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Superintendent of  
Financial  
Services



Surintendant des  
services  
financiers

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

**AND IN THE MATTER OF** a Notice of Intended Decision of the Superintendent of Financial Services to Consent, under section 62.1(5) of the PBA, to a payment out of the pension fund for the Pension Plan Agreement between Henniges Automotive Sealing Systems Canada Inc., Welland, Ontario, and the United Steelworkers of America, AFL-CIO-CLC, Local Union No. 455, Registration Number 0577072 (the “Plan”).

**TO:**

**Henniges Automotive Sealing Systems  
Canada Inc.  
2750 High Meadow Circle  
Auborn Hills MI 48326**

**Attention:**

**Christine Falls  
Senior Human Resources Specialist**

**Applicant and Employer**

**AND TO:**

**Diane Liu, FCIA, FSA  
Aon Hewitt  
225 King Street West, Suite 1600  
Toronto ON M5V 3M2**

## NOTICE OF INTENDED DECISION

**I INTEND TO CONSENT**, under section 62.1(5) of the PBA, to the payment from the pension fund for the Plan to Henniges Automotive Sealing Systems Canada Inc., in the amount of \$801,300 as at November 1, 2017, plus investment earnings thereon to the date of payment.

Si vous désirez recevoir cet avis en français, veuillez envoyer votre demande immédiatement à: Adjointe, audiences, Greffe, Commission des services financiers de l'Ontario, 5160 rue Yonge, boîte 85, Toronto ON M2N 6L9.

**YOU ARE ENTITLED TO A HEARING** by the Financial Services Tribunal (the “Tribunal”) pursuant to section 89(6) of the PBA. **A hearing before the Tribunal about this Notice of Intended Decision may be requested by completing the enclosed Request for Hearing (Form 1) and submitting it to the Tribunal within thirty (30) days after this Notice of**

**Intended Decision is served on you.**<sup>1</sup> Additional copies of the enclosed Form 1 can be obtained by visiting the Tribunal's website at [www.fstontario.ca](http://www.fstontario.ca).

**If a Request for Hearing (Form 1) is submitted to the Tribunal within thirty (30) days after this Notice of Intended Decision** is served on you, sections 89(8) and 89(9) of the PBA provide that the Tribunal shall appoint a time for and hold a hearing, and by order may direct the Superintendent of Financial Services (the "Superintendent") to make or refrain from making the intended decision indicated in this notice and to take such action as the Tribunal considers the Superintendent ought to take in accordance with the PBA and the regulations, and for such purposes, the Tribunal may substitute its opinion for that of the Superintendent.

**IF NO WRITTEN REQUEST FOR A HEARING IS MADE within thirty (30) days after this Notice is served on you, TAKE NOTICE THAT the Superintendent will carry out the CONSENT pursuant to section 89(7) of the PBA.**

A completed Request for Hearing form must be received by the Tribunal within 30 days of this Notice is served on you. The Request for Hearing form may be mailed, faxed or delivered to:

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

Attention: The Registrar  
Fax: 416-226-7750

The hearing before the Tribunal will proceed in accordance with the Rules of Practice and Procedures for Proceedings before the Financial Services Tribunal made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22. Those Rules are available at the website of the Tribunal: [www.fstontario.ca](http://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 ext. 7294.

#### **REASONS FOR DECISION:**

1. Henniges Automotive Sealing Systems Canada Inc. is the employer and administrator as defined in the Plan (the "Employer").
2. The Plan was wound up effective October 31, 2011.
3. The Plan had a liability on wind up under section 75 of the PBA as per the wind up report as at October 31, 2011, filed by the Plan's actuary.
4. The Employer made payments totalling \$14,443,857 to the pension fund to fund the liability with the final contribution of \$3,427,400 made on January 5, 2016.
5. Information provided by the Plan's actuary on November 29, 2017, as part of the Employer's application under section 62.1 of the PBA showed that there were assets in the amount of \$147,956.01 as at October 31, 2017, remaining in the Plan's pension fund after all benefits had been settled. In addition, the actuary indicated that \$653,300 would be transferred back to the pension fund by the insurance company with which annuities had been purchased by the Plan to settle benefits as a result of premium adjustments. On July 3, 2018, the actuary confirmed that the transfer from the insurance company occurred on December 4, 2017.

6. In these circumstances, section 32(4) of Regulation 909 states that the money remaining in the pension fund may be paid to the employer in accordance with section 62.1 of the PBA, as if the money was an overpayment into the pension fund by the employer within the meaning of section 62.1(1)(b) of the PBA.
7. Section 62.1(4) of the PBA states that if an employer makes an overpayment into the pension fund, the application to the Superintendent for reimbursement for the payment must be made before the later of: (a) 24 months after the date on which the employer made the overpayment; and (b) six months after the date on which the administrator, acting reasonably, becomes aware of the overpayment.
8. The Employer's application for reimbursement of the overpayment was made on November 29, 2017. This date is within 24 months after the date on which the Employer made the overpayment. Accordingly, the application has been filed within the time limits set out in section 62.1(4) of the PBA.
9. Such further and other reasons as may come to my attention.

**DATED** at Toronto, Ontario, this 3rd day of June, 2019.

*Original Signed By*

Lester Wong  
Deputy Superintendent, Pensions  
By delegated authority from the  
Superintendent of Financial Services

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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