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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 62.1(5) of the PBA, to a payment out of the pension fund for the Pension Plan for Hourly-Rated Employees (CAW Local 2098) of Diageo Canada Inc., Registration Number 1083922 (the Plan).

TO:

Diageo Canada Inc.
800-401 The West Mall
Etobicoke ON M9C 5P8

Attention:

Ricardo Barrios
Finance Director

Applicant and Employer

AND TO:

Michel Paré
Senior Associate
Mercer (Canada) Limited
800-1981 McGill College Avenue
Montréal QC H3A 3T5

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 Diageo Canada Inc., in the amount of \$1,963,079, as at December 31, 2014, 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.**[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.

REASONS FOR PROPOSAL:

1. Diageo Canada Inc. is the employer and administrator as defined in the Plan (the Employer).
2. The Employer made contributions to the pension fund on the basis of an actuarial report, but for a period that was after the period covered by the report. When the new report covering this period was filed, it revealed that the actual contributions made had exceeded what would properly have been required for the period. Accordingly, the excess amount constitutes an overpayment within the meaning of section 62.1(1)(b) of the PBA.

3. Evidence of the overpayment to the pension fund has been submitted to the Financial Services Commission of Ontario.
4. This application for the payment to the employer was made on April 17, 2015. This date is within 24 months after the date on which the employer made the payment described in paragraph 2. Accordingly, the application has been filed within the time limits set out in 62.1(4) of the PBA.
5. Such further and other reasons as may come to my attention.

DATED at Toronto, Ontario, this **11th** day of **June, 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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