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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 Make an Order under section 69 of the *PBA* that the **Employees Retirement Plan for the Employees of Presto-Crest Limited, Registration Number 0465948** be wound up as at July 31, 2015

AND IN THE MATTER OF a Notice of Intended Decision of the Superintendent of Financial Services to Make an Order under section 87 of the *PBA* that Presto-Crest Limited remit all outstanding contributions to the **Employees Retirement Plan for the Employees of Presto-Crest Limited, Registration Number 0465948**

NOTICE OF INTENDED DECISION

TO:

Presto-Crest Limited
914 Queen St., P.O. Box 550
Kincardine, ON N2Z 2Y9

Attention:
Dan Burrows
Employer and Administrator of the Plan

I INTEND TO MAKE AN ORDER that the Employees Retirement Plan for the Employees of Presto-Crest Limited, Registration Number 0465948 (the “Plan”) be wound up effective July 31, 2015, under section 69 of the *PBA*.

I ALSO INTEND TO MAKE AN ORDER that Presto-Crest Limited remit all outstanding contributions with interest to the Plan within 30 days after the date a final Order is issued pursuant to this Notice of Intended Decision.

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.¹ 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 30 days after this Notice is served on you, TAKE NOTICE THAT the Superintendent will carry out the Order to wind up the Plan effective July 31, 2015 pursuant to section 69 of the PBA and the Order to remit all outstanding contributions with interest within 30 days of the date a final Order is issued pursuant to section 87 of the PBA.

A completed Request for Hearing form must be received by the Tribunal within 30 days after this Notice is served on you. They 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, and c.S.22. Those 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 ext. 7294.

THE ADMINISTRATOR IS REQUIRED pursuant to section 89 of the *PBA* to transmit a copy of this Notice of Intended Decision to the following persons:

All members of the Plan.

REASONS FOR PROPOSAL

1. Presto-Crest Limited (the "Employer/Administrator") is the employer and administrator of the Plan.
2. The Plan is a single employer, contributory, defined contribution pension plan that was established on March 1, 1984 for executives, managers, and supervisors of the Employer. There are currently 4 active members in the Plan.

3. The Plan states that each Member is required to contribute to the Plan by payroll deduction an amount equal to the “member contribution level” during each full or partial year of membership in the Plan. “Member contribution level” is defined in an amendment to the Plan dated May 28, 2000 (the “2000 Amendment”) as nil for executives, 5 per cent of the member’s compensation for managers, and 2 per cent of the member’s compensation for supervisors. “Compensation for contribution purposes” is defined in the 2000 Amendment as the member’s basic salary excluding overtime and bonuses.
4. The Plan states that the Employer is required to contribute to the Plan an amount equal to the “employer contribution level” for each member for each full or partial year of membership in the Plan, subject to the minimum required under the applicable legislation. The 2000 Amendment defines “Employer contribution level” as 18 per cent of each executive member’s compensation to a maximum of \$3,500, 5 per cent of each manager’s compensation, and 2 per cent of each supervisor’s compensation. The Superintendent understands that the Plan currently consists of 2 managers and 2 supervisors
5. The Plan states that the Employer is required to remit the member’s contributions to the Plan not later than 30 days after the end of the month such contributions were deducted from the member’s compensation, and to remit the employer’s required contributions not later than 30 days after the end of the month to which they relate.
6. No contributions have been paid into the Plan’s fund since the September 30, 2014, contributions were remitted.
7. The *PBA* provides in section 69(1)(a) that the Superintendent by order may require the wind up of a pension plan if there is a cessation or suspension of employer contributions to the pension fund. The *PBA* provides in section 69(1)(b) that the Superintendent by order may require the wind up of a pension plan if the employer fails to make contributions to the pension fund as required by the *PBA* and the regulations.
8. There are therefore grounds to wind up the Plan pursuant to section 69 of the *PBA*.
9. Section 55(2) of the *PBA* states that an employer required to make contributions under a pension plan shall make the contributions in accordance with the prescribed requirements for funding and in the prescribed manner and at the prescribed times to the pension fund or, if pension benefits under the pension plan are paid by an insurance company, to the insurance company that is the administrator of the pension plan.
10. Section 4(4) of Ontario Regulation 909 states that all sums received by the employer from an employee, including money withheld by payroll deduction or otherwise from the employee, as the employee’s contribution to the pension plan, shall be made by the employer within 30 days following the month in which the sum was received or deducted. Section 4(4) also states that where all the pension benefits provided under the plan are defined contribution benefits, employer contributions for the plan’s fiscal year shall be made in monthly instalments within 30 days after the month for which contributions are payable.

11. Section 87(2)(c) of the *PBA* states that the Superintendent 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 administrator or employer of the plan is contravening a requirement of the Act or the regulations.

12. There are therefore grounds to order Presto-Crest Limited to remit all outstanding contributions to the Plan fund within 30 days from the date a final Order is issued pursuant to this Notice of Intended Decision.

DATED at Toronto, Ontario, this **26th** day of **August, 2015**.

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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