

Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

The Pension Plan for Certain Hourly-Rated Employees (Dixie Manufacturing Plant) of Fruehauf Canada Inc. - October 22, 2008.

**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 Proposal of the Superintendent of Financial Services to Refuse to Make an Order under section 87(2)(a) of the *PBA* relating to The Pension Plan for Certain Hourly-Rated Employees (Dixie Manufacturing Plant) of Fruehauf Canada Inc. (the "Plan"), Registration Number **7959**.

**TO:**

**Rainer Redmann**

45 Moore Park Avenue  
Toronto, Ontario  
M2M 1M8

**AND TO:**

**Trailmobile Trailer Canada Ltd.**

**c/o Trailmobile Corporation**

One Conway Park, 100 North Field Drive  
Suite 355  
Lake Forest, Illinois  
60045-2514  
U.S.A.

## **NOTICE OF PROPOSAL**

**I PROPOSE TO REFUSE TO MAKE AN ORDER** in respect of The Pension Plan for Certain Hourly-Rated Employees (Dixie Manufacturing Plant) of Fruehauf Canada Inc., Registration Number 7959, (the "Plan") under section 87(2)(a) of the *PBA*.

### **REASONS:**

1. Trailmobile Trailer Canada Ltd. ("Trailmobile") is the successor to the sponsor of the Plan. The sponsor of the Plan at the time it was wound up was Fruehauf Canada, A Division of Gemala Industries Limited.
2. Rainer Redmann ("Mr. Redmann") is a former member of the Plan.
3. The Plan was established on July 1, 1961 as a defined benefit, non-contributory pension plan. The Plan was wound up as at May 31, 1989 due to the closure of the Dixie Manufacturing Plant.

4. Mr. Redmann claims that the commuted value of his pension benefits from the Plan was not transferred from the Plan on wind up.
5. Trailmobile claims that the commuted value of Mr. Redmann's pension benefits was transferred to Mr. Redmann's retirement savings plan with interest on January 5, 1990. Trailmobile has produced a document titled "Fruehauf Canada Statement of Benefit Payments and Other Disbursements for the Period January 1, 1990 to March 31, 1990", which shows the lump sum amount of \$6,747.67 paid out on January 5, 1990 as a "termination" payment.
6. Scotiabank, which is Mr. Redmann's financial institution, has provided a document that shows two accounts in Mr. Redmann's name:
  - a) locked-in retirement account numbered 904881836, which was opened on September 6, 1989 and which is now closed with a zero balance. There is a handwritten notation beside this account stating "FROM FRUEHAUF - \$5,000". Mr. Redmann has advised that he made this notation;
  - b) an RSP account numbered 904749983, which was opened on February 27, 1982 and which has a current balance in the amount of \$15,442.55.
7. Mr. Redmann has provided another Scotiabank document which states that on March 27, 2007, the amount of \$14,324.08 was transferred from the locked-in retirement account numbered 904881836.
8. On the balance of probabilities, it is therefore more likely that the commuted value of Mr. Redmann's pension benefits was transferred from the Plan to the locked-in retirement account numbered 904881836 with Scotiabank in January of 1990.
9. The Plan was in a surplus position when it was wound up in 1989. Trailmobile claims that a surplus cheque in the amount of \$698.68, representing Mr. Redmann's share of the surplus, was mailed to Mr. Redmann at an address in Mississauga, Ontario, on September 17, 1993.
10. Mr. Redmann claims that he never received the surplus cheque and that he has never had a Mississauga address. Mr. Redmann has produced several forms issued by Revenue Canada for the years 1992 through 1994, all of which show his address in Willowdale/North York.
11. However, the 1993 T4A form titled "Statement of Pension, Retirement, Annuity and other Income" issued by Revenue Canada to Mr. Redmann shows the sum of \$698.58 as a lump sum payment as well as interest of \$69.87.
12. On the balance of probabilities, it is therefore more likely that Mr. Redmann received the surplus cheque.
13. Section 87 of the *Act* states in part as follows:

87(1) The Superintendent, in the circumstances mentioned in subsection (2) and subject to section 89 (hearing and appeal), by a written order may require an administrator or any other person to take or to refrain from taking any action in respect of a pension plan or a pension fund.

(2) The Superintendent may make an order under this section if the Superintendent is of the opinion, upon reasonable and probable grounds,

(a) that the pension plan or pension fund is not being administered in accordance with this Act, the regulations or the pension plan.

14. Section 72(3) of the *Act* states that on the wind up of a pension plan, the administrator shall make payment in accordance with the member's election or deemed election regarding the transfer of pension benefits within the prescribed period of time. Section 28(4) of Regulation R.R.O. 1990, as amended (the "Regulation") requires this payment to be made within 60 days after the later of: a) the day on which the administrator receives the member's election or the member's election is deemed to have been made; b) the day on which the administrator receives notice that the Superintendent has approved the wind up report.
15. Section 28.1(5) of the Regulation provides the same time limitations for pension plans that are wound up with a surplus on the wind up date.
16. On the balance of probabilities, I cannot conclude that the pension plan or pension fund has not been administered in accordance with the *Act* or the Regulation.
17. 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 Proposal is served on you. \***

**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 PROPOSAL AS DESCRIBED IN THIS NOTICE.**

**DATED** at Toronto, Ontario, this 22nd day of October, 2008.

---

K. David Gordon  
Deputy Superintendent, Pensions

\* **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 seventh day after the date of mailing.