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Superintendent of
Financial
Services



Surintendant des
services
financiers

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

AND IN THE MATTER OF a Notice of Intended Decision of the Superintendent of Financial Services to Consent, under section 62.1(5) of the PBA, to a payment out of the pension fund for The 2015 Canada Life Canadian Employees' Pension Plan, Registration Number 1274984 (the “Plan”).

TO:

The Canada Life Assurance Company
255 Dufferin Avenue – T-005
London ON N6A 4K1

Attention:

Cathy Macdonald
AVP, Pension Management

Applicant and Employer

AND TO:

Benedict O. Ukonga
Mercer (Canada) Limited
120 Bremner Blvd., Suite 800
Toronto ON M5J 0A8

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 The Canada Life Assurance Company, in the amount of \$12,630,207 as at October 31, 2016, 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 30 days after this Notice of Intended Decision is served on you¹.** 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.

If a Request for Hearing (Form 1) is submitted to the Tribunal within 30 days after this Notice of Intended Decision is served on you, subsections 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 Procedure 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 at 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. The Canada Life Assurance Company is the employer and administrator as defined in the Plan (the "Employer").
2. The Plan was established effective January 1, 2015, as part of the Settlement Agreement (the "Agreement") between The Canada Life Assurance Company and certain former members of The Canada Life Canadian Employees' Pension Plan, Registration number 0354563 (the "Original Plan"). The Agreement called for the transfer of certain members from the Original Plan and corresponding assets and liabilities (including a proportionate share of the surplus) from the Original Plan to the Plan.
3. For the period January 1, 2015 to October 31, 2016, the Employer made contributions to the pension fund of the Plan on the basis of the initial actuarial report, but when the asset transfer from the Original Plan to the Plan was completed in September 2016, the Plan's actuary confirmed that the amount of contributions remitted to the Plan for the above period totaling \$12,630,207 were not required due to the surplus position in the Plan. Accordingly, the excess amount constitutes an overpayment within the meaning of section 62.1(1)(b) of the PBA.

4. Evidence of the overpayment to the pension fund has been submitted to the Financial Services Commission of Ontario.
5. 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.
6. The Employer's application for reimbursement of the overpayment was made on December 13, 2016. This date is within 24 months after the date on which the Employer made the payments described in 3. Accordingly, the application has been filed within the time limits set out in section 62.1(4) of the PBA.
7. Such further and other reasons as may come to my attention.

DATED at Toronto, Ontario, this 31st day of July, 2017.

Original Signed By

Lester J. 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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