAM Local 863 Members**, Registration Number **0424713** (the “Plan”).

TO:

Ball Packaging Products Canada Corp.
1506 Wentworth Street West
Whitby ON L1N 7C1

Attention: David Putman, Administrator

AND TO:

Towers Watson

Attention: W. Randy Colbert, Senior Consulting Actuary

NOTICE OF INTENDED DECISION

I INTEND TO CONSENT, under section 62.1(5) of the PBA, to the payment out of the pension fund for the Plan to **Ball Packaging Products Canada Corp.**, in the amount of \$1,896,511 as at February 15, 2013 plus investment earnings thereon to the date of the payment.

I INTEND TO CONSENT FOR THE FOLLOWING REASONS:

1. **Ball Packaging Products Canada Corp. (the Company)** is the employer and administrator of the Plan.
2. The Plan is wound up effective January 31, 2008.

3. The Plan had a liability under section 75 of the PBA on wind up.
4. The Company has been funding the liability under section 75 of the PBA.
5. The latest report prepared by an actuary and filed by the Company as administrator of the Plan under section 32(1) of Regulation 909, R.R.O. 1990, as amended (the Regulation) shows that there is no further amount to be funded. It also shows that there is money remaining in the pension fund in the amount of \$1,896,511.
6. In these circumstances, section 32(4) of the Regulation 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 that money was an overpayment into the pension fund by the Company 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 of Financial Services 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.

The Company's application for the overpayment was made on February 20, 2013, which in my view is within six months after the date on which the Company, acting reasonably became aware of the overpayment, i.e., February 2013, the date the Custodian (Sun Life) conducted a data verification resulting in a premium adjustment.

I am satisfied that the Company's application for overpayment has been filed within the time limits set out in 62.1(4) of the PBA.

8. 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.**¹

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 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.

DATED at Toronto, Ontario, this **25th** day of **April, 2013**.

Original Signed By

Brian Mills
Deputy Superintendent, Pensions (Acting)

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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