

PENSION BULLETIN

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The Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 as amended, the Pension Benefits Act, R.S.O. 1990, c. P.8 as amended, R.R.O. 1990, Reg. 909 as amended, the terms of the pension plan and trust, if any, and the policies, procedures and practices of FSCO should be considered in determining specific legal requirements, and professional advice should be sought.

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GENERAL ANNOUNCEMENTS

Monsanto Update

On June 5, 2003, the Supreme Court of Canada granted leave to appeal the November 22, 2002 *Monsanto* decision of the Ontario Court of Appeal. The Court of Appeal decision had affirmed an earlier decision by the Ontario Divisional Court that supported the Superintendent's position that under the Ontario *Pension Benefits Act*, surplus assets related to a partial wind up must be distributed at the time of the partial wind up of the pension plan.

The decision of the Supreme Court of Canada to hear the appeal means that until court proceedings are final, the Superintendent will not be taking any specific action to require the distribution of surplus assets related to partial wind ups. Until that time, plan administrators must ensure that adequate assets are maintained in the pension plan to meet their obligations if the Court of Appeal's decision is upheld.

Pension Division Staff Changes

Robin Gray has accepted the assignment of Senior Pension Officer.

Dillon DeCoteau has accepted the contract position of Pension Officer. Michelle Harding and Lisette Caron have accepted the contract positions of Assistant Pension Officer. Deana Stuckless and Jason Gartshore accepted the positions of Pension Analyst.

Joey Shiner assumes the role of Compliance Assistant. Douglas Malone accepted the position of Senior Actuarial Analyst.

FSCO Introduces Pension Web Link

◆ August 18, 2003

Dear Pension Stakeholder:

Re: FSCO Pension Web Link

In order to enhance access to information, FSCO is introducing the Pension Web Link. Effective September 2, 2003, pension stakeholders will be able to access contact information and other details related to most pension plans via FSCO's website, 24 hours a day, seven days a week. No confidential information about plan members or information that could allow for the identification of individual members will be available. The Pension Web Link has been developed in consultation with the pension industry, to provide immediate access to frequently requested information.

Information will only be available for Ontario registered pension plans that are active, in the process of being wound up, frozen (not open to new members or contributions) or are no longer active but represent prior benefits for a currently active pension plan. Information about pension plans with less than five members will not be made available due to privacy concerns.

Pension plan members and the general public will be able to access information on specific plans using the plan registration number, plan name or plan sponsor name. It will no longer be necessary to submit a Freedom of Information request to obtain this information. The available information will include:

- the plan registration number;
- the plan name;
- the corporate name and address of the plan sponsor, administrator and custodian;
- the effective date, fiscal year end, plan type, benefit type and total active membership in the plan;
- the FSCO staff member assigned to the plan; and,
- selected transactions, including plan amendments and filing-related information.

An option to download a file containing selected information on specific registered pension plans will also exist.

FSCO will continue to respond to inquiries and complaints from pension plan members. FSCO does not have data regarding individuals or their entitlements under a specific plan. Therefore, those inquiries will continue to be directed to the Plan Administrator.

On September 2, 2003, the Pension Web Link may be accessed through the Pension section of FSCO's website at www.fSCO.gov.on.ca. If you have any questions, please e-mail FSCO at pensions@fSCO.gov.on.ca or call us at (416) 250-7250 or toll free at 1-800-668-0128.

Sincerely,



K. David Gordon
Deputy Superintendent, Pensions

Contacts for Plan Specific Enquiries

Contact Name	Title	Phone Number	Allocation Alpha Range
Jaan Pringi	Sr. Pension Officer	(416) 226-7826	
Gulnar Chandani	Pension Officer	(416) 226-7770	#'s-A
Penny McIlraith	Pension Officer	(416) 226-7822	B-Bulk
Rita Vassallo	Pension Officer	(416) 226-7994	Cen-Cz
Kathy Carmosino	Pension Officer	(416) 226-7823	I-King
Preethi Anthonypillai	Pension Officer	(416) 226-7812	Kinh-Mark
Robin Gray	Sr. Pension Officer	(416) 226-7855	
Calvin Andrews	Pension Officer	(416) 226-7768	Gko-H
Mark Lucyk	Pension Officer	(416) 226-7781	D-Em
John Graham	Pension Officer	(416) 226-7774	Marl-Nes
Julina Lam Lyn	Pension Officer	(416) 226-7815	Net-Pep
Anna Vani	Pension Officer	(416) 226-7833	Peq-Rob
Rosemin Jiwa Jutha	Sr. Pension Officer	(416) 226-7816	
Christa Matz	Pension Officer	(416) 226-7979	Bull-Cm
Pauline Stephens	Pension Officer	(416) 590-7587	En-Gkn
John Khing Shan	(Bilingual) Pension Officer	(416) 590-7237	Roc-Sons
Hae-Jin Kim	Pension Officer	(416) 226-7876	Sont-The Drop
David Allan	Pension Officer	(416) 226-7803	The Droq-Unicorp
Chantal Laurin	Pension Officer	(416) 226-7808	Unicorp-Z

FSCO Pension Advisory Committees — Membership as at September 2003

Accounting and Assurance Advisory Committee

Besler, Jason	Eigl, Charlie (Chair)
French, Mike	Preis, Katherine
Racanelli, Nick	Turner, Eric
Wade, Jack	Walker, Albert (Vice-Chair)

Actuarial Advisory Committee

Benjamin, Gavin	Cohen, Lorne (Chair)
DiRisio, Wendy	Hart, David
Hutchinson, Laurie	Levy, Thomas
Newman, Laura	Peng, Peter
Pitcher, Clare	Robertson, Marcus

Investment Advisory Committee

Andrews, Doug	Franks, Jim
Grantier, Bruce (Chair)	Kyle, Claire
Mercier, Eileen	Mills, Daniel
Pennal, Peter	Pond, Robin
Schaefer, Klaus	Wirth, Alf

Legal Advisory Committee

Forgie, Jeremy	Gold, Murray (Vice-Chair)
Healy, Priscilla	Lokan, Andrew
Nachshen, Gary (Chair)	O'Reilly, Hugh
Rienzo, Doug	Rowe, Kevin
Whiston, Bethune	

HEARINGS/COURT MATTERS

The information set out below is current to July 16, 2003.

Enforcement Matters

I. Mimik Industries Inc.

Charges were laid against the employer and the President of the employer for failing to remit required contributions to the pension plan.

A first appearance was on June 13, 2002.

A judicial pre-trial scheduled for June 25, 2003 was adjourned to July 9, 2003. On July 9, 2003, a trial date was set for November 10, 2003.

II. Club 300 Bowl

Charges were laid against the corporation and its two directors for non-remittance of employer and employee contributions, failure to file Annual Information Returns and failure to file Financial Statements. The first appearance was on July 24, 2002. Judicial pre-trials scheduled for February 26, 2003 and April 29, 2003, were postponed. The next appearance is on July 30, 2003.

III. Microcolour

Charges were laid against the corporation and its director for non-remittance of employer contributions. The first appearance date was on September 30, 2002. A pre-trial conference was on January 13, 2003. Trial dates have been set for September 19 and 22, 2003.

IV. Oetiker Ltd.

Charges were laid for failing to file Financial Statements for 1998, 1999 and 2000, for failing to file Annual Information Returns for 1999, 2000 and 2001 and for failing to pay the Annual Information Return filing fees for 1999, 2000 and 2001. The first appearance was on March 18, 2003. The next appearance is on August 14, 2003.

V. Rosko Forestry Operations Ltd.

Charges were laid against the employer and a corporate officer of the employer for failing to remit employer and employee contributions and for breach of the deemed statutory trust covering employee contributions. The first appearance in respect of the breach of trust charges was on May 22, 2003 in Haileybury, Ontario. The first appearance for the non-remittance charges was on June 2, 2003 in London, Ontario, at which time the non-remittance charges were moved to Haileybury to be heard with the breach of trust charges. The next appearance on all charges is on September 18, 2003 in Haileybury.

VI. Christopher Bain

Mr. Bain was a director and officer of a company that failed to remit to the employee pension plan both employer and employee pension contributions. Bain was convicted in his personal capacity for permitting the company to contravene the PBA. He was placed on probation and required to make restitution to the plan. He failed to comply with the probation order and was charged with breach of probation. On May 8, 2003, he pled guilty to breach of probation and sentencing is scheduled to take place on October 31, 2003.

Court Matters

I. Monsanto

On June 5, 2003, the Supreme Court of Canada granted leave to Monsanto Canada Inc. and the Association of Canadian Pension Management to appeal the Court of Appeal's decision. The Court of Appeal held that subsection 70(6) of the PBA requires a distribution of surplus assets on partial wind up. A tentative date for the hearing of the appeal has been set for February 16, 2004.

II. Ontario Teachers' Pension Plan Board (Anne Stairs)

In a decision issued on June 18, 2002, the Divisional Court ordered the Superintendent to issue an order directing the Ontario Teachers' Pension Plan Board to pay Ms. Stairs a pre-retirement death benefit pursuant to a separation agreement, subject to section 51 of the PBA. On September 3, 2002, the Court heard a motion by the Board to vary the decision insofar as quantum is concerned. The Court's decision on the motion was released on December 5, 2002. The Court also determined that the valuation date for the purposes of the calculation of quantum was the date of the divorce. The Court held that Ms. Stairs was entitled to not more than 50% of the pre-1987 death benefit plus 50% of the post-1986 death benefits to the date of divorce. The Court issued a declaration in respect of the pre-1987 amounts and directed the Superintendent to issue an order in respect of the post-1986 amounts. Ms. Stairs was awarded \$40,000 plus disbursements in costs. The Board applied for and obtained leave from the Court of Appeal to appeal the decision on quantum. Ms. Stairs applied for and obtained leave from the Court of Appeal to cross appeal the decision on quantum. The appeals are scheduled to be heard in the Court of Appeal on November 10, 2003.

III. National Steel Car Limited

The Superintendent consented to the transfer of assets from the Amended Pension Plan for Salaried Employees of National Steel Car Limited (the "Salaried Plan") to the Amended Pension Plan for Hourly Employees of National Steel Car Limited (the "Hourly Plan"). The Superintendent's consent was given after submissions opposing the transfer were made by some members of the Salaried Plan who were

unhappy with the fact that the Salaried Plan's surplus would be merged into the Hourly Plan's fund, which had a deficit. The letter giving the consent stated that anyone dissatisfied with the consent could request an FST hearing.

The hearing was held by the FST on January 15 to 17, 2002. On May 31, 2002, the FST released its decision. In response to a motion brought by National Steel Car at the hearing, a majority decision held that the FST has no jurisdiction to conduct a hearing where the Superintendent has consented to the transfer of assets, relying upon the express wording of subsection 89(4). One panel member dissented, finding that there was jurisdiction based on the HOOPP and other cases and on a purposive reading of the PBA. The panel unanimously found that if there was jurisdiction, the Superintendent's consent would have been upheld, as surplus was not an "other benefit" to be considered under subsection 81(5) of the PBA.

The Salaried Plan members have appealed this decision to the Divisional Court. No date has yet been set for the hearing of the appeal.

IV. Marshall-Barwick Limited

The issue in this hearing is whether an NOP proposing to refuse to approve the partial wind up report (because a member allegedly terminated for cause was not included in the partial wind up group) should be upheld. The hearing was held September 9, 2002. The panel released its decision on November 29, 2002, upholding the Superintendent's NOP and directing the administrator to file a revised wind up report that includes, in the partial wind up group, the member terminated for cause.

The company has appealed this decision to the Divisional Court. No date has yet been set for the hearing of the appeal.

LEGISLATIVE CHANGES/REGULATORY POLICIES

Financial Services Commission of Ontario

Commission des services financiers de l'Ontario

SECTION:	Deadlines
INDEX NO.:	D050-802
TITLE:	Deadline for Early Filing of Actuarial Funding Valuation Reports — Regulation 909 s. 14
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (July 2003)
EFFECTIVE DATE:	July 15, 2003

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c.28 ("FSCO Act"), Pension Benefits Act, R.S.O. 1990, c. P.8 ("PBA") or Regulation 909, R.R.O. 1990 ("Regulation"), the FSCO Act, PBA or Regulation govern.

Section 14 of the Regulation gives the Plan Administrator the ability to choose the valuation date for a report filed under that section, provided the valuation date is no later than 3 years after the valuation date for the report last filed under that section. However, for any plan for which the report last filed indicated solvency concerns, a new report is required to be filed with a valuation date no later than 1 year from the valuation date of the report last filed.

If the Administrator chooses to file a new report with a valuation date that is prior to the 3rd anniversary or the 1st anniversary, as the case may be, of the effective date of the report last filed under section 14 (an "intra-valuation report"), the administrator must file the intra-valuation report within 9 months of the selected valuation date. Administrators should be aware that if the intra-valuation report is filed more

than 9 months after the selected valuation date, FSCO reserves the right to reject such a report.

Until an intra-valuation report is actually filed, the Administrator retains the option to choose a valuation date for the report that is no later than 3 years or 1 year, as the case may be, after the valuation date of the last filed section 14 valuation report. This is so whether or not the Administrator has indicated an intention to file the intra-valuation report. Therefore it is not necessary for Administrators to seek, nor does FSCO grant, extensions of time for filing intra-valuation reports.





SUPERINTENDENT OF FINANCIAL SERVICES

Administrator Appointments — Section 71 of the PBA

1. PricewaterhouseCoopers as the Administrator of the Cold Metal Products Limited Pension Plan for Hourly Employees (Registration No. 0975045), effective immediately.
DATED at Toronto, Ontario, this 16th day of June, 2003.
2. Penad as the Administrator of the SMS Modern Cleaning Services Inc. Pension Plan for Salaried Employees (Registration No. 1057561), effective immediately.
DATED at Toronto, Ontario, this 12th day of June, 2003.
3. Morneau Sobeco as the Administrator of the Canadian Tack and Nail Ltd. Pension Plan for Salaried Employees (Registration No. 0581306), effective immediately.
DATED at Toronto, Ontario, this 9th day of June, 2003.
4. London Life as the Administrator of the Carnarvon Building Supplies Ltd. Employees Pension Plan (Registration No. 1040518), effective immediately.
DATED at Toronto, Ontario, this 1st day of May, 2003.
5. Manufacturers Life as the Administrator of the Finlayson Enterprises Ltd. Salaried Employees Pension Plan (Registration No. 0247593), effective immediately.
DATED at Toronto, Ontario, this 22nd day of April, 2003.
6. Standard Life as the Administrator of the RNG Group Inc. Employees Pension Plan (Registration No. 0491126), effective immediately.
DATED at Toronto, Ontario, this 28th day of April, 2003.
7. Corporate Benefit Analysts, Inc. as the Administrator of the Procast Foundries Inc. Pension Plan for the Employees (Registration No. 0586073), effective immediately.
DATED at Toronto, Ontario, this 24th day of March, 2003.
8. Standard Life as the Administrator of the Frost Fence Bargaining Unit Pension Plan (Registration No. 0697441), effective immediately.
DATED at Toronto, Ontario, this 17th day of March, 2003.
9. Standard Life as the Administrator of the Frost Fence Salaried Employees Pension Plan (Registration No. 0697433), effective immediately.
DATED at Toronto, Ontario, this 17th day of March, 2003.

Notices of Proposal to Make an Order

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

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order under section 69 of the Act respecting the **Pension Plan for Employees Bridge Information Systems Canada, Inc., Registration Number 0368720 (the “Pension Plan”)**;

TO: **The Standard Life Assurance Company**
1245 Sherbrooke Street West
Montreal PQ H3G 1G3

Attention: Dominic Muro,
Compliance Support Specialist
Group Savings and Retirement

Administrator of the Pension Plan for Employees of Bridge Information Systems Canada, Inc.

AND TO: **Bridge Information Systems Canada, Inc.**
145 King Street West
Suite 900
Toronto ON M5H 4C4

Attention: Nancy Fortner,
Director, Human Resources
Employer

AND TO: **PricewaterhouseCoopers Inc.**
145 King Street West
Toronto ON M5H 1V8

Attention: Ron Zimmerling

Trustee in Bankruptcy for Bridge Information Systems Canada, Inc.

NOTICE OF PROPOSAL TO MAKE AN ORDER

I PROPOSE TO MAKE AN ORDER that the Pension Plan for Employees of Bridge Information Systems Canada Inc., Registration No. 0368720, be wound up in full effective November 13, 2001.

I propose to make this order pursuant to subsection 69(1) of the Act.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act* (Canada).
3. A significant number of members of the Pension Plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.
4. Such further 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 Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

¹NOTE — Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



ANY NOTICE REQUIRING A HEARING

shall be delivered to:

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

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 24th day of March, 2003.

K. David Gordon,
Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c.28 (the “Act”);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(1) of the Act consenting to a payment out of the **Rexnord Pension Plan for Employees of Nordberg Machinery Limited, Registration No. 950196;**

TO: **Rexnord Canada Limited**
4701 West Greenfield Avenue
Milwaukee WI 53201-2022

Attention: Ms. Christine Dlugi,
Manager, Employee Benefits
Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the Act, consenting to the payment out of the Rexnord Pension Plan for Employees of Nordberg Machinery Limited, Registration No. 950196 (the “Plan”), to Rexnord Canada Limited in the amount of \$269,925 as at June 30, 2000, plus investment earnings and adjustments thereon to the date of payment.

I PROPOSE TO MAKE THE ORDER effective only after the Applicant satisfies me that all the surplus entitlements of the members have been paid or otherwise provided for in accordance with the terms of the Surplus Sharing Agreement.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Rexnord Canada Limited is the company as defined in the Plan (the “Company”).

2. The Plan was wound up, effective June 30, 2000.
3. As at June 30, 2000, the surplus in the Plan was estimated at \$899,750.
4. The Plan provides for payment of surplus to the Company on the wind up of the Plan.
5. The application discloses that by written agreement made by the Company and the members that 30% of the surplus will be paid to the Company and 70% of the surplus will be paid to the members as defined in the Surplus Distribution Agreement.
6. The Company has applied, pursuant to section 78 of the Act and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 30% of the surplus to the Company as of the effective date of the wind up.
7. The application appears to comply with section 78 and subsection 79(3)(a) and (b) of the Act and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the “Tribunal”) pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

YOUR WRITTEN NOTICE REQUIRING A HEARING must be delivered to:

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

Attention: The Registrar

¹NOTE — PURSUANT to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 3rd day of April, 2003.

K. David Gordon,

Deputy Superintendent, Pensions

Copy: Ari N. Kaplan, Koskie Minsky

Christopher Newton, Hewitt Associates



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c.28 (the “Act”);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(4) of the Act consenting to a payment out of the **Pension Plan for Employees of Windsor/Essex Community Care Access Centre, Registration No. 1036599;**

TO: **Windsor/Essex Community Care Access Centre**
5415 Tecumseh Road East
2nd Floor
Windsor ON N8T 1C5

Attention: Charles W. McLean

**Director of
Finance/Administration**

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under s. 78(4) of the Act, consenting to the payment out of the Pension Plan for Employees of Windsor/Essex Community Care Access Centre, Registration No. 1036599 (the “Plan”), to Windsor/Essex Community Care Access Centre in the amount of \$69,347.37 as at December 6, 2002, plus interest, at the fund rate thereon, to the date of payment.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. Windsor/Essex Community Care Access Centre is the employer as defined in the Plan (the “Employer”).
2. As a result of Employer contributions being made into the pension fund of the wrong pension plan as a result of an administrative error.
3. Evidence of the overpayment to the fund for the months of January to November 2002 has been submitted to the Financial Services Commission of Ontario.
4. There were no member submissions made about the repayment.
5. The application appears to comply with section 78(4) of the Act.
6. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the “Tribunal”), pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

YOUR WRITTEN NOTICE REQUIRING A HEARING must be delivered to:

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

Attention: The Registrar

¹NOTE — PURSUANT to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 5th day of April, 2003.

K. David Gordon

Deputy Superintendent, Pensions



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c.28 (the “Act”);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(1) of the Act consenting to a payment out of the **Pension Plan for Salaried Employees of The Seagram Museum, Registration No. 478131;**

TO: **The Seagram Museum**
1430 Peel Street
Montreal, Quebec
H3A 1S9

Attention: Mr. Michael Dell’Aniello,
Director

Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the Act, consenting to the payment out of the Pension Plan for Salaried Employees of The Seagram Museum, Registration No. 478131 (the “Plan”), to The Seagram Museum in the amount of \$158,100 as of July 1, 1997, subject to adjustment for investment earnings or losses and expenses, to the date of payment.

I PROPOSE TO MAKE THE ORDER effective only after the Applicant satisfies me that all benefits and benefit enhancements (including benefits and benefit enhancements pursuant to the Surplus Distribution Agreement defined in paragraph 5 below) among members, former members and any other persons entitled to such payments have been paid, purchased, or otherwise provided for.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. The Seagram Museum is the employer as defined in the Plan (the “Employer”).
2. The Plan was wound up, effective July 1, 1997.
3. As at July 1, 1997, the surplus in the Plan was estimated at \$316,244.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan.
5. The application discloses that by written agreement made by the Employer, and 100% of the active members and other members (as defined in the application) and 100% of the former members and other persons entitled to payments, the surplus in the Plan at the date of payment, after deduction of wind up expenses is to be distributed:
 - a) 50% to the Employer; and
 - b) 50% to the beneficiaries of the Plan as defined in the Surplus Distribution Agreement.
6. The Employer has applied, pursuant to section 78 of the Act and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 50% of the surplus in the Plan (after adding investment earnings and deducting expenses related to the wind up of the Plan.)
7. The application appears to comply with section 78 and subsection 79(3)(a) & (b) of the Act and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the “Tribunal”), pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

YOUR WRITTEN NOTICE REQUIRING A HEARING must be delivered to:

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

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 8th day of April, 2003.

K. David Gordon,
Deputy Superintendent, Pensions

cc: Ms. Hélène Beaulieu, Mercer Human
Resource Consulting

¹NOTE — PURSUANT to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c.28 (the “Act”);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(1) of the Act consenting to a payment out of the **Pension Plan for Employees of CYRO Canada Inc., Registration No. 402388;**

TO: **CYRO Canada Inc.**
c/o CYRO Industries
100 Enterprise Drive
Seventh Floor
P.O. Box 5055
Rockaway, New Jersey 07866-5055
U.S.A.

Attention: William Dorcas,
Manager, Benefits
Planning/Programs

Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the Act, consenting to the payment out of the Pension Plan for Employees of CYRO Canada Inc., Registration No. 402388 (the “Plan”), to CYRO Canada Inc. in the amount of \$678,472 as at April 21, 2001, adjusted for one-half of the appreciation/depreciation in the Plan’s assets thereon to the date of payment.

I PROPOSE TO MAKE THE ORDER effective only after the Applicant satisfies me that all benefits, benefit enhancements (including benefits and benefit enhancements pursuant to the Surplus Sharing Agreement defined in paragraph 5 below) and any other payments to which the members, former members and any other persons entitled to such payments have been paid, purchased or otherwise provided for.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. CYRO Canada Inc. is the employer as defined in the Plan (the “Employer”).
2. The Plan was partially wound up, effective April 21, 2001.
3. As at April 21, 2001, the surplus in the wound up portion of the Plan was estimated at \$1,356,944.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan.
5. The application discloses that by written agreement made by the Employer, and 96.49% of the active members affected by the partial wind up (as defined in the application), the surplus in the Plan at the date of payment, after deduction of the partial wind up expenses is to be distributed:
 - a) 50% to the Employer; and
 - b) 50% to the beneficiaries of the wound up portion of the Plan as defined in the Surplus Distribution Agreement.
6. The Employer has applied, pursuant to section 78 of the Act and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 50% of the surplus in the Plan (adjusted for 50% of the appreciation/depreciation to the date of payment of the plans’s assets related to the wound up portion of the Plan).
7. The application appears to comply with section 78 and subsection 79(3)(a) and (b) of the Act and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the “Tribunal”), pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

YOUR WRITTEN NOTICE REQUIRING A HEARING must be delivered to:

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

Attn: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 22nd day of April, 2003.

K. David Gordon,
Deputy Superintendent, Pensions

cc: Frederick W. Carleton
Margarethe Davies

¹NOTE — PURSUANT to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act");
AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order under section 69 of the Act respecting the **Pension Plan for All Salaried and Non-Union Employees of Participating Affiliates of Bracknell Corporation, Registration Number 0956798 (the "Pension Plan")**;

TO: **Manufacturers Life Insurance Company**
500 King North
P.O. Box 1602
Waterloo ON N2J 4C6

Attention: Yolanda Pingos
**Administrator of
The Pension Plan for
All Salaried and Non-Union
Hourly Employees of
Participating Affiliates of
Bracknell Corporation**

AND TO: **Bracknell Corporation**
400 Weston Road
Toronto ON M9L 3A2

Attention: Kae Baiocco,
Benefits Administrator
Employer

AND TO: **PricewaterhouseCoopers Inc.**
145 King Street West
Toronto ON M5H 1V8

Attention: Roger Deck

**Interim Receiver for
The State Group Limited,
a Participating Affiliate of
Bracknell Corporation**

**NOTICE OF PROPOSAL TO MAKE
AN ORDER**

I PROPOSE TO MAKE AN ORDER that the Pension Plan for All Salaried and Non-Union Hourly Employees of Participating Affiliates of Bracknell Corporation, Registration No. 0956789, be wound up in full effective November 1, 2001.

I propose to make this order pursuant to subsection 69(1) of the Act.

**I PROPOSE TO MAKE THIS ORDER FOR
THE FOLLOWING REASONS:**

1. There was a cessation or suspension of employer contributions to the pension fund.
2. A significant number of members of the Pension Plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.
3. All or a significant portion of the employer's business carried on by the employer at a specific location is discontinued.
4. Such further 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 Act, if, within thirty (30) days after the Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

ANY NOTICE REQUIRING A HEARING shall be delivered to:

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

Attention: The Registrar

FOR FURTHER INFORMATION, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 6th day of May, 2003.

K. David Gordon,
Deputy Superintendent, Pensions

¹NOTE — Pursuant to section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28 (the “Act”);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(1) of the Act consenting to a payment out of the **Retirement Plan for Significant Shareholder Employees of John C. Bourinot Sales Limited, Registration No. 411959;**

TO: **John C. Bourinot**
John C. Bourinot Sales Limited
c/o Stephen O’Neill,
CFP, CLU, CH.F.C.
Sun Life of Canada
245 Fairview Mall Drive
Willowdale ON M2J 4T1
Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the Act, consenting to the payment out of the Retirement Plan for Significant Shareholder Employees of John C. Bourinot Sales Limited, Registration No. 411959 (the “Plan”), to John C. Bourinot Sales Limited in the amount of \$384,900 as of August 1, 2000, subject to adjustments for investment earnings or losses and expenses, to the date of payment.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. John C. Bourinot Sales Limited is the employer as defined in the Plan (the “Employer”).

2. The Plan was wound up, effective August 1, 2000.
3. As at August 1, 2000, the surplus in the Plan was estimated at \$384,900.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan.
5. The application discloses that by written agreement made by the Employer and 100% of the active members entitled to payments, the surplus in the Plan at the date of payment, after deduction of wind up expenses, is to be distributed 100% to the Employer.
6. The Employer has applied, pursuant to section 78 of the Act and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 100% of the surplus in the Plan (after adding investment earnings and deducting expenses related to the wind up of the Plan.)
7. The application appears to comply with section 78 and subsection 79(3) of the Act and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.
8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the “Tribunal”), pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

¹NOTE — PURSUANT to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.

YOUR WRITTEN NOTICE REQUIRING A HEARING must be delivered to:

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

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 9th day of May, 2003.

K. David Gordon,
Deputy Superintendent, Pensions

cc: Timothy B. Lawrence, F.S.A., F.C.I.A.,
Cowan Wright Limited

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c.28 (the “Act”);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(1) of the Act consenting to a payment out of the **Retirement Plan for the Employees of W&S Services Limited, Registration No. 0397554;**

TO: **Sutherland-Schultz Inc.**
P.O. Box 5006
401 Fountain Street North
Cambridge ON N3H 5P3

Attention: Wayne Brohman
Manager, Financial Services
Applicant and Employer

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER under s. 78(1) of the Act, consenting to the payment out of the Retirement Plan for the Employees of W&S Services Limited, Registration No. 0397554 (the Plan), to Sutherland-Schultz Inc. in the amount of \$148,170 as at April 30, 2002, plus investment earnings minus expenses incurred thereon to the date of payment.

I PROPOSE TO MAKE THE ORDER effective only after the Applicant satisfies me that all benefits and other payments, including any enhancements arising from the Surplus Sharing Agreement, to which members, former members, and any other persons entitled on the wind up of the plan, have been settled.

I PROPOSE TO MAKE THIS ORDER FOR THE FOLLOWING REASONS:

1. W&S Services Limited (a wholly owned subsidiary of Sutherland-Schultz Inc.) was the employer as defined in the Plan. W&S

Services Limited was dissolved pursuant to a special resolution of all the shareholders on December 16, 1996. To bring the dissolution into effect, Articles of Dissolution of W&S Services Limited were registered effective January 1, 1997, and all of the assets of W&S Services Limited were wound up into Sutherland-Schultz Inc. (the “Employer”).

2. The Plan was wound up, effective January 1, 1997.
3. As at January 1, 1997, the surplus in the Plan was estimated at \$187,065.
4. The Plan provides for payment of surplus to the Employer on the wind up of the Plan.
5. The application discloses that by written agreement made by the Employer and 100% of the active members and other members (as defined in the application) and 100% of the former members and other persons entitled to payments, the surplus in the Plan at the date of payment, after deduction of wind up expenses is to be distributed:
 - a) 70% to the Employer; and
 - b) 30% to the beneficiaries of the Plan as defined in the Surplus Sharing Agreement.
6. The Employer has applied, pursuant to section 78 of the Act and clause 8(1)(b) of the Regulation, for consent of the Superintendent of Financial Services to the payment of 70% of the surplus in the Plan (after adding 70% of investment earnings and deducting 70% of the expenses related to the wind up of the Plan.)
7. The application appears to comply with section 78 and subsections 79(3)(a) and (b) of the Act and with clause 8(1)(b) and subsections 28(5), 28(5.1) and 28(6) of the Regulation.

8. Such further and other reasons as come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the “Tribunal”), pursuant to subsection 89(6) of the Act, if, within thirty (30) days after this Notice of Proposal is served on you, you deliver to the Tribunal a written notice that you require a hearing.¹

YOUR WRITTEN NOTICE REQUIRING A HEARING must be delivered to:

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

Attention: The Registrar

IF YOU DO NOT DELIVER TO THE TRIBUNAL, WITHIN THIRTY (30) DAYS FROM THE DATE THIS NOTICE OF PROPOSAL IS SERVED ON YOU, A WRITTEN NOTICE THAT YOU REQUIRE A HEARING, I MAY MAKE THE ORDER PROPOSED HEREIN.

DATED at Toronto, Ontario, this 30th day of May, 2003.

K. David Gordon,
Deputy Superintendent, Pensions

Copy: Claude N. Marchessault,
Barrister & Solicitor

Rick Jeffery

¹NOTE — PURSUANT to section 112 of the Act any notice, order or other document is sufficiently given, served, or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served, or delivered on the seventh day after mailing.



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

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order under section 69 of the Act respecting the **Registered Pension Plan for Employees of SuperPac Acquisitions Inc., Registration Number 1054071 (the “ Plan”)**;

TO: **Sun Life Financial and Clarica**
Group Savings Legislation
and Documentation
227 King Street South
Waterloo ON N2J 4C6

Attention: Ms. Audrey Humphrey
**Appointed Administrator of
the Plan**

AND TO: **SuperPac Acquisitions Inc.**
777 Laurel Street
Cambridge ON N3H 3Z1

Attention: Ms. Pearl Evans
Employer

AND TO: **Spergel & Associates Inc.**
505 Consumers Road
Suite 200
North York ON M2J 4V8
**Receiver for SuperPac
Acquisitions Inc.**

NOTICE OF PROPOSAL

I PROPOSE TO MAKE AN ORDER in respect of the Plan under section 69(1) of the Act.

PROPOSED ORDER:

That the Plan be wound up in whole effective January 23, 2002.

REASONS:

1. Failure of the employer to make contributions to the pension fund of the Plan as required by the Act or the regulations pursuant to clause 69(1)(b) of the Act.
2. The employer is bankrupt within the meaning of the *Bankruptcy & Insolvency Act*, pursuant to clause 69(1)(c) of the Act.
3. All or a significant portion of the business carried on by the employer at a specific location was discontinued, pursuant to clause 69(1)(e) of the Act.
4. Such further reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the “Tribunal”), pursuant to s. 89(6) of the Act. 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 Proposal 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, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

¹NOTE — Pursuant to section 112 of the *Act* any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.



**IF YOU FAIL TO REQUEST A HEARING
WITHIN THIRTY (30) DAYS, I MAY MAKE
THE ORDER PROPOSED IN THIS NOTICE.**

DATED at North York, Ontario, this 13th day
of June, 2003.

K. David Gordon,
Deputy Superintendent, Pensions



Notices of Approval to Refuse to Consent to an Application

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

AND IN THE MATTER OF an Application under section 78(4) of the Act submitted by The Great Atlantic & Pacific Company of Canada, Limited, in respect of the **Jane Parker Bakery Limited Retirement Plan for Full-time Bargaining Employees, Registration Number 0400325;**

TO: **The Great Atlantic & Pacific Company of Canada, Limited**
P.O. Box 68 Station ‘A’
Toronto, Ontario
M5W 1A6

Attention: Terry Howard,
Vice President,
Tax and Treasury Services

**Applicant, Employer and
Administrator of the Plan**

NOTICE OF PROPOSAL

I PROPOSE TO REFUSE TO CONSENT to the application dated October 2, 2001, made by The Great Atlantic & Pacific Company of Canada, Limited (the “Applicant”) for payment to the Applicant out of the pension fund for the Jane Parker Bakery Limited Retirement Plan for Full-time Bargaining Employees, Registration Number 0400325 (the “Plan”), of an overpayment by the Applicant to the pension fund for the Plan.

REASONS FOR THE REFUSAL:

1. The Applicant applied on or about October 2, 2001 (the “Application”), pursuant to section 78(4) of the Act, for the Superintendent’s consent to a payment of \$145,361 as of July 31, 2001, plus investment earnings thereon to the date of payment, out of the fund for the Plan. The Applicant claims this is the amount of an overpayment by

the employer into the pension fund for the Plan made on November 30, 2000. The Superintendent’s position is that these funds constitute surplus assets rather than an overpayment.

2. The Plan is a defined benefit pension plan. The Plan is to be fully wound up with an effective wind up date of March 4, 2000. In the wind up report dated June 2000, a deficit of \$997,673 on a wind up basis was identified.
3. The wind up report was approved by the Superintendent of Financial Services (the “Superintendent”) on or about September 29, 2000. In the letter approving the wind up report, the Superintendent stated that the employer could proceed with the distribution of the assets of the Pension Plan in accordance with the wind up report subject, *inter alia*, to the limitation that since the employer intended to fund the deficit in accordance with section 75 of the Act, the employer was required to comply with section 32 of Regulation 909, R.R.O. 1990 (the “Regulation”).
4. The Application states that an updated estimate as at September 30, 2000, indicated that the deficit was no greater than \$500,000. The Application states that the Applicant made a lump sum payment of \$500,000 to the pension fund of the Plan on November 30, 2000. The Applicant claims that this amount was a payment made pursuant to the wind up report and was not made pursuant to a report filed under section 32 of the Regulation. The Application also states that all members’ benefits were subsequently “fully settled” and that owing to increases in annuity purchase rates between March 4, 2000 and the date of the annuity purchases, there was a financial gain to the Plan resulting in excess assets in

the Plan of \$145,361 as at July 31, 2001 (the “excess assets”).

5. Section 1 of the Act defines surplus as the “excess of the value of the assets of a pension fund related to a pension plan over the value of the liabilities under the pension plan, both calculated in the prescribed manner.” The excess assets are assets of the pension fund for the Plan left over after all the liabilities under the Plan have been satisfied and, therefore, the excess assets are surplus within the meaning of section 1 of the Act and, as such, the Superintendent can only consent to the payment of money that is surplus to the employer if the requirements of section 79 of the Act have been met. The Applicant has not provided any evidence that the requirements of section 79 have been met.
6. The excess assets do not result from any of the circumstances listed in the Financial Services Commission of Ontario’s (FSCO), policy entitled “Application for Refund of Employer Overpayment” (Index No. R350-102), in which an employer may be considered to have over-contributed to a pension fund for the purposes of section 78(4) of the Act. Specifically, the excess assets do not result from contributions made on the basis of an actuarial report for which the effective date has passed, but when the new report was filed, such contributions exceeded those required by the new report. Nor do the excess assets result from payments made directly by the employer when those payments should have been made from the pension fund. Lastly, the excess assets do not result from contributions paid into the pension fund of the wrong pension plan as a result of an administrative error.
7. Section 75(1)(b)(ii) of the Act requires that where a pension plan is wound up, the employer pay into the pension fund an amount equal to the amount by which, the value of the pension benefits accrued with respect to employment in Ontario exceed the value of the assets of the pension fund allocated as prescribed for payment of pension benefits accrued with respect to employment in Ontario. Section 32(1) of the Regulation states that “[u]ntil the employer’s liability under section 75 of the Act is funded, the administrator of the plan shall annually cause the plan to be reviewed and a report to be prepared by a[n actuary] and shall file the report within six months after the valuation date of the report.”
Section 32(4) of the Regulation states: Where a report made under this section shows that there is no further amount to be funded, any surplus may revert to the employer, subject to the requirements of section 79 of the Act.
8. Although no report was filed by the Applicant under section 32 of the Regulation, the actuary for the Plan, in a letter dated December 27, 2001, certified that there was no further amount to be funded. Thus under section 32(4) of the Regulation, assets of the pension fund of the Plan left over after the payment of all benefit entitlements may only revert to the employer if the requirements of section 79 have been met. The requirement set out in section 32(4) of the Regulation applies whether the surplus remaining is attributable to amounts paid into the Plan pursuant to a wind up report or pursuant to a report filed under section 32. As noted above, the Applicant has not provided any evidence that the requirements of section 79 have been met. Therefore, the Superintendent



cannot consent to the withdrawal of any surplus funds by the Applicant.

9. In the alternative, if the excess assets are an overpayment, section 78(4) states that the Superintendent shall not consent to payment out of a pension fund to an employer of an amount not in excess of the amount of an overpayment by the employer into the pension fund "unless the application is made in the same fiscal year of the pension fund as the fiscal year in which the overpayment" occurred. The payment that the Applicant alleges was an overpayment was made on November 30, 2000, but the Application was not made until October 2, 2001. The fiscal year end for the Plan is December 31. The reasons offered by the Applicant are not sufficient to warrant an extension of the time limit in section 78(4) of the Act pursuant to section 105 of the Act.
10. Such further 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 Act. 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 Proposal 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, contact the Registrar of the Tribunal by phone at 416-226-7752, toll free at 1-800-668-0128, ext. 7752, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY MAKE THE ORDER PROPOSED IN THIS NOTICE.

DATED at North York, Ontario, this 24th day of March, 2003.

K. David Gordon,
Deputy Superintendent, Pensions

¹NOTE — PURSUANT TO section 112 of the Act any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by first class mail and any document sent by first class mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

Orders that Pension Plans be Wound Up

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

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order under section 69 of the Act respecting the **Pension Plan for Wylie Press, a Division of the Johnstone Group Inc., Registration Number 0324335 (the “Pension Plan”)**;

TO: **The Manufacturers Life Insurance Company**
500 King North
P.O. Box 1602
Waterloo ON N2J 3K6

Attention: Karen Osborne,
Plan Design Specialist
Administrator of the Pension Plan for Wylie Press, a Division of The Johnstone Group Inc.

AND TO: **Wylie Press, a Division of The Johnstone Group Inc.**
111 Ferrier Street
Markham ON L3R 3K6

Attention: Dianna Cooke,
Comptroller
Employer

ORDER

ON the 2nd day of December, 2002, the Deputy Superintendent, Pensions, issued a Notice of Proposal to Make an Order dated the 2nd day of December, 2002, pursuant to subsection 69(1) of Act, to the Administrator and to the Employer to wind up in whole the Pension Plan for Wylie Press, a Division of The Johnstone Group Inc., Registration No. 0324335.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal (“Tribunal”),

within the time prescribed by subsection 89(6) of the Act.

IT IS THEREFORE ORDERED that the Pension Plan for Wylie Press, a Division of The Johnstone Group Inc., Registration No. 0324335, be wound up in whole effective January 31, 2000, for the following reasons:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer failed to make contributions to the pension fund as required by the Act and regulations.
3. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act* (Canada).
4. A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

PURSUANT TO subsection 69(2) of the Act, the Administrator is required to give notice of this Order to the following persons by transmitting a copy hereof:

Shiner Kideckel Zweig Inc.
10 West Pearce Street
Suite 4
Richmond Hill ON L4B 1B6

Attention: Joel Kideckel

Trustee in Bankruptcy for Wylie Press, a Division of The Johnstone Group Inc.

DATED at Toronto, Ontario, this 24th day of March, 2003.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services



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

AND IN THE MATTER OF an application under ss. 78(1) of the Act submitted by Samsonite Canada Inc. in respect of the **Samsonite Canadian Retirement Income Plan, Registration Number 373225;**

TO: **Samsonite Canada Inc.**
753 Ontario St.,
Stratford, Ontario
N5A 6B1

Attention: Mr. Fred Judge

ORDER

ON or about October 11, 2001, the Superintendent of Financial Services issued a Notice of Proposal to Refuse to Consent to Application (the “NOP”) to Samsonite Canada Inc. (the “Employer”), in respect of the Employer’s application dated March 20, 2001, for the payment of surplus to the Employer on the wind up of the Samsonite Canadian Retirement Income Plan, Registration Number 373225 (the “Plan”), under subsection 78(1) of the Act (the “Application”).

A REQUEST for Hearing dated November 2, 2001, was received by the Financial Services Tribunal (the “Tribunal”) in connection with this matter and a hearing was held on June 3, 2002.

THE TRIBUNAL in its Reasons dated October 21, 2002, affirmed the NOP and directed the Superintendent to dismiss the Application.

NO APPEAL has been taken from the decision of the Tribunal by the Employer and, therefore, the decision of the Tribunal is final.

I THEREFORE REFUSE to consent to the Application of Samsonite Canada Inc. dated March 20, 2001, for the payment of surplus in the Plan to the Employer under subsection 78(1) of the Act.

DATED at Toronto, Ontario, this 3rd day of April, 2003.

K. David Gordon,
Deputy Superintendent, Pensions

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the “Act”);
AND IN THE MATTER OF an application under ss. 78(1) of the Act submitted by Samsonite Canada Inc. in respect of the **Samsonite Canadian Service Related Pension Plan, Registration Number 398578;**

TO: **Samsonite Canada Inc.**
753 Ontario St.,
Stratford, Ontario
N5A 6B1

Attention: Mr. Fred Judge
**Employer and Administrator
of the Plan**

ORDER

ON or about June 1, 2001, the Superintendent of Financial Services issued a Notice of Proposal to Refuse to Consent to Application (the “NOP”) to Samsonite Canada Inc. (the “Employer”) in respect of the Employer’s application dated November 13, 2000, for the payment of surplus to the Employer on wind up of the Samsonite Canadian Service Related Pension Plan, Registration Number 398578 (the “Plan”), under subsection 78(1) of the Act (the “Application”).

A REQUEST for Hearing dated July 3, 2001, was received by the Financial Services Tribunal (the “Tribunal”) in connection with this matter and a hearing was held on June 3, 2002.

THE TRIBUNAL in its Reasons dated October 21, 2002, affirmed the NOP and directed the Superintendent to dismiss the Application.

NO APPEAL has been taken from the decision of the Tribunal by the Employer and, therefore, the decision of the Tribunal is final.

I THEREFORE REFUSE to consent to the Application of Samsonite Canada Inc. dated November 13, 2000, for the payment of surplus to the Employer under subsection 78(1) of the Act.

DATED at Toronto, Ontario, this 3rd day of April, 2003.

K. David Gordon,
Deputy Superintendent, Pensions



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

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order under section 69 of the Act in respect of the **Employee Retirement Plan for the Employees of Rosko Forestry Operations Ltd., Registration No. 1022409;**

TO: **Rosko Forestry Operations Ltd.**
P.O. Box 753
953 Government Road West
Kirkland Lake, Ontario
P2N 3K1

Attention: John Joseph Rosko,
President

Employer and Administrator

DATED at Toronto, Ontario, this 23rd day of April, 2003.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services

ORDER

ON or about February 14, 2003, the Superintendent of Financial Services caused to be served on Rosko Forestry Operations Ltd., pursuant to subsection 69(1) of the Act, a Notice of Proposal, dated February 13, 2003, to Make an Order that the Employee Retirement Plan for Employees of Rosko Forestry Operations Ltd. be wound up in whole effective the date of the order proposed therein.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Employer and Administrator or by any other party within the time prescribed by subsection 89(6) of the Act.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE ORDERS that the Employee Retirement Plan for Employees of Rosko Forestry Operations Ltd., Registration No. 1022409, be wound up in whole effective the date of this Order.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the “Act”);
AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order under section 69 of the Act respecting the **Everest & Jennings Canadian Limited Employees Pension Plan, Registration Number 0527671 (the “Pension Plan”);**

TO: **London Life Insurance Company**

Suite 320
33 Yonge Street
Toronto ON M5E 4C6

Attention: Lynn Barron,
Customer Service Specialist

**Administrator of the
Everest & Jennings Canadian
Limited Employees
Pension Plan**

AND TO: **Everest & Jennings
Canadian Limited**
111 Snidercroft Road
Concord ON L4K 2J8

Attention: William N. James,
Vice-President Finance
Employer

ORDER

ON the 14th day of February, 2003, the Deputy Superintendent, Pensions, issued a Notice of Proposal to Make an Order, dated the 13th day of February, 2003, pursuant to subsection 69(1) of Act, to the Administrator and to the Employer to wind up in whole the Everest & Jennings Canadian Limited Employees Pension Plan, Registration No. 0527671.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal (“Tribunal”), within the time prescribed by subsection 89(6) of the Act.

IT IS THEREFORE ORDERED that the Everest & Jennings Canadian Limited Employees Pension Plan, Registration No. 0527671, be wound up in whole effective December 19, 2001, for the following reasons:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act* (Canada).
3. A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

PURSUANT TO subsection 69(2) of the Act, the Administrator is required to give notice of this Order to the following persons by transmitting a copy hereof:

Deloitte & Touche Inc.

181 Bay Street
Suite 1400
Toronto ON M5J 2V1

Attention: Robert Paul
Partner

**Trustee in Bankruptcy for
Everest & Jennings**

DATED at Toronto, Ontario, this 29th day of April, 2003.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services



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

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order under section 69 of the Act relating to the **Group Pension Plan for the Employees of Mount Forest Ambulance Service Ltd., Registration Number 983510 (the “Plan”)**;

TO: **Equitable Life Insurance Company**
One Westmount Road North
P.O. Box 1603
Waterloo ON N2J 4C7

Attention: Ms. Lerma Aguto
Appointed Administrator of the Plan

AND TO: **Mount Forest Ambulance Service Ltd.**
P.O. Box 4011
Mount Forest ON N0G 2L0

Attention: Mr. James A. Borrett,
President

Employer

AND TO: **Ontario Public Service Employees’ Union**
100 Lesmill Road
Toronto ON M3B 3P8

Attention: Ms. Shirley McVittie,
Senior Benefits Counsellor
Union representative of the members of the Plan, OPSEU Local 226.

ORDER

ON or about the 10th day of February, 2003, the Deputy Superintendent, Pensions, issued a Notice of Proposal to Make an Order pursuant to subsection 69(1) of the Act, that the Plan be wound up in whole effective January 31, 2001.

NO request for a hearing has been received by the Financial Services Tribunal in connection with this matter.

IT IS THEREFORE ORDERED that the Plan be wound up in whole effective January 31, 2001.

REASONS:

1. There was a cessation or suspension of employer contributions to the pension fund, pursuant to clause 69(1)(a) of the Act.
2. A significant number of members of the Plan ceased to be employed by the employer as a result of the discontinuance of the business of the employer, pursuant to clause 69(1)(d) of the Act.

DATED at North York, Ontario, this 29th day of April, 2003.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services

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 Proposal of the Superintendent of Financial Services to Make an Order Requiring the Wind Up of the **Pension Plan for the Employees of Dyment Limited, Registration Number 0242735;**
AND IN THE MATTER OF the Actuarial Report on the Partial Wind Up submitted by Dyment Limited to the Superintendent of Financial Services respecting the **Pension Plan for the Employees of Dyment Limited, Registration Number 0242735;**

TO: **Dyment Limited**
1235 Bay Street, Suite 400
Toronto, Ontario
M5R 3K4

Attention: Elmer A. Campbell,
Controller

**Employer and Administrator
of the Pension Plan for the
Employees of Dyment Limited**

ORDER

ON March 22, 2001, the Superintendent of Financial Services issued a Notice of Proposal to Make an Order, dated March 19, 2001, to the Employer and to the Administrator of the Pension Plan for the Employees of Dyment Limited, Registration Number 0242735 (the “Plan”), pursuant to subsection 69(1) of the PBA, that proposed to fully wind up the Plan effective August 23, 1996. The same Notice of Proposal was also issued pursuant to subsection 70(5) of the PBA and proposed to refuse to approve the actuarial report prepared in April 1997 in relation to the partial wind up of the Plan as at August 23, 1996.

ON April 18, 2001, Dyment Limited requested a hearing by the Financial Services Tribunal, which assigned Number P0157-2001 to the proceeding.

ON July 13, 2001, a pre-hearing conference was convened before the Chair of the Financial Services Tribunal, and Mobeen Khaja was granted full party status.

ON March 19, 2003, the parties agreed to settle the issues in accordance with a Memorandum of Settlement which has been signed and filed with the Financial Services Tribunal.

ON April 29, 2003, Dyment Limited withdrew its request for a hearing by the Financial Services Tribunal.

I THEREFORE ORDER THAT:

A.) Partial Wind Up:

1. Dyment Limited (“Dyment”) is to file an addendum to the partial wind up report with respect to the partial wind up effective August 23, 1996. The addendum shall provide for the distribution of surplus assets in proportion to the liabilities of members related to the partial wind up group as identified in the April 1997 partial wind up report.
2. The amount of surplus to be distributed in accordance with the addendum to the partial wind up report shall be based on the assets and liabilities set out in the April 1997 partial wind up report, with interest applied based on the Plan fund’s net rate of return between the partial wind up date and the date of distribution, or such other rate as may be agreed to by the parties.
3. Dyment shall file the addendum to the partial wind up report within 90 days from the date of this Order.

4. Dyment Limited shall, if it determines that surplus belongs to the employer, file a surplus withdrawal application relating to the partial wind up of the Plan within 90 days of the date on which payment of the affected members' basic benefits, as set out in the report, has been approved by the Superintendent of Financial Services.

B.) Full Wind Up:

5. Dyment shall file a full wind up report for the Plan as at December 31, 2002. The full wind up report shall provide for the distribution of any surplus assets as at the full wind up date as required by the PBA.
6. Dyment shall file the full wind up report within 90 days from the date of this Order.
7. Dyment shall, if it determines that surplus belongs to the employer, file a surplus withdrawal application relating to the full wind up of the Plan within 90 days of the date on which payment of the affected members' basic benefits, as set out in the report, has been approved by the Superintendent of Financial Services.

REASONS:

- A. Dyment is the employer and administrator of the Plan.
- B. On April 9, 1996, Dyment sold its "Display Division" to Chesapeake Display and Packaging (Canada) Limited ("Chesapeake"). As a result of this sale, 76 active members of the Plan became employees of Chesapeake, and their membership in the Plan was terminated.
- C. These employees became members of Chesapeake's pension plan, and Chesapeake assumed responsibility for their pension benefits. The portion of the assets in the Plan's fund that was attributable to the 76

active members was transferred to Chesapeake and this transfer was approved by the Superintendent.

- D. Dyment sold its remaining operations to DDS Dyment Distribution Services Ltd. ("DDS") effective August 23, 1996. All 56 of the remaining active Plan members became employees of DDS. Since DDS had no pension plan, Dyment proposed to partially wind up the Plan in respect of the members transferred to DDS.
- E. As at August 23, 1996, there were no remaining active members in the Plan and Dyment was no longer required to make contributions to the Plan's fund.
- F. Pursuant to clause 69(1)(a) of the PBA, the Superintendent of Financial Services may by order require the wind up of a pension plan if there is a cessation or suspension of employer contributions to the pension plan fund.
- G. In April 1997, Dyment filed a report for the partial wind up of the Plan as at August 23, 1996, which showed that the Plan had surplus assets estimated at \$2,236,222.00.
- H. The partial wind up report does not provide for the distribution of surplus assets as required by the PBA.
- I. The parties to Financial Services Tribunal proceeding Number P0157-2001 have agreed to settle the issues in that proceeding on the terms set out in paragraphs 1 through 7 of this Order.
- J. Such further and other reasons as may come to my attention.

THE ADMINISTRATOR IS REQUIRED, pursuant to subsection 89(5) of the PBA, to give notice of this Order to all the members and former members of the Plan.



DATED at North York, Ontario, June 10, 2003.

K. David Gordon,
Deputy Superintendent, Pensions
by Delegated Authority from the
Superintendent of Financial Services





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

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order under section 69 of the Act respecting the **Pension Plan for Employees of Bridge Information Systems Canada, Inc., Registration Number 0368720 (the “Pension Plan”)**;

TO: **The Standard Life Assurance Company**
1245 Sherbrooke Street West
Montreal PQ H3G 1G3

Attention: Dominic Muro,
Compliance Support Specialist
Group Savings and Retirement

Administrator of the Pension Plan

AND TO: **Bridge Information System Canada, Inc.**
145 King Street West
Suite 900
Toronto ON M5H 4C4

Attention: Nancy Fortner,
Director, Human Resources
Employer

ORDER

ON the 25th day of March, 2003, the Deputy Superintendent, Pensions, issued a Notice of Proposal to Make an Order, dated the 24th day of March, 2003, pursuant to subsection 69(1) of Act, to the Administrator and to the Employer to wind up in whole the Pension Plan for Employees of Bridge Information Systems Canada, Inc., Registration No. 0368720.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal (“Tribunal”), within the time prescribed by subsection 89(6) of the Act.

IT IS THEREFORE ORDERED that the Pension Plan for Employees of Bridge Information Systems Canada, Inc., Registration No. 0368720, be wound up in whole effective November 13, 2001, for the following reasons:

1. There was a cessation or suspension of employer contributions to the pension fund.
2. The employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act* (Canada).
3. A significant number of members of the pension plan ceased to be employed by the employer as a result of the discontinuance of all or part of the business of the employer or as a result of the reorganization of the business of the employer.

PURSUANT TO subsection 69(2) of the Act, the Administrator is required to give notice of this Order to the following persons by transmitting a copy hereof:

PricewaterhouseCoopers Inc.
145 King Street West
Suite 900
Toronto ON M5H 1V8

Attention: Ron Zimmerling,
Partner

Trustee in Bankruptcy for Bridge Information Systems Canada, Inc.

DATED at Toronto, Ontario, this 12th day of June, 2003.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services

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

AND IN THE MATTER OF a Proposal of the Superintendent of Financial Services to Make an Order under section 69 of the Act respecting the **Pension Plan for the Employees of C & C International Yachts Limited, Registration Number 0687632 (the “Pension Plan”)**;

TO: **The Manufacturers Life Insurance Company**
500 King North
P.O. Box 1602
Waterloo ON N2J 3K6

Attention: Yolanda Pingos,
Plan Design Associate
Administrator of the Pension Plan

AND TO: **Bridge Information System Canada, Inc.**
145 King Street West
Suite 900
Toronto ON M5H 4C4

Attention: Nancy Fortner,
Director, Human Resources
Employer

ORDER

ON the 25th day of March, 2003, the Deputy Superintendent, Pensions, issued a Notice of Proposal to Make an Order, dated the 24th day of March, 2003, pursuant to subsection 69(1) of Act, to the Administrator and to the Employer to wind up in whole the Pension Plan for Employees of Bridge Information Systems Canada, Inc., Registration No. 0368720.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal (the “Tribunal”), within the time prescribed by subsection 89(6) of the Act.

IT IS THEREFORE ORDERED that the Pension Plan for Employees of Bridge Information Systems Canada, Inc., Registration No. 0368720, be wound up in whole effective November 13, 2001, for the following reasons:

1. There was a cessation or suspension of Employer contributions to the pension fund.
2. The Employer is bankrupt within the meaning of the *Bankruptcy and Insolvency Act* (Canada).
3. A significant number of members of the Pension Plan ceased to be employed by the Employer as a result of the discontinuance of all or part of the business of the Employer or as a result of the reorganization of the business of the Employer.

PURSUANT TO subsection 69(2) of the Act, the Administrator is required to give notice of this Order to the following persons by transmitting a copy hereof:

PricewaterhouseCoopers Inc.
145 King Street West
Suite 900
Toronto ON M5H 1V8

Attention: Ron Zimmerling
Partner

Trustee in Bankruptcy for Bridge Information Systems Canada, Inc.

DATED at Toronto, Ontario, this 24th day of June, 2003.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services

Consents to Payments of Surplus out of Wound Up Pension Plans

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28 (the "Act");

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(4) of the Act consenting to a payment out of the **Pension Plan for Employees of Windsor/Essex Community Care Access Centre, Registration No. 1036599;**

TO: **Windsor/Essex Community Care Access Centre**
5415 Tecumseh Road East
2nd Floor
Windsor ON N8T 1C5

Attention: Charles W. McLean

**Director of
Finance/Administration**

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of of the Pension Plan for Employees of Windsor/Essex Community Care Access Centre, Registration No. 1036599, of \$69,347.37 as at December 6, 2002, plus interest at the fund rate of return thereon to the date of payment, to Windsor/Essex Community Care Access Centre.

DATED at Toronto, Ontario, this 22nd day of April, 2003.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services

CONSENT

ON or about April 7, 2003, the Superintendent of Financial Services caused to be served on the Windsor/Essex Community Care Access Centre a Notice of Proposal, dated April 1, 2003, to consent, pursuant to subsection 78(4) of the Act, to payment out of the Pension Plan for Employees of Windsor/Essex Community Care Access Centre, Registration No. 1036599, to Windsor/Essex Community Care Access Centre in the amount of \$69,347.37 as at December 6, 2002, plus interest, at the fund rate thereon, to the date of payment.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the Act.

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S.O. 1997, c.28 (the “Act”);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(1) of the Act consenting to payment out of the **Rexnord Pension Plan for Employees of Nordberg Machinery Limited, Registration No. 950196;**

TO: **Rexnord Canada Limited**
4701 West Greenfield Avenue
Milwaukee WI 53201-2022

Attention: Ms. Christine Dlugi,
Manager, Employee Benefits
Applicant and Employer

CONSENT

ON April 7, 2003, the Superintendent of Financial Services caused to be served on Rexnord Canada Limited a Notice of Proposal, dated April 3, 2003, to consent, pursuant to subsection 78(1) of the Act, to payment out of the Rexnord Pension Plan for Employees of Nordberg Machinery Limited, Registration No. 950196 (the “Plan”), to Rexnord Canada Limited in the amount of \$269,925 as at June 30, 2000, plus investment earnings and adjustments thereon to the date of payment.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the Act.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Rexnord Pension Plan for Employees of Nordberg Machinery Limited, Registration No. 950196, of \$269,925 as at June 30, 2000, plus investment earnings and adjustments thereon to the date of payment, to Rexnord Canada Limited.

THIS CONSENT IS EFFECTIVE ONLY AFTER the Applicant satisfies me that all the surplus entitlements of the members have been paid or otherwise provided for in accordance with the terms of the Surplus Sharing Agreement.

DATED at Toronto, Ontario, this 27th day of May, 2003.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services

Copy: Ari N. Kaplan, Koskie Minsky
Christopher Newton, Hewitt Associates



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28 (the “Act”);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(1) of the Act consenting to payment out of the **Pension Plan for Salaried Employees of The Seagram Museum, Registration No. 478131;**

TO: **The Seagram Museum**
4160 Sherbrooke St. West
Suite 102 Westmount
Montreal, Quebec
H3Z 1C2

Attention: Mr. Gabor Jellinek,
Director

Applicant and Employer

CONSENT

ON or about April 9, 2003, the Deputy Superintendent of Financial Services caused to be served on The Seagram Museum a Notice of Proposal dated April 8, 2003, to consent, pursuant to subsection 78(1) of the Act, to payment out of the Pension Plan for Salaried Employees of The Seagram Museum, Registration No. 478131 (the “Plan”), in the amount of \$158,100 as of July 1, 1997, plus any adjustments for investment earnings or losses and expenses, to the date of payment to The Seagram Museum.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the Act.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Pension Plan for Salaried Employees of The Seagram Museum, Registration No. 478131, of \$158,100 as of July 1, 1997, subject to adjustment for investment earnings or losses and expenses, to the date of payment to The Seagram Museum.

THIS CONSENT IS EFFECTIVE ONLY

AFTER the Applicant satisfies me that all benefits, benefit enhancements (including benefits and benefit enhancements pursuant to the Surplus Distribution Agreement between the applicant and the members, former members, and any other persons entitled to payments from the fund) and any other payments to which the members, former members, and any other persons entitled to such payments have been paid, purchased, or otherwise provided for.

DATED at Toronto, Ontario, this 30th day of May, 2003.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services

cc: Ms. Hélène Beaulieu,
Mercer Human Resource Consulting

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28 (the “Act”);

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make an Order under subsection 78(1) of the Act consenting to a payment out of the **Pension Plan for Employees of CYRO Canada Inc., Registration No. 402388;**

TO: **CYRO Canada Inc.**
c/o CYRO Industries
100 Enterprise Drive
Seventh Floor
P.O. Box 5055
Rockaway, New Jersey 07866-5055
U.S.A.

Attention: William Dorcas,
Manager,
Benefits Planning/Programs
Applicant and Employer

CONSENT

ON or about April 24, 2003, the Superintendent of Financial Services caused to be served on CYRO Canada Inc. a Notice of Proposal, dated April 22, 2003, to consent, pursuant to subsection 78(1) of the Act, to payment out of the Pension Plan for Employees of CYRO Canada Inc., Registration No. 402388 (the “Plan”), to CYRO Canada Inc. in the amount of \$678,472 as at April 21, 2001, adjusted for one-half of the appreciation/depreciation in the plan’s assets thereon to the date of payment.

NO Notice requiring a hearing was delivered to the Financial Services Tribunal by the Applicant or any other party within the time prescribed by subsection 89(6) of the Act.

THE SUPERINTENDENT OF FINANCIAL SERVICES THEREFORE CONSENTS to the payment out of the Pension Plan for Employees of CYRO Canada Inc., Registration No. 402388, of \$678,472 as at April 21, 2001, adjusted for one-half of the appreciation/depreciation in the plan’s assets thereon to the date of payment, to CYRO Canada Inc.

THIS CONSENT IS EFFECTIVE ONLY

AFTER the Applicant satisfies me that all benefits, benefit enhancements and any other payments to which the members, former members and any other persons entitled to such payments have been paid, purchased or otherwise provided for.

DATED at Toronto, Ontario, this 12th day of June, 2003.

Tom Golfetto,
Director, Pension Plans Branch
by Delegated Authority from the
Superintendent of Financial Services
cc: Frederick W. Carleton

Margarethe Davies



Declaration that the Pension Benefits Guarantee Fund Applies to Pension Plans — Subsection 83(1) of the *Pension Benefits Act*

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

AND IN THE MATTER OF a Proposal by the Superintendent of Financial Services to Make a Declaration under Section 83 of the Act respecting the **Zettel Metalcraft Ltd. Local 396 CAW Pension Plan (the “Pension Plan”), Registration Number 0933515;**

TO: **Morneau Sobeco**
Deloitte & Touche Inc.
1500 Don Mills Road
Toronto ON M3B 3K4

Attention: Mr. Al Kiel,
Partner

Administrator of the Pension Plan

AND TO: **Zettel Metalcraft Ltd.**
95 Cousins Drive
Aurora ON L4G 3H1

Attention: Mr. Tim Daley,
Controller

Employer

AND TO: **Ernest Leyshon-Hughes C.A.**
7 Dukes Street West
Suite 204
Kitchener ON N2H 6M7

Attention: Mr. Ernest Leyshon-Hughes,
**Trustee in Bankruptcy,
Zettel Metalcraft Ltd.**

AND TO: **CAW Local 396**
205 Placer Court
Toronto ON M2H 3H9

Attention: Mr. Sym Gill,
Director

DECLARATION

WHEREAS:

1. The Zettel Metalcraft Ltd. Local 396 CAW Pension Plan, Registration No. 0933515, is registered under the Act; and
2. The Pension Plan provides defined benefits that are not exempt from the application of the Pension Benefits Guarantee Fund (the “Guarantee Fund”) by the Act or the regulations made thereunder; and
3. The Pension Plan was wound up effective January 24, 1997; and
4. The Superintendent of Pensions appointed Deloitte & Touche Inc. as the administrator (the “Administrator”) of the Pension Plan on March 20, 1997, and on July 11, 2002, appointed Morneau Sobeco as Administrator to replace Deloitte & Touche Inc.; and
5. On February 10, 2003, I issued a Notice of Proposal dated February 5, 2003, to Make a Declaration that the Guarantee Fund applies to the Pension Plan; and
6. No notice requiring a hearing by the Financial Services Tribunal, pursuant to subsection 89 (6) of the Act, has been received.

NOW THEREFORE TAKE NOTICE, I declare, pursuant to sections 83 and 89 of the Act, that the Guarantee Fund applies to the Pension Plan for the following reasons:

1. The Supplement to the Actuarial Valuation Report filed by the Administrator indicates an estimated funding deficiency of \$1,095,300 as at May 31, 2002, and an estimated claim against the Guarantee Fund as at May 31, 2002, of \$954,200.00.
2. Ernest Leyshon-Hughes was appointed Trustee in Bankruptcy of Zettel Metalcraft Ltd. on February 6, 1997.

3. The Trustee in Bankruptcy for Zettel Metalcraft Ltd. has advised the Administrator that there are no funds from the estate of Zettel Metalcraft Ltd. to make payments to the Pension Plan.
4. The Administrator has advised that it is of the opinion that there are reasonable and probable grounds for concluding that the funding requirements of the Act and Regulation cannot be satisfied.

DATED at North York, Ontario, this 22nd day of April, 2003.

K. David Gordon,
Deputy Superintendent, Pension Division



Allocations of Money for the Pension Benefits Guarantee Fund

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

AND IN THE MATTER OF an Allocation by the Superintendent of Financial Services under section 83 of the Act relating to the **Retirement Plan for Employees of Pigott Construction Limited and Participating Companies, Registration Number C-4989;**

TO: **Buck Consultants Limited**
Suite 1500
95 Wellington Street West
Toronto ON M5J 2N7

Attention: Ms. Wafaa Babcock, F.S.A., F.C.I.A.
Administrator

AND TO: **Pigott Construction Ltd.**
P.O. Box 2309
Hamilton ON L8N 3G7

Attention: W. Grant Dickinson,
Vice-President, Finance
Employer

mined under subsections 34(5) and 34(6) of the Regulation, and to pay the reasonable administration costs of settling his entitlement; and

WHEREAS the allocation was insufficient to provide for the administration costs of the appointed administrator after settlement of the benefit for Colin Holland;

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the “Regulation”), an amount not to exceed \$705 to pay the balance of the reasonable administration costs of settling Colin Holland’s benefit. Any money allocated from the Guarantee Fund but not required to provide such costs shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 10th day of March, 2003.

K. David Gordon,
Deputy Superintendent, Pensions
Financial Services Commission of Ontario

ALLOCATION

WHEREAS on the 12th day of July, 2002, I declared, pursuant to sections 83 and 89 of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act, 1997*, S. O. 1997, c.28 (the “Act”), that the Pension Benefits Guarantee Fund (the “Guarantee Fund”) applies to the Retirement Plan for Employees of Pigott Construction Limited and Participating Companies, Registration Number C-4989 (the “Plan”); and

WHEREAS on the 9th day of September, 2002, I allocated from the Guarantee Fund, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the “Regulation”), an amount not to exceed \$18,040 to provide, together with the Ontario assets, if any, for the benefit entitlement of Colin Holland under the Plan, deter-

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

AND IN THE MATTER OF a Declaration by
the Superintendent of Financial Services under
Section 83 of the Act respecting the **Pension
Plan for Unionized Employees of
Northern Globe Building Materials, Inc.
(Brantford Division), Registration
Number 680421 (the “Plan”)**;

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Mr. David R. Kearney,
Senior Consultant
**Appointed Administrator
of the Plan**

AND TO: **Northern Globe Building
Materials, Inc.**
2230 Indianapolis Blvd.
Whiting IN 46394

Attention: John F. Dombrow,
Director, Human Resources
Employer

AND TO: **United Steelworkers
of America**
District 6
1031 Barton Street East
Hamilton ON L8L 3E3

Attention: Bryan Adamczyk
**Union Representative for
the Members of the Plan**

ALLOCATION

WHEREAS on the 9th day of April, 2001, I
declared, pursuant to sections 83 and 89 of the
Act, that the Pension Benefits Guarantee Fund
(the “Guarantee Fund”) applies to the Plan;
NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Plan, pursuant
to subsection 34(7) of R.R.O. 1990, Reg. 909,
under the Act (the “Regulation”), an amount
not to exceed \$214,595 determined as of April
30, 2003, to provide, together with the Ontario
assets of the Plan, for the benefits determined in
accordance with section 34 of the Regulation,
and to pay the reasonable administration costs
to wind up the Plan. Any money allocated from
the Guarantee Fund but not required to provide
such benefits or costs shall be returned to the
Guarantee Fund.

DATED at North York, Ontario, this 22nd day
of April, 2003.

K. David Gordon,
Deputy Superintendent, Pensions



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

AND IN THE MATTER OF a Proposal by the
Superintendent of Financial Services to Make
a Declaration under Section 83 of the Act
respecting the **Zettel Metalcraft Ltd. Local
396 CAW Pension Plan (the “Pension
Plan”)**, Registration Number 0933515;

TO: **Morneau Sobeco**
1500 Don Mills Road
Toronto ON M3B 3K4

Attention: Mr. Al Kiel,
Partner

**Administrator of the
Pension Plan**

ALLOCATION

WHEREAS on April 22nd, 2003, I declared,
pursuant to sections 83 and 89 of the Act, that
the Pension Benefits Guarantee Fund (the
“Guarantee Fund”) applies to the Pension Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the “Regulation”), an
amount not to exceed \$954,200 which together
with the Ontario assets of the Pension Plan, will
provide for the benefits determined in accor-
dance with section 34 of the Regulation. Any
money allocated from the Guarantee Fund but
not required to provide such benefits shall be
returned to the Guarantee Fund.

DATED at North York, Ontario, this 22nd day
of April, 2003.

K. David Gordon,
Deputy Superintendent, Pension Division

IN THE MATTER OF the *Pension Benefits Act*,
R.S.O. 1990, c. P.8, as amended by (the “Act”);
AND IN THE MATTER OF a Proposal by the
Superintendent of Financial Services to Make
a Declaration under Section 83 of the Act
respecting the **Non-Contributory Pension
Plan Covering Hourly Paid Bargaining
Unit Employees of Algoma Steel Inc. (the
“Pension Plan”), Registration Number
0335802;**

TO: **Morneau Sobeco**
1500 Don Mills Road
Toronto ON M3B 3K4

Attention: Mr. Robin Pond, MBA, CFA
Principal

**Administrator of the
Pension Plan**

INTERIM ALLOCATION

WHEREAS on December 17, 2002, I declared,
pursuant to sections 83 and 89 of the Act, that
the Pension Benefits Guarantee Fund (the
“Guarantee Fund”) applies to the Pension Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the “Regulation”), an
amount not to exceed \$59,500,000 which
together with the Ontario assets of the Pension
Plan, will partially provide for the benefits
determined in accordance with section 34 of
the Regulation. Any money allocated from the
Guarantee Fund but not required to provide such
benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 13th day of
May, 2003.

K. David Gordon,
Deputy Superintendent, Pensions





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

AND IN THE MATTER OF a Proposal by the
Superintendent of Financial Services to Make
a Declaration under Section 83 of the Act
respecting the **The Algoma Steel Inc.
Salaried Employees Pension Plan for
Employees in Canada (the “Pension
Plan”), Registration Number 0335810;**

TO: **Morneau Sobeco**
1500 Don Mills Road
Toronto ON M3B 3K4

Attention: Mr. Robin Pond, MBA, CFA
Principal

**Administrator of the
Pension Plan**

INTERIM ALLOCATION

WHEREAS on December 17, 2002, I declared,
pursuant to sections 83 and 89 of the Act, that
the Pension Benefits Guarantee Fund (the
“Guarantee Fund”) applies to the Pension Plan;

NOW THEREFORE I shall allocate from the
Guarantee Fund and pay to the Pension Plan,
pursuant to subsection 34(7) of R.R.O. 1990,
Reg. 909, under the Act (the “Regulation”), an
amount not to exceed \$28,000,000 which
together with the Ontario assets of the Pension
Plan, will partially provide for the benefits
determined in accordance with section 34 of
the Regulation. Any money allocated from the
Guarantee Fund but not required to provide such
benefits shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 13th day of
May, 2003.

K. David Gordon,
Deputy Superintendent, Pensions

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the “Act”);
AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under section 83 of the Act relating to the **Hudson Bay Diecasting Limited Hourly Employees Retirement Income Plan, Registration Number 362178 (the “Plan”);**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Mr. David R. Kearney
**Appointed Administrator
of the Plan**

AND TO: **Hudson Bay Diecasting
Limited**
230 Orenda Road
Brampton ON L6T 1E9

Attention: Mr. Dwight W. Rollins
Employer

AND TO: **National Automobile,
Aerospace, Transportation
and General Workers
Union of Canada
(CAW — Canada),
Local 1285**
205 Placer Court
Toronto ON M2H 3H9

Attention: Jeff Wareham,
National Representative,
Pension and Benefits Department
**Union Representing Members
of the Plan**

ALLOCATION

WHEREAS on the 24th day of September, 2001, the Superintendent of Financial Services declared, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the “Guarantee Fund”) applies to the Hudson Bay Diecasting Limited Hourly Employees Retirement Income Plan, Registration Number 362178 (the “Plan”);

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the “Regulation”), an amount not to exceed \$2,053,342 to provide, together with the Ontario assets of the Plan, the benefits determined in accordance with section 34 of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 16th day of May, 2003.

K. David Gordon,
Deputy Superintendent, Pensions
Financial Services Commission of Ontario





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

AND IN THE MATTER OF a Declaration by the Superintendent of Financial Services under section 83 of the Act relating to the **Hudson Bay Diecasting Limited Salaried Employees Retirement Income Plan, Registration Number 380170 (the “Plan”);**

TO: **Morneau Sobeco**
895 Don Mills Road, Suite 700
One Morneau Sobeco Centre
Toronto ON M3C 1W3

Attention: Mr. David R. Kearney
**Appointed Administrator
of the Plan**

AND TO: **Hudson Bay Diecasting
Limited**
230 Orenda Road
Brampton ON L6T 1E9

Attention: Mr. Dwight W. Rollins
Employer

of the Regulation, and to pay the reasonable administration costs to wind up the Plan. Any money allocated from the Guarantee Fund but not required to provide such benefits or costs shall be returned to the Guarantee Fund.

DATED at Toronto, Ontario, this 16th day of May, 2003.

K. David Gordon,
Deputy Superintendent, Pensions
Financial Services Commission of Ontario

ALLOCATION

WHEREAS on the 24th day of September, 2001, the Superintendent of Financial Services declared, pursuant to sections 83 and 89 of the Act, that the Pension Benefits Guarantee Fund (the “Guarantee Fund”) applies to the Hudson Bay Diecasting Limited Salaried Employees Retirement Income Plan, Registration Number 380170 (the “Plan”);

NOW THEREFORE I shall allocate from the Guarantee Fund and pay to the Plan, pursuant to subsection 34(7) of R.R.O. 1990, Reg. 909, under the Act (the “Regulation”), an amount not to exceed \$301,643 to provide, together with the Ontario assets of the Plan, for the benefits determined in accordance with section 34

FINANCIAL SERVICES TRIBUNAL ACTIVITIES

Appointments of Financial Services Tribunal Members

Name and O.C.	Effective Appointment Date	Expiry Date
Milczynski , Martha (Chair)		
O.C. 1622/2001	June 20, 2001	June 19, 2004
O.C. 1665/99	October 6, 1999	July 7, 2001
O.C. 1808/98	July 8, 1998	October 6, 1999
McNairn , Colin (Vice-Chair)		
O.C. 1623/2001	June 20, 2001	June 19, 2004**
O.C. 1809/98	July 8, 1998	July 7, 2001
Corbett , Anne (Vice-Chair Acting)		
O.C. 1438/2001	June 20, 2001	June 19, 2004**
Ashe , Kevin		
O.C. 1510/2002	September 26, 2002	September 25, 2005
Bharmal , Shiraz Y.M.		
O.C. 1511/2002	September 9, 2002	September 8, 2005
Erlichman , Louis		
O.C. 439/2002	January 23, 2002	January 22, 2005**
O.C. 2527/98	December 9, 1998	December 8, 2001
O.C. 1592/98	June 17, 1998	December 16, 1998
Gavin , Heather		
O.C. 440/2002	January 23, 2002	January 22, 2005**
O.C. 11/99	January 13, 1999	January 12, 2002
Litner , Paul W.		
O.C. 1512/2002	September 9, 2002	September 8, 2005
Martin , Joseph P.		
O.C. 1626/2001	June 20, 2001	June 19, 2004**
O.C. 1810/98	July 8, 1998	July 7, 2001
Moore , C.S. (Kit)		
O.C. 1625/2001	June 20, 2001	June 19, 2004**
O.C. 1591/98	July 1, 1998	June 30, 2001
Short , David A.		
O.C. 2118/2001	October 24, 2001	October 23, 2004**
Vincent , J. David		
O.C. 2119/2001	October 24, 2001	October 23, 2004**

****Or on the day FSCO/OSC merges, if earlier.**

Pension Hearings Before the Financial Services Tribunal

Imperial Oil Limited Retirement Plan (1988), Registration Number 347054 and the Imperial Oil Limited Retirement Plan for Former Employees of McColl-Fontenac Inc., Registration Number 344002, FST File Number P0130-2000;

On October 31, 2000, Imperial Oil Limited requested a hearing with respect to the Superintendent's Notice of Proposal dated October 3, 2000, proposing to refuse to approve Partial Wind Up Reports in respect of two Plans of which Imperial Oil is the Administrator.

The stated reasons for the proposed refusal include the failure of each Wind Up Report to do the following: (a) reflect the liabilities associated with all of the members of the Plan whose employment was terminated by Imperial Oil during the wind up period; (b) apply the grow-in provisions of section 74 of the *Pension Benefits Act* in a proper manner; (c) provide benefits in accordance with elections made, as required under subsection 72(1) of the *Pension Benefits Act*, among various options including those available as a result of partial wind up; and (d) provide for the distribution of assets related to the partial wind up group.

A pre-hearing conference was held on June 19, 2001. At the pre-hearing conference, the Superintendent agreed to amend the Notice of Proposal in this matter to delete reference to (d) above.

A hearing and preliminary motion with respect to answers to interrogatories was held on July 25, 2001. The Tribunal ordered the Superintendent to respond to the first and second set of the Applicant's interrogatories within six weeks of the date of the order subject to the qualification that the Superintendent need not produce any documents or reveal any communications to which the law of privilege applies. Written

Reasons for Order dated September 10, 2001, were published in Volume 11, Issue 1 of the Pension Bulletin.

A continuation of the pre-hearing conference was held on December 20, 2001. The pre-hearing conference was adjourned to allow the parties to bring motions with respect to answers to interrogatories. On July 24, 2002, the Tribunal heard two motions. The Applicant's notice of motion dated June 7, 2002, asked for an order of the Tribunal directing the Superintendent to provide further and better answers to some of its interrogatories. The Tribunal made an order directing the Superintendent to respond to certain of the interrogatories but with some modifications. Reasons for Order dated September 11, 2002, were published in Volume 12, Issue 1 of the Pension Bulletin. The time for the Superintendent's response under this Order was extended by Consent Order dated October 22, 2002.

The Superintendent's notice of motion dated June 5, 2002, asked for an order of the Tribunal directing the Applicant to answer those interrogatories it had served on the Applicant on October 11, 2001, that remained outstanding. The Tribunal made an order directing the Applicant to respond to certain of the interrogatories but with some modifications. The Reasons for Order dated September 20, 2002, were published in Volume 12, Issue 1 of the Pension Bulletin.

The pre-hearing conference scheduled to resume on December 18, 2002, was rescheduled to February 27, 2003, and was further adjourned to April 28, 2003, at the request of the parties, due to ongoing settlement discussions. The April 28th pre-hearing conference did not proceed at the request of the parties. On May 30, 2003, the parties asked that the matter continue

to be adjourned *sine die* pending resolution of the issues in the proceeding, and advised they anticipate that the request for hearing will be withdrawn in September 2003.

Marshall-Barwick (formerly Marshall Steel Limited), Registration Number 0968081, FST File Number P150-2001;

On January 16, 2001, Marshall-Barwick Inc. (formerly Marshall Steel Limited) requested a hearing in respect of the Superintendent's Notice of Proposal dated December 12, 2000. The Superintendent is proposing to refuse to approve a Partial Wind Up Report (the "Report") as at August 28, 1992, respecting the Retirement Plan for Salaried Employees of Marshall Steel Limited and Associated Companies in relation to employees who ceased to be employed by Marshall Steel Limited as a result of the closure of its plant in Milton, Ontario. The Superintendent's basis for the Notice of Proposal is that the Report does not protect the interests of all those affected by the partial wind up, specifically Mr. Jeffrey G. Marshall, an employee who was terminated during the wind up period. On June 4, 2001, Jeffrey G. Marshall applied for party status.

A pre-hearing conference was held on August 13, 2001, at which time Mr. Marshall was granted full party status. The hearing scheduled for November 29 and 30, 2001, was adjourned as a result of a joint request made by the parties on November 6, 2001. The reason for the request was due to the applicant providing Mr. Marshall with actuarial data in respect of Mr. Marshall's benefit entitlements. Mr. Marshall required additional time to obtain expert advice in respect of the information. The hearing was held on September 9, 2002. In its Reasons dated November 29, 2002, the Tribunal affirmed the Superintendent's Notice of Proposal and directed the company, as administrator, to file a revised

Partial Wind Up Report that includes Mr. Marshall in the partial wind up group. The Reasons for Decision dated November 29, 2002, were published in Volume 12, Issue 2 of the Pension Bulletin.

The Applicant filed a notice of appeal dated December 20, 2002, with the Divisional Court of the Tribunal's Order dated November 29, 2002.

On December 30, 2002, Mr. Marshall filed submissions requesting that the Tribunal award his costs to be paid by the Applicant. Reasons for Decision dated July 7, 2003, are published in this bulletin on page 79.

Pension Plan for the Employees of Dyment Limited, Registration Number 0242735, FST File Number P0157-2001;

On April 18, 2001, Dyment Limited requested a hearing with respect to the Superintendent's Notice of Proposal dated March 19, 2001, to make an Order that the Pension Plan for the Employees of Dyment Limited, Registration Number 0242735, be wound up in full effective August 23, 1996, and to refuse to approve the actuarial report prepared in April 1997 in relation to the partial wind up of the Plan as at August 23, 1996.

The basis for the Notice of Proposal was that as of August 23, 1996, there were no remaining active members in the Plan and Dyment was no longer required to make contributions. The basis for refusing to approve the actuarial report is that the report does not meet the requirements of the *Pension Benefits Act* and the Regulations and does not protect the interests of the members or former members of the Plan.

On May 22, 2001, Mr. Mobeen Khaja applied for party status. Mr. Khaja was part of a group of employees who were subject to the partial wind up of the Plan, and would be affected by a full wind up of the Plan.

A pre-hearing conference was held on July 13, 2001, at which Mr. Khaja was joined as a party to the proceeding. Hearing dates originally scheduled for January 24 and 25, 2002, were changed to April 15 and 16, 2002, and were subsequently adjourned at the parties' request to allow settlement discussions to continue.

On April 29, 2003, the request for hearing was withdrawn as the parties reached a settlement.

Consumers Packaging Inc., Pension Plan II, Registration Number 0998682, FST File Number P162-2001;

On May 17, 2001, Consumers Packaging Inc. requested a hearing with respect to the Superintendent's Notice of Proposal dated April 20, 2001, to Refuse to Approve a Partial Wind Up Report filed by Consumers Packaging Inc. on May 19, 2000, with respect to a partial wind up of the Consumers Packaging Inc. Pension Plan II, Registration Number 0998682, as at May 7, 1997, and to Refuse to Register an Amendment to such Pension Plan filed by Consumers Packaging Inc. on May 19, 2000, titled Amendment # 2.

The basis for the Notice of Proposal was that Consumers Packaging Inc. filed a Partial Wind Up Report (the "Report") in 1997. The Superintendent issued two Notices of Proposal in 1999 ordering Consumers Packaging Inc. to accept as members of the Plan certain replacement call-in employees and refusing to approve the 1997 Partial Wind Up Report (the "Report") on the grounds that the replacement call-in employees were not included in the Report and that "grow-in" to plant closure benefits was not provided to unionized hourly employees affected by the partial wind up. Consumers Packaging Inc. requested a hearing before the Financial Services Tribunal with respect to both Notices of Proposal. The hearing concerning the call-in

employees was settled by the parties and Consumers Packaging Inc. accepted as members of the Plan those replacement call-in employees who met certain conditions. The hearing request regarding the "grow-in" benefits was withdrawn. Consumers Packaging Inc. was ordered to file an amended Partial Wind Up Report. In addition, in 1997, Consumers Packaging Inc. filed an application to register Amendment # 2 to the Plan which provided enhanced bridge benefits to some members.

On May 19, 2000, Consumers Packaging Inc. filed a revised Partial Wind Up Report (the "revised Report") and a revised application to register Amendment #2 (the "revised Amendment"). The Superintendent issued the April 20, 2001 Notice of Proposal stating reasons that the revised Amendment is void pursuant to clause 14(1)(c) of the *Pension Benefits Act*, and that the revised Report does not meet the requirements of the *Pension Benefits Act*, pursuant to subsection 70(5), because the commuted value of the pension benefits and ancillary benefits for the affected members is calculated based on the revised Amendment, which is void under the Act. The revised Report does not protect the interests of the members and former members of the Plan for the same reason.

The Superior Court of Justice, Commercial List, issued an Order, dated May 23, 2001, stating that any suit, action, enforcement process, extra-judicial proceeding, regulatory, administrative or other proceeding against or in respect of Consumers Packaging Inc. already commenced be stayed and suspended until and including June 22, 2001. A further Order was issued on June 18, 2001, extending the stay period until August 15, 2001 and again until October 1, 2001. On October 1, 2001, a Pension Assumption Agreement was made. On February 13, 2002, an Application for Party Status was

filed by the United Steelworkers of America (Local 203G). At the pre-hearing conference on February 19, 2002, full party status was granted.

A motion brought by Consumers Packaging for an order compelling the Superintendent to answer certain interrogatories was heard on April 18, 2002, at which time the motion was dismissed.

The hearing in the matter was held on July 29 and 31, 2002. In its Reasons dated November 29, 2002, the Tribunal directed the Superintendent to carry out the Notice of Proposal dated April 20, 2001, after having found the 1997 Plan Amendment establishing the Enhanced Bridge to be valid, effective and binding upon the Company (the Enhanced Bridge forming part of the Plan). The Reasons for Decision dated November 29, 2002, were published in Volume 12, Issue 2 of the Pension Bulletin.

On December 17, 2002, a request to make submissions on the issue of costs was filed by the United Steelworkers of America, Local 203G. On April 9, 2003, the United Steelworkers of America, Local 203G, advised it would not be filing submissions as the parties resolved the issue of costs.

CBS Canada Co., Westinghouse Canada Inc. Pension Plan, Registration Numbers 348409 and 526632, FST File Number P164-2001;

On June 8, 2001, CBS Canada Co., the successor to Westinghouse Canada Inc., requested hearings in connection with the Superintendent's Notices of Proposal dated May 9 and 15, 2001, to Refuse to Approve various Partial Wind Up Reports in respect of the Salaried Employees Pension Plan and the Hourly Paid Employees Pension Plan of Westinghouse Canada Inc. The partial wind ups were triggered by the closure by ABB Canada Inc. of its plants in London,

Ontario; St. Jean, Quebec; and Burlington, Ontario, at which it carried on businesses acquired from Westinghouse Canada Inc., and by the closure by Westinghouse Canada Inc. of its Motors Division plant in Hamilton, Ontario.

The basis for each Notice of Proposal was that the relevant Partial Wind Up Report failed to provide employer request early retirement benefits and related bridge benefits, contemplated by each Plan, to all members of the partial wind up group whose age plus years of service equaled at least 55 and because the Report failed to provide for the distribution of surplus relating to the partial wind up group.

On June 19, 2001, CAW Canada, which represented the employees who were members of the Westinghouse Hourly Paid Employees Pension Plan, filed an Application for Party Status in these proceedings. At a pre-hearing conference on November 5, 2001, CAW Canada was granted party status in the proceedings concerning the Notices of Proposal relating to the Hourly Employees Pension Plan and was given limited rights to participate in the proceedings concerning the Notices of Proposal relating to the Salaried Employees Pension Plan. The various proceedings were directed to be heard together.

At a continuation of the pre-hearing conference, held on November 29, 2001, a hearing was scheduled for February 4-5, 2002, to deal with several jurisdictional issues to be brought on by motion of CBS Canada Co. Those issues included the following:

1. whether the Superintendent was entitled to rescind the initial approvals that she had given with respect to several of the Partial Wind Up Reports, for failure to adhere to the doctrine of fairness, and for which she subsequently substituted Notices of Proposal to Refuse Approval;

2. whether the Tribunal could direct the Superintendent to refuse approval of certain of the Wind Up Reports on the basis of a ground that was not specifically recited in the relevant Notices of Proposal;
3. whether the Tribunal could determine the responsibility for any special benefits payable to the former Westinghouse employees at the facilities that were closed by ABB Inc. as between CBS Canada Co. and ABB Canada Inc.; and
4. whether the Tribunal could order that ABB Canada Inc. be added as a party to the proceedings against its will.

At the hearing on the jurisdictional motion, the Tribunal refused to order that ABB Canada Inc. be added as a party, but otherwise reserved its determination of the issues raised by the motion.

Reasons for Decision on the jurisdictional motion dated March 4, 2002 were published in Volume 11, Issue 3 of the Pension Bulletin.

The Applicant filed a notice of appeal dated April 3, 2002, with the Divisional Court of the Tribunal's Order dated March 4, 2002.

A settlement conference was held on August 7-8, 2002. On October 4, 2002, a motion hearing was held with respect to the Applicant's notice of motion dated September 25, 2002, asking for an order that the CAW respond to the Applicant's interrogatories dated September 25, 2002. At the motion hearing the parties agreed that the motion could be dealt with by way of a consent order and such an order was subsequently issued. On November 21, 2002, the December hearing dates were adjourned at the request of the parties except for December 5, 2002, pending settlement discussions between the parties. On December 5, 2002, the matter resumed as a pre-hearing conference and new hearing dates were scheduled for March 31, 2003, April 1-3, 2003 and May 6-8,

2003. On March 12, 2003, the parties consented to an adjournment of all the hearing dates except April 3, and May 7-8, 2003, as the parties were entering into minutes of settlement.

On April 3, 2003, an Order of the Tribunal was issued approving the minutes of settlement which, among other things, provided for the withdrawal of the notice of appeal dated April 3, 2002. The Order is published in this bulletin on page 70.

On May 7, 2003, the parties sought direction from the Tribunal on implementing the settlement reached. The issue was whether CBS Canada Co. was obliged to include members in its partial wind up that the successor employer, ABB Canada Inc., did not include in its partial wind up. On May 16, 2003, the Tribunal issued its Reasons for Decision and ordered CBS Canada Co. to include certain members in its partial wind up. The Reasons for Decision dated May 16, 2003, are published in this bulletin on page 72.

Crown Cork & Seal Canada Inc., Registration Numbers 474205, 595371 & 338491, FST File Number P0165-2001;

On June 29, 2001, Crown Cork & Seal Canada Inc. requested a hearing with respect to the Superintendent's Notice of Proposal dated May 29, 2001, to refuse to consent to a transfer of assets proposed by Crown Cork & Seal Canada Inc. from the Crown Cork & Seal Canada Inc. Pension Plan for Salaried Employees, Registration Number 0474205 and the Pension Plan for Clerical Employees of Crown Cork & Seal Canada Inc., Registration Number 0595371, into the Crown Cork & Seal Canada Inc. Pension Plan for Employees, Registration Number 338491. The basis for the refusal is that the asset transfer does not protect the pension benefits and other benefits of the members and former members of the Plans.

At the request of both parties a settlement conference was held on October 30, 2001, prior to the scheduling of a pre-hearing conference. At the settlement conference the parties agreed to adjourn the matter *sine die* pending discussions between the parties.

On February 11, 2003, counsel for the Superintendent requested a pre-hearing conference be scheduled as the parties were unable to resolve the issues in this matter. At the pre-hearing conference on May 12, 2003, the parties stated they would contact the Registrar to resume the pre-hearing conference if they did not resolve the issues at a settlement meeting on May 26, 2003. On June 20, 2003, the parties advised that they expect the settlement discussions to continue for the next two months, and they will advise on the status by the end of August 2003.

The Corporation of the City of Kitchener Pension Plan for Fire Department Employees, Registration Number 239475, FST File Number P0172-2001;

On September 20, 2001, The Corporation of the City of Kitchener requested a hearing regarding the Superintendent's Notice of Proposal dated August 23, 2001, to refuse to consent to the application for payment of surplus to the employer, pursuant to section 78(1) of the *Pension Benefits Act*, from The City of Kitchener Pension Plan for Fire Department Employees, Registration No. 239475.

A pre-hearing conference was held on April 25, 2002, at which time the parties agreed to a settlement conference. The settlement conference date of July 16, 2002 was rescheduled at the parties' request and was held on September 4, 2002. At the settlement conference the matter was adjourned *sine die*.

On February 7, 2003, counsel for the Superintendent requested the pre-hearing conference be reconvened. The pre-hearing conference was held on April 17, 2003. The hearing is scheduled for July 14, 2003.

Marcel Brousseau, Electrical Industry of Ottawa Pension Plan, Registration Number 0586396, FST File Number P0183-2002;

On February 20, 2002, Marcel Brousseau, a member of the Plan, requested a hearing regarding the Superintendent's Notice of Proposal dated January 22, 2002, to refuse to make an Order in respect of the Plan Administrator's determination, pursuant to section 87 of the *Pension Benefits Act*, of Mr. Brousseau's pensionable service under the terms of the Plan.

A pre-hearing conference was held on August 27, 2002. At the pre-hearing conference, the Superintendent raised a jurisdictional issue. The parties agreed that the issue on the motion will be, "Given the November 19, 2001 decision of the Superior Court of Justice in Court File No. 01-CV-18268, does the Tribunal have jurisdiction to proceed in the circumstances of this case?" The motion was heard on November 29, 2002. The decision is reserved.

Donna Marie Sloan, Ontario Teachers' Pension Plan, Registration Number 0345785, FST File Number P0188-2002;

A survivor pre-retirement death benefit that was being paid to Donna Marie Sloan under the Plan was discontinued when the Ontario Pension Plan Board, the Administrator of the Plan, concluded that she was living separate and apart from her husband, the Plan member, at the time of his death, thereby disqualifying her from receiving the benefit. On March 4, 2002, the Superintendent issued a Notice of Proposal Refusing to Make an Order, pursuant

to section 87 of the *Pension Benefits Act*, requiring the Administrator to take action in respect of the Plan by reinstating the death benefit.

On April 2, 2002, Donna Marie Sloan requested a hearing. On April 23, 2002, the Ontario Teachers' Pension Plan Board filed an Application for Party Status. The pre-hearing conference scheduled for August 20, 2002 was adjourned *sine die* on consent, pending settlement discussions between the parties.

On April 15, 2003, a Memorandum of Settlement was filed with the Tribunal which provides the parties' agreement to a dismissal of the hearing on consent and without costs.

Kerry (Canada) Inc., Pension Plan for the Employees of Kerry (Canada) Inc., Registration Number 238915, FST File Number P0191-2002;

On May 22, 2002, Kerry (Canada) Inc., requested a hearing regarding the Superintendent's Notice of Proposal dated April 22, 2002, proposing to make an Order that Kerry (Canada) Inc.:

- reimburse the pension fund (the "Fund") of the Plan for all amounts paid out of the Fund from January 1, 1985 for expenses that were not incurred for the exclusive benefit of the members and retired members of the Plan;
- reimburse the Fund for all income that would have been earned by the Fund if those expenses had not been paid from the Fund; and
- amend the Plan and the trust (the "Trust") in respect of the Fund so that the provisions of the Plan and the Trust relating to the deduction of expenses from the Fund are consistent with the 1954 versions of the Plan and the Trust.

On June 10, 2002, an Application for Party Status was filed by Elaine Nolan, George Phillips, Elisabeth Ruccia, Kenneth R. Fuller, Paul Carter,

R. A. Varney and Bill Fitz, being the members of the DCA Employees Pension Committee.

At the pre-hearing conference on October 15, 2002, full party status was granted to the individuals comprising the DCA Employees Pension Committee, representing the members and retired members of the Plan, and it was agreed that the hearing in this matter would be held together with the hearing in P0192-2002.

The pre-hearing conference was adjourned to allow the parties to bring certain motions with respect to disclosure. At the motion hearing on December 6, 2002, an order for disclosure was issued against Kerry (Canada) Inc.

On January 22, 2003, the pre-hearing conference resumed and was further adjourned to allow a further disclosure motion to be brought by the DCA Employees Pension Committee. The motion was heard on March 27, 2003, at which time it was dismissed.

At a resumption of the pre-hearing conference on May 5, 2003, the parties agreed to attend a settlement conference to deal with the issue of expenses. The settlement conference scheduled for July 7, 2003, was rescheduled to August 19, 2003. The hearing is scheduled for October 27, 28, 29, 2003.

Elaine Nolan, George Phillips, Elisabeth Ruccia, Kenneth R. Fuller, Paul Carter, R.A. Varney and Bill Fitz being the members of the DCA Employees Pension Committee, Pension Plan for the Employees of Kerry (Canada) Inc., Registration Number 238915, FST File Number P0192-2002;

On May 27, 2002, William Fitz on behalf of the DCA Employees Pension Committee, requested a hearing regarding the Superintendent's Notice of Proposal, dated April 22, 2002, proposing to refuse to make an Order that:

- the Plan be wound up, effective December 31, 1994;
- Kerry (Canada) Inc. pay to the pension fund (the "Fund") of the Plan all employer contributions for which a contribution holiday was taken since January 1, 1985, together with income that would have been earned by the Fund if those contributions had been made; and
- registration of the Revised and Restated Plan Text dated January 1, 2000, and all amendments to the Plan included therein, be refused.

On June 5, 2002, an Application for Party Status was filed by Kerry (Canada) Inc.

At the pre-hearing conference on October 15, 2002, full party status was granted to Kerry (Canada) Inc., and it was agreed that the hearing in this matter would be held together with the hearing in P0191-2002. The pre-hearing conference was adjourned to allow the parties to bring certain motions with respect to disclosure. At the motion hearing on December 6, 2002, three orders for disclosure were issued, one against Kerry (Canada) Inc., one against the DCA Employees Committee and one against the Superintendent.

On January 22, 2003, the pre-hearing conference resumed and was further adjourned to allow a further disclosure motion to be brought by the DCA Employees Pension Committee. The motion was heard on March 27, 2003, at which time it was dismissed.

On June 5, 2003, the pre-hearing conference resumed to deal with the framing of the "partial wind-up issue." The DCA Employees Pension Committee indicated that it would be bringing a motion for an Order that would add an issue to or otherwise amend the matters in issue. That motion and another motion by Kerry (Canada) Inc. to amend the "partial wind up

issue" were heard on June 25, 2003. At the hearing, the parties agreed on a revised wording of the "partial wind up issue," and it was ordered that the statement of the issues in the proceeding be amended accordingly.

The hearing is scheduled for October 27, 28, 29, 2003.

Slater Steel Inc. Pension Plan for Corporate Employees and Salaried Employees of the Hamilton Specialty Bar Division, Registration Number 308338, FST File Number P0203-2002;

On October 31, 2002, Slater Steel Inc. requested a hearing regarding the Superintendent's Notice of Proposal dated September 27, 2002, to make an Order under section 69(1)(d) of the *Pension Benefits Act*, that the Plan be wound up in part in relation to those members and former members of the Plan who ceased to be employed by Slater Steel Inc. effective from March 13, 1998 to January 26, 2000, as a result of the reorganization of the business of Slater Steel Inc.

On November 7, 2002, an Application for Party Status was filed by John Hughes.

At the pre-hearing conference on February 11, 2003, full party status was granted to John Hughes. At the pre-hearing conference, Slater Steel Inc. and the Superintendent indicated that they would be bringing motions with respect to disclosure. On May 13, 2003, the parties agreed to adjourn the May 14, 2003 motion date, to permit the parties time to resolve the disclosure issues altogether or at least narrow the issues to be determined by the Tribunal. The motion is rescheduled to August 7, 2003.

Hearing dates are scheduled for October 8-10, 15-16, 2003 and December 4-5, 2003.

On June 2, 2003, an Order was issued by the Ontario Superior Court of Justice, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C.

1985, c. C-36. The Order includes a stay of proceedings until July 2, 2003, or until further Order of the Court.

George Polygenis, Public Service Pension Plan, Registration Number 0208777, FST File Number P0204-2002;

On November 12, 2002, George Polygenis requested a hearing regarding the Superintendent's Notice of Proposal dated October 11, 2002, to refuse to make an Order, under section 87(1) of the Act, that the Pension Policy Committee of the Ontario Pension Board reconsider its decision denying a disability pension to the Applicant under section 14(1) of the Public Service Pension Plan.

On November 26, 2002, an Application for Party Status was filed by the Ontario Pension Board.

At a pre-hearing conference on January 27, 2003, full party status was granted to the Ontario Pension Board, and the parties agreed to a settlement conference. The settlement conference was held on February 10, 2003 and is to continue at some future date with the participation of Mr. Polygenis' employer as well as the expected parties.

It was determined at the pre-hearing conference that a preliminary motion will be heard to determine "What degree of deference should the Tribunal exercise in reviewing the decision of the Board denying the Applicant entitlement to a disability pension"? The motion was scheduled for March 26, 2003. On March 14, 2003, the parties agreed to adjourn the motion hearing date *sine die*.

On May 29, 2003, the parties consented to adjourn the June 11, 2003 hearing date *sine die*, pending finalization of a settlement.

Barbara Lewis, Retirement Plan for Unionized Employees of Donohue Forest Products Inc., Pulp and Paper Divisions — Thorold Sector, Registration Number 0294496, FST File Number P0207-2002;

On November 18, 2002, Barbara Lewis requested a hearing regarding the Superintendent's Notice of Proposal dated November 8, 2002, to refuse to make an order under section 87(2)(a) and (c) of the Act, requiring Donohue Forest Products Inc. to comply with sections 37(3)(b) and 48(1) of the Act and the terms of the Plan in the calculation of the pre-retirement death benefits payable from the Plan to Barbara Lewis, spouse of the late Harold Lewis.

On February 6, 2003, an Application for Party Status was filed by Abitibi-Consolidated Company of Canada (formerly Donohue Forest Products Inc.). At the pre-hearing conference on February 21, 2003, full party status was granted to Abitibi-Consolidated Company of Canada.

On May 12, 2003, a motion for disclosure brought by the Applicant was heard. The motion was dismissed.

The hearing is scheduled for July 2, September 22, 23 and 25, 2003.

Ontario Teachers' Pension Plan Board, Ontario Teachers' Pension Plan, Registration Number 0345785, FST File Number P0217-2003;

On February 25, 2003, the Ontario Teachers' Pension Plan Board requested a hearing regarding the Superintendent's Notice of Proposal dated January 8, 2003, to make an Order under sections 87(2)(a) and (c) of the Act, requiring the administrator of the Plan to pay Ronald A. Wilson, a former member of the Plan, his pension in the form of a joint and survivor pension in accordance with section 44(1) of the Act.

On March 20, 2003, an Application for Party Status was filed by Jane Kalbfleisch-Wilson, the former spouse of Ronald A. Wilson. At the pre-hearing conference date on May 26, 2003, full party status was granted to Jane Kalbfleisch-Wilson.

On June 16, 2003, an Application for Party Status was filed by Ronald A. Wilson. At a resumption of the pre-hearing conference on June 23, 2003, full party status was granted to Ronald A. Wilson.

The hearing is scheduled for September 24, 2003.

Slater Stainless Corp. Pension Plan for Slater Stainless Corp. Members of the National Automobile Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), Registration Number 561456, FST File Number P0220-2003;

On March 17, 2003, Slater Stainless Corp. requested a hearing regarding the Superintendent's Notice of Proposal dated February 17, 2003, to make an Order pursuant to section 88 of the Act, requiring the preparation of a new valuation report for the Pension Plan for Slater Stainless Corp. Members of the National Automobile Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), Registration Number 561456.

The pre-hearing conference scheduled for June 16, 2003 did not proceed. On June 2, 2003, an Order was issued by the Ontario Superior Court of Justice, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of proceedings until July 2, 2003, or until further Order of the Court.

Slater Stainless Corp. Pension Plan for Slater Stainless Corp. Members of the United Steel Workers of America (Local 7777), Registration Number 561464, FST File Number P0221-2003;

On March 17, 2003, Slater Stainless Corp. requested a hearing regarding the Superintendent's Notice of Proposal dated February 17, 2003, to make an Order pursuant to section 88 of the Act, requiring the preparation of a new valuation report for the Pension Plan for Slater Stainless Corp. Members of the United Steel Workers of America (Local 7777), Registration Number 561464.

The pre-hearing conference scheduled for June 16, 2003 did not proceed. On June 2, 2003, an Order was issued by the Ontario Superior Court of Justice, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. The Order includes a stay of proceedings until July 2, 2003, or until further Order of the Court.

Bestfoods Canada Inc., Pension Plan for Salaried Employees of Bestfoods Canada Inc., Registration Number 240358, FST File Number P0222-2003

On March 24, 2003, Mr. Gerry O'Connor requested a hearing regarding the Superintendent's Notice of Proposal dated February 25, 2003, to refuse to make an Order, pursuant to section 69 (1) (d) or (e) of the *Pension Benefits Act*, to wind up in part, the Pension Plan for Salaried Employees of Bestfoods Canada Inc., Registration Number 240358.

On April 11, 2003, an Application for Party Status was filed by Unilever Canada Inc., the successor to Bestfoods Canada Inc. At the pre-hearing conference on June 25, 2003, full party status was granted to Unilever Canada Inc. The pre-hearing conference was adjourned to allow the parties the opportunity to resolve some

preliminary issues and to allow the Applicant to bring a motion, as necessary, with respect to disclosure of documents and notice of hearing. A motion hearing is scheduled for September 22, 2003.

Jane Parker Bakery Limited Retirement Plan for Full-time Bargaining Employees, Registration Number 0400325, FST File Number P0224-2003

On April 22, 2003, the Great Atlantic & Pacific Company of Canada, Limited, (the “Applicant”) requested a hearing regarding the Superintendent’s Notice of Proposal dated March 24, 2003, to refuse to consent to the application dated October 2, 2001, made by the Applicant for payment out of the pension fund for the Jane Parker Bakery Limited Retirement Plan for Full-time Bargaining Employees, Registration Number 0400325 (the “Plan”), of an overpayment by the Applicant to the pension fund for the Plan. The overpayment arose as a result of the Applicant’s funding of a deficit in the Plan on wind up, which proved to be more than adequate to meet the deficit. The Superintendent maintains that the overpayment constitutes surplus in the Plan and can only be paid out to the Applicant in accordance with s.79 of the *Pension Benefits Act*.

The pre-hearing conference is scheduled for September 10, 2003.

The following cases are Adjourned *sine die*

- **Revised Retirement Plan for Employees of the Allen-Bradley Division of Rockwell International of Canada (now the Pension Plan for Employees of Rockwell Automation Canada Inc.), Registration Number 321554 and the Pension Plan for Salaried and Management Employees of Reliance Electric Limited, Registration Number 292946, FST File Number P0051-1999;**

At a pre-hearing conference on July 6, 1999, the matter was adjourned *sine die*.

- **The Retirement Plan for Salaried Employees (Consumers Foods) of General Mills Canada, Inc., Registration Number 342042, FST File Number P0058-1999;**

Matter continues to be adjourned *sine die* pending the outcome of the *Monsanto* case.

- **Gerald Menard (Public Service Pension Plan, Registration Number 208777 and the Ontario Municipal Employees' Retirement System "OMERS", Registration Number 345983), FST File Number P0071-1999;**

Matter adjourned *sine die* at a pre-hearing conference on February 21, 2000.

- **Consumers' Gas Ltd., Registration Number 242016, FST File Number P0076-1999;** At the pre-hearing conference on June 27, 2000, the matter was adjourned *sine die* pending the outcome of the *Monsanto* case.
- **Schering-Plough Healthcare Products Canada Inc. Salaried Employees' Pension Plan, Registration Number 297903, FST File Number P0085-1999;**

Matter was adjourned *sine die* pending the outcome of the *Monsanto* case.

- **Eaton Yale Limited Pension Plan for Salaried Employees of Cutler-Hammer Canada Operations, Registration Number 440396, FST File Number P0117-2000;**

At the request of the parties, this matter was adjourned *sine die* pending the outcome of the *Monsanto* case.

- **Cooper Industries (Canada) Inc., Registration Number 0240622, FST File Number P156-2001;**

The pre-hearing conference for May 27, 2002 was adjourned to a date to be set at the request of the parties, pending the outcome of the *Monsanto* case.

- **James MacKinnon (Labourers' Pension Fund of Central and Eastern Canada), Registration Number 573188, FST File Number P0167-2001;**

On July 10, 2002, the hearing dates were adjourned *sine die* on consent of the parties.

- **Molson Canada, Molson Breweries Pension Plan for Operating Engineers, Registration Number 0390666; Molson Canada Pension Plan for Hourly Employees in Ontario and Atlantic Canada, Registration Number 0334094; and Molson Canada Pension Plan for Salaried Employees, Registration Number 0334086, FST File Number P0187-2002;**

The pre-hearing conference scheduled for October 28, 2002, was adjourned *sine die* on consent of the parties.

- **Bauer Nike Hockey Inc. Pension Plan for Employees of Bauer Nike Hockey Inc., Registration Number 257337, FST File Number P0189-2002;**

At the pre-hearing conference on October 28, 2002, the matter was adjourned *sine die* pending the outcome of the *Monsanto* case.

Financial Hardship

Application to the Superintendent of Financial Services for Consent to Withdraw Money from a Locked-in Retirement Account, Life Income Fund or Locked-in Retirement Income Fund based on Financial Hardship.

FST File Number	Superintendent of Financial Services' Notice of Proposal	Comments
U0223-2003	To Refuse to Consent, dated March 17, 2003	Reasons for Decision dated June 16, 2003
U0225-2003	To Refuse to Consent dated May 15, 2003	Ongoing
U0226-2003	To Refuse to Consent dated May 27, 2003	Ongoing

Decisions to be Published

CBS Canada Co.

U0223-2003

Marshall-Barwick

Financial Services Tribunal Decisions with Reasons

INDEX NO.:	FST File Number P0164-2001
PLAN:	Westinghouse Canada Inc. Pension Plan, Registration Number 348409 (the "Plan")
DATE OF DECISION:	April 3, 2003
PUBLISHED:	Bulletin 12/3 and FSCO website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28 (the "Act");

AND IN THE MATTER OF a proposal by the Superintendent of Financial Services (the "Superintendent") to refuse to approve the Partial Wind Up Report for Westinghouse Canada Inc. Pension Plan, Registration No. 348409, in respect of business carried on by Westinghouse Canada Inc. at its Burlington, Ontario plant;

AND IN THE MATTER OF a proposal by the Superintendent to refuse to approve the Partial Wind Up Report for the Westinghouse Canada Inc. Pension Plan, Registration No. 348409, in respect of business carried on by Westinghouse Canada Inc. at its London, Ontario and St. Jean, Quebec plants;

AND IN THE MATTER OF a proposal by the Superintendent to refuse to approve the Partial Wind Up Report for the Westinghouse Canada Inc. Pension Plan, Registration No. 348409, in respect of business carried on by Westinghouse Canada Inc. at its Motors Division plant;

AND IN THE MATTER OF a proposal by the Superintendent to refuse to approve the Partial Wind Up Report for the Westinghouse Canada Inc. Pension Plan, Registration No. 348409, in respect of business carried on by Westinghouse Canada Inc. at its Beach Road plant in Hamilton, Ontario;

AND IN THE MATTER OF a proposal by the Superintendent to refuse to approve the Partial Wind Up Report for the Westinghouse Canada Inc. Pension Plan, Registration No. 526632, in respect of business carried on by Westinghouse Canada Inc. at its Motors Division plant;

AND IN THE MATTER OF a hearing in accordance with subsection 89(8) of the Act.

BETWEEN:

CBS CANADA CO.

Applicant

- and -

SUPERINTENDENT OF FINANCIAL SERVICES

Respondent

- and -

NATIONAL, AUTOMOBILE, AEROSPACE, TRANSPORTATION AND GENERAL WORKERS UNION OF CANADA (CAW-CANADA) AND ITS LOCAL 504

A Party in Relation to Certain of the Proceedings

BEFORE:

Mr. Colin H.H. McNairn,
Vice Chair of the Tribunal and Chair of the Panel
Mr. Louis Erlichman,
Member of the Tribunal and of the Panel
Mr. C.S. Moore,
Member of the Tribunal and of the Panel

APPEARANCES:

For CBS Canada Co.

Mr. Andrew K. Lokan

For the Superintendent of Financial Services

Ms. Deborah McPhail
Mr. Mark Bailey

For the CAW-Canada and its Local 504

Mr. Lewis Gottheil

DATED at Toronto, this 3rd day of April, 2003.

Colin H.H. McNairn,
Vice Chair of the Tribunal and Chair of the Panel
Louis Erlichman,
Member of the Tribunal and of the Panel
C.S. Moore,
Member of the Tribunal and of the Panel

ORDER

WHEREAS the parties have agreed upon terms of settlement as evidenced by the attached Minutes of Settlement;

AND WHEREAS the parties have consented to the terms of this Order;

The Tribunal Orders:

1. The Superintendent having agreed to withdraw the Notices of Proposal in this matter, pursuant to the Minutes of Settlement, the Superintendent shall, upon such withdrawal, refrain from carrying out the Notices of Proposal.
2. The Minutes of Settlement are hereby approved.
3. The Tribunal shall remain seized of the matters in these proceedings for the purposes of dealing with the implementation of this Order including the issue or issues referred to in paragraph 10 of the Minutes of Settlement.



INDEX NO.:	FST File Number P0164-2001
PLAN:	Westinghouse Canada Inc. Pension Plan, Registration Number 348409 (the "Plan")
DATE OF DECISION:	May 16, 2003
PUBLISHED:	Bulletin 12/3 and FSCO website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended by the *Financial Services Commission of Ontario Act*, 1997, S.O. 1997, c.28 (the "Act");

AND IN THE MATTER OF a proposal by the Superintendent of Financial Services (the "Superintendent") to refuse to approve the Partial Wind Up Report for Westinghouse Canada Inc. Pension Plan, Registration No. 348409, in respect of business carried on by Westinghouse Canada Inc. at its Burlington, Ontario plant;

AND IN THE MATTER OF a proposal by the Superintendent to refuse to approve the Partial Wind Up Report for the Westinghouse Canada Inc. Pension Plan, Registration No. 348409, in respect of business carried on by Westinghouse Canada Inc. at its London, Ontario and St. Jean, Quebec plants;

AND IN THE MATTER OF a proposal by the Superintendent to refuse to approve the Partial Wind Up Report for the Westinghouse Canada Inc. Pension Plan, Registration No. 348409, in respect of business carried on by Westinghouse Canada Inc. at its Motors Division plant;

AND IN THE MATTER OF a proposal by the Superintendent to refuse to approve the Partial Wind Up Report for the Westinghouse Canada Inc. Pension Plan, Registration No. 348409, in respect of business carried on by Westinghouse Canada Inc. at its Beach Road plant in Hamilton, Ontario;

AND IN THE MATTER OF a proposal by the Superintendent to refuse to approve the Partial Wind Up Report for the Westinghouse Canada Inc. Pension Plan, Registration No. 526632, in respect of business carried on by Westinghouse Canada Inc. at its Motors Division plant;

AND IN THE MATTER OF a hearing in accordance with subsection 89(8) of the Act.

BETWEEN:

CBS CANADA CO.

Applicant

- and -

SUPERINTENDENT OF FINANCIAL SERVICES

Respondent

- and -

**NATIONAL, AUTOMOBILE, AEROSPACE,
TRANSPORTATION AND GENERAL
WORKERS UNION OF CANADA
(CAW-CANADA) AND ITS LOCAL 504**

**A Party in Relation to
Certain of the Proceedings**

BEFORE:

Mr. Colin H.H. McNairn,
Vice Chair of the Tribunal and Chair of the Panel
Mr. Louis Erlichman,
Member of the Tribunal and of the Panel
Mr. C.S. Moore,
Member of the Tribunal and of the Panel

APPEARANCES:

For CBS Canada Co.

Mr. Andrew K. Lokan

For the Superintendent of Financial Services

Ms. Deborah McPhail
Mr. Mark Bailey

For the CAW-Canada and its Local 504

Mr. Lewis Gottheil

HEARING DATE:

May 7, 2003

REASONS FOR DECISION:

Background

CBS Canada Co. ("CBS Canada"), the applicant in these proceedings, is the successor to Westinghouse Canada Inc. ("Westinghouse"). CBS requested hearings before this Tribunal in respect of several Notices of Proposal, issued by the Superintendent of Financial Services (the "Superintendent"), to refuse to approve various partial wind up reports filed by CBS Canada. One of those reports (the "London Wind Up Report") concerns the partial wind up of Westinghouse Pension Plan Registration No. 348409 (the "Hourly Plan") in respect of those members who were affected by the closure of a plant in London, Ontario (the "London plant") that was formerly owned by Westinghouse. Another of the reports (the "Hamilton Wind Up Report") concerns the partial wind up of the

Hourly Plan in respect of those members who were affected by the closure of a plant on Beach Road in Hamilton, Ontario (the "Hamilton plant") that was formerly owned by a joint venture in which Westinghouse was a participant. While other wind up reports were initially involved in these proceedings, the London Wind Up Report and the Hamilton Wind Up Report are the only ones that remain in issue given the order of this Tribunal dated March 4, 2002, disposing of a jurisdictional motion, and settlement by the parties of certain matters remaining at issue, as evidenced by minutes of settlement dated March 28, 2003 (the "Minutes of Settlement"). A brief history of the events leading up to the filing of the London and Hamilton Wind Up Reports is set out below.

In 1989, the businesses carried on at the London and Hamilton plants by Westinghouse or its joint venture were sold to Asea Brown Boveri Inc., now called ABB Inc. ("ABB") and employees at those plants transferred their employment to ABB. A predecessor union to CAW-Canada and its Local 504 ("CAW-Canada") that was the bargaining agent for those employees continued to represent them as their bargaining agent, now in connection with the collective bargaining relationship to their new employer, ABB.

During the years 1991-1992, ABB closed the London and Hamilton plants. On May 13, 1999, the Superintendent made orders, pursuant to subsection 69(1) of the *Pension Benefits Act*, as amended (the "Act"), directed to CBS Canada, requiring partial wind ups of the Hourly Plan on account of these ABB plant closures (the "London Wind Up Order" and the "Hamilton Wind Up Order"). By this time, it had been established in *Gencorp Canada Inc. v. Ontario (Superintendent of Pensions)* (1998), 39 O.R. (3d) 38 (C.A.), that a wind up of an

employer's pension plan could be triggered by the closure of a plant by a successor employer. The London Wind Up Report and the Hamilton Wind Up Report relate to the partial wind ups of the Hourly Plan that were directed by the London Wind Up Order and the Hamilton Wind Up Order, respectively.

The parties have agreed to resolve the matters remaining at issue in these proceedings on the basis set out in the Minutes of Settlement. Those Minutes of Settlement provide, among other things, that the members of the Hourly Plan affected by the ABB plant closures shall receive early retirement benefits calculated in a specified manner. For this purpose, the affected members are those members who are listed, as included in the relevant partial wind ups, in the London and Hamilton Wind Up Reports. Those lists of affected members are to be supplemented by the addition of any of twenty named members of the Hourly Plan whom the parties agree to add or who are added by order of this Tribunal. The Tribunal may add named members if CAW-Canada "establishes that their inclusion is required by law."

The Minutes of Settlement were approved by order of the Tribunal dated April 3, 2003. By the terms of that order, the Tribunal remains seized of the matters in these proceedings for the purpose of dealing with the question of which of the twenty named members of the Hourly Plan, if any, should be included in the partial wind ups occasioned by the ABB plant closures.

The parties agreed on the inclusion of ten of the named members in the relevant partial wind ups. At the hearing before the Tribunal, CAW-Canada sought to establish that nine of the remaining named members should also be included. CBS Canada resisted their inclusion, arguing that it was not "required by law," although there would be no additional cost to

the Hourly Plan (or to CBS Canada) of including any of those nine. The adjustment required by the addition of any of them will be cost-neutral because the Minutes of Settlement specify that the early retirement benefits of the other affected members will be reduced in accordance with a formula that would achieve that result.

Analysis

We deal first with the case for inclusion of Mr. Arnold Albert in the partial wind up resulting from the closure of the London plant.

Mr. Albert testified that he was a member of the Hourly Plan who worked in the London plant, transferring his employment to ABB when the plant was sold. He worked for ABB at that location until October 1, 1992, the effective date of the partial wind up of the Hourly Plan as it relates to members employed at the London plant. Mr. Albert, who was in ill health, retired from his employment at that time, having reached age 55 on September 30, 1992, entitling him to unreduced early retirement benefits.

Mr. Albert testified that he made the decision to take early retirement when the pending closure of the London plant was announced in May of 1992. He also indicated that he would still have retired when he did if it had been announced that the plant would stay open for another year.

In our view, the circumstances of Mr. Albert do not fit the description, in the London Wind Up Order, of the members of the Hourly Plan in respect of whom the Plan is to be wound up. He cannot be said to have ceased to be employed by ABB as a result of the discontinuance of the business carried on at the London plant on or about October 1, 1992 since he stated categorically that he would have retired at or very soon after that date in any event given his ill health and his entitlement, from that date, to unreduced early retirement benefits. We must assume that the London Wind Up Order is in

accordance with the law, including the law evidenced by the terms of the Act, in the absence of any challenge to that Order. We conclude, therefore, that CAW-Canada has not established that the inclusion of Mr. Albert in the partial wind up of the Hourly Plan, as it relates to members employed at the London plant, is required by law.

Some of the members of the Hourly Plan named in the Minutes of Settlement worked at the Hamilton plant, transferred to the employment of ABB on the sale of that plant in 1989 and were subsequently offered and accepted employment by ABB at its Guelph facility, to commence on or shortly after May 27, 1991. Five such members — Gord Gittens, Harold Wilcox, Ron Buchanan, John Liberty and Dymtrow Slusarchuk — testified as to the nature of, and the transition to, that employment. Two of those members indicated, in their evidence, that three of the other named members who worked at the Hamilton plant — Donald Cameron, Bruce Carver and Fred Noto — also took up employment with ABB at its Guelph facility at the same time and on similar terms. A letter from ABB to the solicitor for Mr. Cameron, dated December 1, 1992, which was admitted in evidence, discloses the terms on which Mr. Cameron was offered and accepted employment with ABB at its Guelph facility, upon cessation of his employment by ABB in Hamilton, and indicates that seven others from the Hamilton plant, who were not mentioned by name, were offered and commenced employment at that facility under similar arrangements. On the basis of the evidence presented, we accept that all eight of the members of the Hourly Plan mentioned above (the “Hamilton Eight”) had their employment at the Hamilton plant terminated on May 23, 1991 and were re-hired by ABB, to work at its Guelph facility, commencing on or shortly after May 27, 1991, the next working day

after May 23, their last day of service at the Hamilton plant, on the following basis:

- their employment was to meet transitional requirements for training and guidance in the start-up of certain operations at the Guelph facility that had previously been carried out at the Hamilton plant,
- the need for these employment services was not, generally, expected to last beyond eighteen to twenty-four months,
- employment was to be as new employees with no transferred seniority except that previous service would be recognized for vacation entitlement purposes, and
- severance payments would be made in respect of termination of prior employment at the Hamilton plant.

The Hamilton Wind Up Order describes the members of the Hourly Plan in respect of whom the Plan is to be wound up as those who ceased to be employed by ABB as a result of the discontinuance of its Hamilton plant on or about June 30, 1991. CBS Canada maintained that the Hamilton Eight did not cease to be employed as a result of that event because they continued to be employed by ABB, through June 30, albeit at a different location. CBS Canada pointed out that neither the Hamilton Wind Up Order nor clause (d) of subsection 69(1) of the Act (which was the basis, in part, for the wind up order) describes those affected by the discontinuance of business as those whose *employment was terminated* as a result of that discontinuance, language that might fit the circumstances of this case.

In our view, the Hamilton Eight did cease to be employed by ABB as a result of the discontinuance of its Hamilton plant because their jobs at the plant (along with all the other jobs at the plant) were scheduled to be eliminated very shortly as a natural consequence of that

discontinuance. They ceased employment with ABB on May 23, 1991, receiving severance, a clear indication of cessation of employment at the instance of the employer, although all this happened in the context of a promise of other immediate employment with ABB, commencing on or about May 27, 1991. Had that promised employment carried with it a general recognition of accumulated seniority with ABB, it could be argued that, in substance, there was no break in their employment with ABB. But that was not the situation. In the circumstances of this case and, in particular, in the absence of a carryover of seniority, we believe that the new employment of the Hamilton Eight with ABB, at its Guelph facility, should remain dissociated from their previous employment with ABB at the Hamilton plant for the purposes of applying the terms of the Hamilton Wind Up Order to their situation. We conclude, therefore, that CAW-Canada has established that the inclusion of the Hamilton Eight in the partial wind up of the Hourly Plan, as it relates to members employed at the Hamilton plant, is required by law.

Our decision in this matter should not be taken to indicate that this Tribunal will necessarily review the situation of any member of a pension plan who has ceased employment at the effective date of the partial wind-up of the plan or during the period of the event giving rise to the partial wind-up whenever the plan sponsor seeks to exclude that member from participation in the partial wind up. The present case is an unusual one in that, in the end, the Tribunal has simply had to decide, within the terms of a negotiated settlement, the specific question of whether the bargaining agent for certain named plan members has successfully met the onus of establishing that they are entitled to be included in certain partial wind ups of the plan.

Disposition

We hereby order that the following members of the Hourly Plan be added to the list of members to be included in the partial wind up of the Plan resulting from ABB's closure of the Hamilton plant, which list is set out in the Hamilton Wind Up Report; Messrs. Gord Gittens, Harold Wilcox, Ron Buchanan, Don Cameron, John Liberty, Dymtrow Slusarchuk, Bruce Carver and Fred Noto.

DATED at Toronto, this 16th day of May, 2003.

Colin H.H. McNairn,

Vice Chair of the Tribunal and Chair of the Panel

Louis Erlichman,

Member of the Tribunal and of the Panel

C.S. Moore,

Member of the Tribunal and of the Panel

INDEX NO.:

FST File Number U0223-2003

DATE OF DECISION:

June 16, 2003

PUBLISHED:

Bulletin 12/3 and FSCO website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

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

AND IN THE MATTER OF a Notice of Proposal to Refuse to Consent by the Superintendent of Financial Services (the "Superintendent") on March 17, 2003, with respect to an application for withdrawal of money from a life income fund, locked-in retirement account (a "locked-in account") based upon financial hardship;

AND IN THE MATTER OF a Request for Hearing under subsection 89(8) of the Act;

REASONS:

1. The Applicant applied to withdraw \$6,500 from his locked-in account based upon low income in an application dated March 3, 2003.
2. On March 17, 2003, the Superintendent issued a Notice of Proposal to Refuse to Consent to the application. The Superintendent stated that he does not have the authority under law to consent to the application as the Applicant's and spouse's net assets exceed the amount he may apply to withdraw.
3. The Applicant in this matter requested a hearing in respect of the Superintendent's Notice of Proposal to Refuse to Consent dated March 17th, 2003.

4. Section 67(1) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8, generally prohibits the commutation or surrender of a pension, deferred pension, pension benefit, annuity or prescribed retirement savings arrangement. Section 67(5) of the Act provides an exception to the rule in circumstances of financial hardship.

5. Subsection 87(1) of Regulation 909, R.R.O. 1990, as amended (the "Regulation") prescribes the circumstances of financial hardship in which the Superintendent may consent to such applications. As noted in Point 1, the application was based on low income. Paragraph 7 of subsection 87(1) of the Regulation states that:

The owner's expected total income from all sources before taxes for the 12-month period following the date of signing the application is 66 2/3 per cent or less of the Year's Maximum Pensionable Earnings for the year in which the application is signed.

6. Section 88(2) of the Regulation sets out the formula for determining the amount the owner (the Applicant in this case) may apply to withdraw, as follows: $A - (B-C) = D$.
"A" is the amount the owner may apply to withdraw.
"B" is the market value of all assets of the applicant and the spouse....
"C" is the total of all liabilities of the applicant and spouse....

“(B-C)” is the net assets of the applicant and spouse.

“D” is the amount an applicant is ultimately entitled to withdraw.

7. Based on the information provided by the Applicant in his application of March 3, 2003, the amount the Applicant is entitled to withdraw is “D” as referenced above. The amount the applicant may apply to withdraw is “A”, \$6,095.25. The Applicant and spouse’s net assets, “B-C”, are \$52,700. The amount the Applicant is entitled to withdraw for the purposes of subsection 88(2) of the Regulation, “D” is \$46,604.75 (the calculation cannot result in a negative amount).
8. The Applicant submits that due to an error in the management of his financial affairs, he finds himself unable to withdraw sufficient funds from his locked-in income fund (LRIF) in order to meet his and his family needs.
9. The Applicant may have a genuine financial hardship and the claim of error appears bona fide, however the application does not meet the requirements of subsection 67(5) of the Act. The Tribunal does not have the authority to direct the Superintendent to allow an application that does not meet the strict requirements of the Regulation. As such, the Superintendent’s refusal is affirmed.

ORDER

The Superintendent’s Notice of Proposal to Refuse to Consent, dated March 17, 2003, is affirmed and this application is dismissed.

DATED at Toronto this 16th day of June, 2003.

Kevin G. Ashe
Member, Financial Services Tribunal

INDEX NO.:	FST File Number P0150-2001
PLAN:	Retirement Plan for Salaried Employees of Marshall Steel Limited and Associated Companies, Registration Number 0968081 (the "Plan")
DATE OF DECISION:	July 7, 2003
PUBLISHED:	Bulletin 12/3 and FSCO website

(Note: Only FST decisions pertaining to pensions are included in this section.)

(Note: In this section, "Commission" refers to the Financial Services Commission of Ontario.)

IN THE MATTER OF the Pension Benefits Act, R.S.O. 1990, c. P.8 as amended by the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c.28 (the "Act");

AND IN THE MATTER OF a Partial Wind-up Report submitted by Marshall-Barwick (formerly Marshall Steel Limited) to the Superintendent of Financial Services relating to the Retirement Plan for Salaried Employees of Marshall Steel Limited and Associated Companies, Registration Number 0968081 (the "Plan");

AND IN THE MATTER OF a Hearing in accordance with subsection 89(8) of the Act.

BETWEEN:

MARSHALL STEEL LIMITED AND ASSOCIATED COMPANIES

Applicant

- and -

SUPERINTENDENT OF FINANCIAL SERVICES OF ONTARIO

Respondent

- and -

JEFFREY G. MARSHALL
(A FORMER EMPLOYEE OF MARSHALL STEEL LIMITED)
Interested Party

BEFORE:

Ms. M. Elizabeth Greville,
Member of the Tribunal and Chair of the Panel
Ms. Heather Gavin,
Member of the Tribunal and of the Panel
Mr. C.S. (Kit) Moore,
Member of the Tribunal and of the Panel

REPRESENTATIONS BY:

For Marshall-Barwick Inc.:
Mr. Sean F. Dunphy
Mr. Gary Nachshen
For Jeffrey G. Marshall:
Mr. Michael Mazzuca

REASONS FOR DECISION

In a decision dated November 29, 2002, the Tribunal affirmed the Superintendent's Notice of Proposal dated December 12, 2000 regarding a partial wind-up report prepared on behalf of Marshall Steel Limited and Associated Companies (the "Company"), with respect to the Plan. In that decision, the Tribunal also directed the Company as administrator to file a revised partial wind-up report including Mr. Jeffrey G. Marshall in the partial wind-up group. The Tribunal made no order as to costs, but remained seized to consider the parties' written submissions regarding requests that the Tribunal award costs in this proceeding.

Mr. Marshall has asked for an award of a portion of his costs in this proceeding to be paid by

the Company, in the amount of \$12,000.00, or alternatively, in an amount to be assessed by the Tribunal on a full indemnity basis. The Tribunal received written submissions from Mr. Marshall and from the Company regarding this request. The Superintendent made no request or submission regarding costs in this proceeding.

In accordance with section 24 of the *Financial Services Commission of Ontario Act, 1997*, the Tribunal's *Interim Rules of Practice and Procedure* provide that the Tribunal may order that the costs of a party to a proceeding be paid by another party or parties. The Tribunal's *Practice Direction on Cost Awards* notes that costs will not be awarded as a matter of course, and lays out some criteria for a Tribunal's decision on the award of costs.

Mr. Marshall has presented two arguments in favour of an award of costs:

1. The Company was wholly unsuccessful in these proceedings; and
2. The Company caused unreasonable delays by advancing frivolous, vexatious and manifestly unfounded positions, including the Company's
 - (a) attempt to exclude Mr. Marshall from the partial wind-up group,
 - (b) attempt to rely on Mr. Marshall's earlier signed release, and
 - (c) hostility to Mr. Marshall.

Regarding Mr. Marshall's first argument, the fact that the Company was unsuccessful does not by itself justify the awarding of costs against the Company. The Company presented reasonable arguments that Mr. Marshall's termination was a direct result of the change of control of the Company, and that he was properly excluded from the partial wind-up group. The fact that the Tribunal did not finally agree with the

Company's positions does not mean the arguments were totally without value or irrelevant to the issues being heard by the Tribunal. They were an important and necessary part of the hearing, and assisted the Tribunal in reaching its decision.

Regarding Mr. Marshall's second argument, the Tribunal was not aware of any unreasonable delays caused by the Company's positions taken during the proceeding. While the Company did attempt to exclude Mr. Marshall from the partial wind-up group, and did attempt to rely on Mr. Marshall's earlier signed release, the Tribunal did not view these efforts as frivolous, vexatious or manifestly unfounded. In fact, the arguments put forward by the Company for taking these positions, as well as Mr. Marshall's arguments to the contrary, assisted the Tribunal in reaching its decision.

Mr. Marshall has also suggested that the Company's conduct in this matter stemmed largely from its hostilities towards the Marshall family, and was contrary to its obligations as Plan administrator. In response, the Company has argued that, where it considers a claim on the pension plan assets to be an improper one, its fiduciary duty as Plan administrator could require it to contest such a claim in the interests of other Plan participants. The Tribunal agrees with the Company, that such a position could be a reasonable one for the Company to have taken in this proceeding, despite the fact that the Company's arguments were ultimately unsuccessful.

Consequently, for the reasons expressed in this decision, the Tribunal denies Mr. Marshall's request for an order for costs against the Company.



Dated at Toronto, Ontario, this 7th day of July,
2003.

Ms. M. Elizabeth Greville,
Member of the Tribunal and Chair of the Panel

Ms. Heather Gavin,
Member of the Tribunal and of the Panel

Mr. C.S. (Kit) Moore,
Member of the Tribunal and of the Panel





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The Editor, *Pension Bulletin*
Financial Services Commission of Ontario
5160 Yonge Street, 17th Floor
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North York, ON
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