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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, (the "*PBA*");

AND IN THE MATTER OF a Notice of Intended Decision of the Superintendent of Financial Services to consent, under section 78(1) of the *PBA*, to a payment out of the pension fund for the Gilbarco Canada LP Employees' Pension Plan, Registration Number 0252049.

TO:

Gilbarco Canada LP
125 Stewart Boulevard
Suite 206
Brockville, ON K6V 4W4

Attention:

Nancy Jowett
Manager, Finance & Accounting

Applicant and Employer

AND TO:

Lewis Gottheil
Legal Counsel
UNIFOR Canada National Office
205 Placer Court
Toronto, ON M2H 3H9

NOTICE OF INTENDED DECISION

I INTEND TO CONSENT, under section 78(1) of the *PBA*, to the payment out of the pension fund for the Gilbarco Canada LP Employees' Pension Plan, Registration Number 0252049 (the "Plan"), to Gilbarco Canada LP, in the amount of \$458,410 as at January 1, 2011 plus adjustments to the actual 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.**[1](#)

Additional copies of the enclosed Form 1 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 thirty (30) days after this Notice of Intended Decision is served on you, subsection 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 (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. 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 MAKE THE CONSENT effective only after the Applicant satisfies me that any payments pursuant to the Surplus Sharing Agreement to which the members, former members and any other persons are entitled, have been paid, purchased or otherwise provided for.

REASONS FOR THE DECISION:

1. Gilbarco Canada LP is the employer and administrator as defined in the Plan (the "Employer").

2. The Plan was wound up in part effective January 1, 1994.
3. As indicated in the report provided with the Employer's application for payment of surplus as at January 1, 1994, the surplus in the Plan was estimated at \$261,390. A balance sheet provided with the Surplus Withdrawal Application indicates the surplus to be \$651,400 as at January 1, 2011.
4. The application discloses that by written agreement among:
 - a. the Employer;
 - and
 - b. 76% of the former members and other persons who are affected by the partial wind up and who are entitled to payments under the Plan as of the date of the partial wind up (which percentage represents a number of former members and other persons entitled to payment under the Plan that the Superintendent considers appropriate in the circumstances);the surplus in the wound up portion of the Plan at the date of payment, after deduction of expenses, is to be distributed:
 - a. 65% to the Employer; and
 - b. 35% to the beneficiaries of the Plan as defined in the Surplus Distribution agreement.
5. The Employer has applied, pursuant to section 78 of the *PBA*, for consent of the Superintendent of Financial Services to the payment of 65% of the surplus to be distributed from the Plan, plus adjustments to the actual date of payment.
6. The application appears to comply with sections 78, 79(3.1) and all other applicable requirements under the *PBA* and Regulation 909, R.R.O 1990, as amended.
7. Such further and other reasons as come to my attention.

DATED at Toronto, Ontario, this **29th** day of **July, 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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