

IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990, c. P.8, as amended (the "Act"), in particular sections 87 and 89;

AND IN THE MATTER OF the Canada Forgings Inc. Pension Plan for Salaried Employees, Registration Number 0929687 (the "Plan").

NOTICE OF INTENDED DECISION

TO:

Canada Forgings Inc.
P.O. Box 308, 130 Hagar Street
Welland ON L3B 5P8

Attention: J. Scott Naar
President & Chief Executive Officer

Employer and Administrator

TAKE NOTICE THAT pursuant to section 87 of the Act, and by delegated authority from the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the "Chief Executive Officer"), the Head, Pension Plan Operations and Regulatory Effectiveness, intends to make an order to require Canada Forgings Inc. (the "Employer") to remit \$424,992 (plus interest from November 30, 2019, to the date of payment) in respect of outstanding employer contributions to the pension fund of the Plan no later than 10 days after the date of the order.

SI VOUS DÉSIREZ RECEVOIR CET AVIS EN FRANÇAIS, veuillez nous envoyer votre demande par courriel immédiatement à: contactcentre@fsrao.ca.

YOU ARE ENTITLED TO A HEARING BY THE FINANCIAL SERVICES TRIBUNAL (THE "TRIBUNAL") PURSUANT TO SECTION 89(6) OF THE ACT. A hearing before the Tribunal about this Notice of Intended Decision may be requested by completing the enclosed Request for Hearing Form (Form 1) and delivering it to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you. A copy of that form is included with this Notice of Intended Decision. Additional copies can be obtained by visiting the Tribunal's website at www.fstontario.ca.

TAKE NOTICE THAT if no written request for a hearing is delivered to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you, an order will be issued as described in this Notice of Intended Decision.

In order to request a hearing, a completed Request for Hearing Form (Form 1) must be delivered to the Tribunal within thirty (30) days after this Notice of Intended Decision is served. The form must be mailed, delivered, faxed, or emailed to:

Address: Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto ON M2N 6L9

Attention: Registrar

Fax: 416-226-7750

Email: contact@fstontario.ca

The hearing before the Tribunal will proceed in accordance with the *Rules of Practice and Procedure for Proceedings Before the Financial Services Tribunal* ("Rules") made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended. The Rules are available at the website of the Tribunal: www.fstontario.ca. Alternatively, a copy can be obtained by telephoning the Registrar of the Tribunal at (416) 590-7294, or toll free at 1-800-668-0128 extension 7294.

REASONS FOR INTENDED DECISION

1. In March 2017, staff of the Financial Services Commission of Ontario ("FSCO") conducted an onsite examination of the Plan and discovered that both employer and employee contributions had not been remitted to the pension fund of the Plan (the "Fund") since April 2016.
2. In August 2017, the Employer remitted all outstanding employee contributions to the Fund and from that time has remitted monthly employee contributions as they have become due.
3. The Employer was delinquent in making monthly employer contributions until October 2018 and has not yet paid the outstanding employer contributions in full.
4. During the course of 2017 and 2018 the Employer made several proposals to FSCO staff regarding the payment of the outstanding employer contributions. In a letter dated December 21, 2018, the Employer committed to paying the entire outstanding amount (at that time approximately \$495,000) over the course of seven months, starting in January 2019 and ending in July 2019.

5. Effective June 8, 2019, pursuant to the *Financial Services Regulatory Authority of Ontario Act, 2016*, S.O. 2016, c. 37, Sched. 8, the Financial Services Regulatory Authority of Ontario ("FSRA") became the regulator under the Act and the powers and duties previously vested in the Superintendent of Financial Services were vested in the Chief Executive Officer of FSRA.
6. In a letter dated August 2019, the Employer proposed a new payment schedule for paying the outstanding amount (at that time approximately \$420,000 plus interest) over a 12 month period starting August 2019. By that date, the Employer had paid only \$80,000 of unremitted contributions in the first two months of 2019. The Employer stated that "business conditions" did not allow it to meet the previous payment schedule.
7. Staff of FSRA sent a letter dated September 16, 2019, to the Employer demanding full payment of the overdue unremitted employer contributions. The Employer replied in a letter dated September 18, 2019, that it could not make immediate payment because of cash flow issues and, instead, proposed another payment schedule spanning 9 months starting in September 2019.
8. Section 55(2) of the Act requires an employer to make contributions in accordance with the prescribed requirements, in the prescribed manner and at the prescribed times.
9. The outstanding employer contributions include both normal cost contributions and special payments.
10. Section 4(4) of Regulation 909 under the Act requires that employer normal cost contributions be paid in monthly instalments within 30 days after the month for which the contributions are payable.
11. Section 5 of Regulation 909 under the Act requires that special payments be paid by equal monthly instalments beginning on the valuation date of the report in which the unfunded liability or solvency deficiency was determined.
12. Section 87(1)(c) of the Act provides that the Chief Executive Officer may make an order requiring an administrator or any other person to take any action in respect of a pension plan or a pension fund if the Chief Executive Officer is of the opinion, upon reasonable and probable grounds, that the administrator of the pension plan, the employer or the other person is contravening a requirement of the Act or the regulations made under the Act.
13. The Employer has not complied with the legislated time limits for remitting the outstanding employer contributions. Furthermore, the Employer has repeatedly reneged on promises it made to the regulator about satisfying its obligation to pay outstanding employer contributions.

14. Such further and other reasons as may come to my attention.

DATED at Toronto, Ontario, *December 27.*, 2019.

A handwritten signature in black ink, appearing to be 'JS', written over a horizontal line.

Joseph Shiner

Head, Pension Plan Operations and Regulatory Effectiveness

By delegated authority from the Chief Executive Officer