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Superintendent of
Financial
Services



Surintendant des
services
financiers

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

AND IN THE MATTER a Notice of Intended Decision of the Superintendent of Financial Services to consent, under section 78(1) of the *PBA*, to a payment out of the pension fund for the Kendall Canada Inc. Pension Plan for Non-Salaried Employees, Registration Number 0265637.

TO:

Suzanne Carlson, CBP, CCP, GRP

Tyco Healthcare Group Canada ULC

Applicant and Employer

**In care of: Jeffrey P. Sommers
Counsel to Tyco Healthcare Group Canada ULC
Blake, Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9**

NOTICE OF INTENDED DECISION

I INTEND TO CONSENT, under section 78(1) of the *PBA*, to the payment out of the pension fund for the Kendall Canada Inc. Pension Plan for Non-Salaried Employees, Registration Number 0265637 (the “*Plan*”), to Tyco Healthcare Group Canada ULC, in the amount of \$495,000 as at March 31, 2011 plus adjustments to the actual date of payment.

I INTEND TO MAKE THE CONSENT effective only after the Applicant satisfies me that the administrator of the pension plan has provided for the payment of surplus of the pension plan to which members, former members and any other persons are entitled with respect to the partial wind-ups effective June 30, 1989 and February 29, 1992 and the full wind-up of the pension plan effective December 31, 1993.

I INTEND TO CONSENT FOR THE FOLLOWING REASONS:

1. Tyco Healthcare Group Canada ULC is the employer and administrator as defined in the Plan (the “*Employer*”).

2. The surplus assets are related to the partial wind-ups effective June 30, 1989 and February 29, 1992 and the full wind-up effective December 31, 1993.
3. As indicated in the report provided with the Employer's application for payment of surplus as at December 31, 1993, updated to March 31, 2011, the surplus in the Plan was estimated at \$825,000.
4. The application discloses that by written agreement among:
 - a. the Employer;
 - b. 72.2% of the members, former members and other persons entitled to a payment under the Plan with respect to the partial wind-ups and full wind-up of the plan as of the date of full wind-up of the Plan; and
 - c. the surplus in the Plan as at March 31, 2011, after deduction for expenses, is to be distributed:
 - i. 60% to the Employer; and
 - ii. 40% to the beneficiaries of the Plan as defined in the Surplus Distribution Agreement.
5. The Employer has applied, pursuant to section 78(1) of the *PBA*, for consent of the Superintendent of Financial Services to the payment of 60% of the surplus to be distributed from the Plan.
6. The application appears to comply with sections 78, 77.11 and 79(3) and all other applicable requirements under the *PBA* and Regulation 909, R.R.O 1990, as amended.
7. 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 section 89(6) of the *PBA*. **To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Intended Decision is served on you.**¹

YOUR WRITTEN NOTICE must be delivered to:

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

Attention: The Registrar

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

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

DATED at Toronto, Ontario, this **16th** day of **April, 2012**.

Original Signed By

K. David Gordon
Deputy Superintendent, Pensions

Copy: Ari Kaplan, Koskie Minsky LLP

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

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