

## Disclaimer

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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 Non-Contributory Pension Plan of AS Canada, ULC, Registration Number 0355297 (the “Plan”).

### NOTICE OF INTENDED DECISION

**TO:**

**AS Canada, ULC**  
**5900 Avebury Road**  
**Mississauga ON L5R 3M3**

**Attention:**

**Kimberley Hollinshead**  
**Plan Administrator**

**Applicant and Employer**

**AND TO:**

**Claire Norville-Buckland, FCIA, FSA**  
**Aon Hewitt**  
**225 King Street West, Suite 1600**  
**Toronto ON M5V 3M2**

**I INTEND TO CONSENT**, under section 62.1(5) of the PBA, to the payment from the pension fund for the Plan to AS Canada, ULC, in the amount of \$164,600 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 you.**<sup>1</sup> **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](http://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 62.1(5) 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: [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.

**I INTEND TO CONSENT FOR THE FOLLOWING REASONS:**

1. AS Canada, ULC, is the employer and administrator as defined in the Plan (the "Employer").
2. The Plan was wound up effective August 31, 2014.
3. The wind up report filed with the Superintendent on October 25, 2015, revealed a surplus of \$662,179.
4. The Employer commenced settling the Plan benefits in July 2015. As a result of Plan experience different than what was expected, the Plan had a deficit of \$435,400 and the Employer made a contribution of \$600,000 on February 29, 2016, to facilitate the purchasing of annuities to settle Plan benefits.
5. The latest report prepared by an actuary for the Plan showed that there were assets in the amount of \$164,600 remaining in the Plan's fund as at October 31, 2016, after all benefits have been settled. Accordingly, the amount in question constitutes an overpayment within the meaning of section 62.1 (1)(b) of the PBA.
6. 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.

7. The Employer's application for reimbursement of the overpayment was made on November 4, 2016. The Employer has indicated that this date is within 24 months of the overpayment.
8. I am satisfied that the Employer's application for reimbursement of the overpayment 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 4th day of May, 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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