

## 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 Make an Order under sections 69(1)(a) and (b), 20, 55(2), and 87(2)(c) of the *PBA* relating to the Defined Contribution Plan for the Hourly Employees of Wabi Iron & Steel Corp., Registration Number 1087188

**TO:**

**Wabi Iron & Steel Corp.**  
330 Broadwood Ave.  
P.O. Box 1510  
New Liskeard, ON P0J 1P0

**Attention:** Gary Godreau  
Executive Vice President

**Employer and Administrator of the Plan**

## NOTICE OF INTENDED DECISION

**I INTEND TO MAKE AN ORDER** that the Defined Contribution Pension Plan for the Hourly Employees of Wabi Iron & Steel Corp., Registration Number 1087188 (the “Plan”) be wound up as at March 31, 2014 under sections 69(1)(a) and (b) of the *PBA*.

**I ALSO INTEND TO MAKE AN ORDER** under sections 55(2) and 87(2)(c) of the *PBA* that Wabi Iron & Steel Corp. (“Wabi”) remit all outstanding contributions with interest to the Plan within thirty (30) days from the date on this Notice of Intended Decision.

**I ALSO INTEND TO MAKE AN ORDER** under sections 20(1) and 87(2)(c) of the *PBA* and section 18(1) of Ontario Regulation 909, R.R.O. 1990, as amended, that Wabi file the Annual Information Returns for the Plan for the Plan years ending July 31, 2011, July 31, 2012 and July 31, 2013, within thirty (30) days from the date on this Notice of Intended Decision.

**I ALSO INTEND TO MAKE AN ORDER** under sections 20(2) and 87(2)(c) of the *PBA* and section 76(4) of Ontario Regulation 909 that Wabi file the financial statements for the Plan for the Plan years ending July 31, 2011, July 31, 2012 and July 31, 2013, within thirty (30) days from the date on this Notice of Intended Decision.

## **REASONS:**

1. Wabi is the employer and administrator of the Plan.
2. The Plan is a defined contribution pension plan with a fiscal year end of July 31.

### **A. Wind Up**

3. Sections 69(1)(a) and (b) of the *PBA* state as follows: 69(1) The Superintendent by order may require the wind up of a pension plan if,
  - a. there is a cessation or suspension of employer contributions to the pension fund;
  - b. the employer fails to make contributions to the pension fund as required by this Act or the regulations.
4. Wabi has not made any contributions to the Plan since January 31, 2013. However, members of the Plan have continued to make voluntary contributions since that date. There are therefore grounds to wind up the Plan effective March 31, 2014 pursuant to sections 69(1)(a) and (b) of the *PBA*.

### **B. Remittance of Contributions**

5. Section 55(2) of the *PBA* states that an employer who is required to make contributions under a pension plan shall make the contributions in accordance with the prescribed requirements for funding in the prescribed manner and at the prescribed times.
6. Section 4(d) of the Plan requires Wabi to contribute to the Plan an amount equal to two per cent of each member's earnings for each member for each full or partial year of membership in the Plan. Section 4(e) of the Plan requires Wabi to remit contributions to the Plan within 30 days after the end of the month for which contributions are payable.
7. Section 4(4) 3.1 of Ontario Regulation 909 states that where all the pension benefits provided under the plan are defined contribution benefits, employer contributions for the plan's fiscal year are due in monthly instalments within 30 days after the month for which contributions are payable.
8. 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 Superintendent is of the opinion, upon reasonable and probable grounds, that the administrator or employer of the pension plan is contravening a requirement of the *PBA* or the regulations.

9. The Superintendent is of the opinion that Wabi has failed to make employer contributions to the Plan since the contributions for the month of January 2013 were due on February 28, 2013 and have not been remitted, and employer contributions for each succeeding month have not been remitted to the Plan.

### **C. Annual Information Return**

10. Section 20(1) of the *PBA* states that the administrator of a pension plan shall file an annual information return each year in respect of the pension plan.
11. Section 18(1) of Regulation 909 states that the administrator shall file the annual information return not later than six months after the end of the fiscal year of the plan in the case of a plan that provides only defined contribution benefits.
12. Wabi has not filed the annual information return for the Plan for the fiscal years August 1, 2010 to July 31, 2011, August 1, 2011 to July 31, 2012 and August 1, 2012 to July 31, 2013.
13. 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 Superintendent is of the opinion, upon reasonable and probable grounds, that the administrator or employer of the pension plan is contravening a requirement of the *PBA* or the regulations.

### **D. Financial Statements**

14. Section 20(2) of the *PBA* states that the administrator of a pension plan shall file reports at the times and containing the information prescribed by the regulations.
15. Section 76(1) of Regulation 909 states that the administrator shall file financial statements for the pension fund or plan as at the plan's fiscal year end. Section 76(4) of Regulation 909 states that the financial statements shall be filed within six months after each fiscal year end of the plan occurring on or after December 31, 1988.
16. Wabi has not filed the financial statements for the Plan for the fiscal years ending July 31, 2011, July 31, 2012 and July 31, 2013.
17. 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 Superintendent is of the opinion, upon reasonable and probable grounds, that the administrator or employer of the pension plan is contravening a requirement of the *PBA* or the regulations.

18. 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.**<sup>1</sup>

**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](http://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: all members, former members, and retired members of the Plan and other beneficiaries; and any trade union representing members of the Plan.

**DATED** at Toronto, Ontario, this **10th** day of **March, 2014**.

*Original Signed By*

Brian Mills  
Deputy Superintendent, Pensions

<sup>1</sup>*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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