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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 sections 20(1), 20(2), 55(2), 56.1, 69(1)(a), 69(1)(b) and 87(2) (c) of the *PBA* relating to the Registered Pension Plan for Employees of Chinook Mobile Heating & Deicing Corporation, Registration Number 1224047.

TO:

Chinook Mobile Heating & Deicing Corporation

10 Soper Drive
PO Box 443
Smith Falls, ON
K7A 4T4

and

6385 Roslyn Avenue
Ottawa (Orleans), ON
K1C 2Z9

Attention:

Pierre Bourgault
Bernard Bourgault

Employer and Administrator of the Plan

NOTICE OF INTENDED DECISION

I INTEND TO MAKE AN ORDER under sections 55(2) and 87(2)(c) of the *PBA* that Chinook Mobile Heating & Deicing Corporation (“Chinook”) remit all outstanding contributions, plus interest thereon calculated to the date of payment, to the Registered Pension Plan for Employees of Chinook Mobile Heating & Deicing Corporation, Registration Number 1224047 (the “Plan”) within thirty (30) days from the date the Intended Order set out herein is issued.

I ALSO INTEND TO MAKE AN ORDER under sections 69(1)(a) and (b) of the *PBA* that the Plan be wound up as at the date that the Intended Order set out herein is issued.

I ALSO INTEND TO MAKE AN ORDER under sections 20(1), 20(2) and 87(2)(c) of the *PBA* that Chinook, as administrator of the Plan, file with us an Annual Information Return for the year 2012 and Financial Statements for the years 2011 and 2012 within thirty (30) days from the date the Intended Order set out herein is issued.

I ALSO INTEND TO MAKE AN ORDER under sections 56.1 and 87(2)(c) of the *PBA* that Chinook, as administrator of the Plan, file a Summary of Contributions for the years 2013 and 2014 with the Plan fund trustee and custodian, The Manufacturers Life Insurance Company ("Manulife") within thirty (30) days from the date the Intended Order set out herein is issued.

REASONS:

The Plan

1. Chinook is a federally incorporated company carrying on business in Smith Falls, Ontario. Chinook is the sponsor and administrator of the Plan and employer of the Plan's members.
2. The Plan was established effective March 1, 2010 as a single employer, contributory, defined contribution pension plan with a fiscal year end of December 31.

Contributions

3. The Plan provides for members to contribute between 1% and 5% of earnings by payroll deduction. The Plan provides for the employer to match member contributions. Member voluntary contributions are also permitted.
4. The relevant Plan contribution provisions are set out in Section 5 of the Plan as follows:

5.1 Contribution Remittance

Contributions to the Plan must be remitted within the time frame required by Applicable legislation.

Contributions will be allocated to the applicable Member Account.

5.2 Member Required Contributions

Each Plan Year, each Member is required to contribute by payroll deduction an amount between 1% and 5% of the Member's Earnings.

5.3 Member Voluntary Contributions

A Member may make Member Voluntary Contributions by payroll deduction up to the maximum permitted under Applicable Legislation. A Member who elects to make Member Voluntary Contributions by payroll deduction and in a frequency according to the contribution remittance for the Plan, will notify the Plan Sponsor in writing of this request.

All Member Voluntary Contributions must be deducted by the Plan Sponsor from the Member's Earnings.

5.4 Plan Sponsor Contributions

Plan Sponsor Required Contributions made on a Member's behalf shall not be less than the minimum contribution requirements according to Applicable Legislation.

Each Plan Year, the Plan Sponsor is required to contribute on behalf of each member a 100% match of Member required contributions.

Plan Sponsor contributions shall commence on the day the employee becomes a Member of the Plan.

5. Chinook has not made any employer contributions to the Plan fund, nor remitted any employee contributions withheld by payroll deduction, since August, 2012.
6. Section 55(2) of the *PBA* states that an employer who is required to make contributions to a pension plan shall make the contributions in accordance with the prescribed requirements for funding and shall make the contributions in the prescribed manner and at the prescribed times to the pension fund.
7. Section 4(4)1 of Regulation 909, R.R.O. 1990 (the "Regulation") states that all sums received as the employee's contributions to the pension plan, including employee contributions withheld by payroll deduction, shall be paid to the pension plan within thirty days following the month in which the sums were received or deducted.
8. Section 4(4)3.1 of the Regulation states that employer contributions shall be made in monthly installments within 30 days after the month for which the contributions are payable.
9. Section 87(2)(c) of the *PBA* states that the Superintendent may make an order if the Superintendent is of the opinion, upon reasonable and probable grounds, that the administrator or any other person is contravening a requirement of the *PBA* or the Regulation.

Wind-Up

10. Chinook has failed, ceased to make or suspended employer contributions to the Plan fund since September, 2012. Chinook has failed to remit employee contributions withheld by payroll deduction since August, 2012.
11. Sections 69(1)(a) of the *PBA* states that the Superintendent may require the wind up of a pension plan if "there is a cessation or suspension of employer contributions to the pension fund".
12. Section 69(1)(b) of the *PBA* states that the Superintendent may require the wind up of a pension plan if "the employer fails to make contributions to the pension fund as required by this Act or the regulations".

Annual Information Return

13. Chinook has not filed an Annual Information Return for the year 2012.
14. Section 20(1) of the *PBA* states that the administrator of a pension plan shall file each year an Annual Information Return in respect of the pension plan.

15. Section 18(1) of the Regulation states that the administrator of a defined contribution pension plan shall file the Annual Information Return required under section 20 of the *PBA* not later than six months after the end of the fiscal year of the pension plan.
16. Section 87(2)(c) of the *PBA* states that the Superintendent may make an order if the Superintendent is of the opinion, upon reasonable and probable grounds, that the administrator or any other person is contravening a requirement of the *PBA* or the Regulation.

Financial Statements

17. Chinook has not filed financial statements for the Plan or Plan fund for the years 2011 or 2012.
18. Section 20(2) of the *PBA* states that the administrator of a pension plan shall file additional reports at the times and containing the information prescribed by the regulations.
19. Section 76(1) of the Regulation states that the administrator shall file financial statements for the pension plan or fund as at the plan's fiscal year end.
20. Section 76(4) states that financial statements for the pension plan or fund shall be filed within six months after each fiscal year end of the pension plan.
21. Section 87(2)(c) of the *PBA* states that the Superintendent may make an order if the Superintendent is of the opinion, upon reasonable and probable grounds, that the administrator or any other person is contravening a requirement of the *PBA* or the Regulation.

Summaries of Contributions

22. Chinook has not given Summaries of Contributions in respect of the Plan for the years 2013 or 2014 to the trustee and custodian of the Plan fund, Manulife.
23. Section 56.1 of the *PBA* states that the administrator of a pension plan shall give to the trustee of the pension fund a Summary of Contributions required to be made in respect of the pension plan, and shall do so in the prescribed manner and within the prescribed period.
24. Section 6.2(1) of the Regulation states that a Summary of Contributions required to be made in respect of the pension plan for a fiscal year must be given to the trustee of the pension plan within 60 days after the beginning of each fiscal year.
25. Section 87(2)(c) of the *PBA* states that the Superintendent may make an order if the Superintendent is of the opinion, upon reasonable and probable grounds, that the administrator or any other person is contravening a requirement of the *PBA* or the Regulation.
26. Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the *PBA*. **To request a hearing, you must deliver to the Tribunal**

a written notice that you require a hearing, within thirty (30) days after this Notice of Intended Decision is served on you.¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street
14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION on a Form for the written notice, please see the Tribunal website at www.fstontario.ca or contact the Registrar of the Tribunal by phone at 416- 590-7294, toll free at 1-800-668-0128, ext. 7294, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY CARRY OUT THE INTENDED DECISION AS DESCRIBED IN THIS NOTICE.

THE ADMINISTRATOR IS REQUIRED pursuant to section 89(5) of the *PBA* to transmit a copy of this Notice of Intended Decision to the following persons:

- a. All members, former members, and retired members of the Plan; and
- b. Any other person entitled to a payment from the pension fund.

DATED at Toronto, Ontario, this **2nd** day of **July, 2014**.

Original Signed By

Brian Mills
Deputy Superintendent, Pensions

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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