



Financial Services Regulatory  
Authority of Ontario



Autorité ontarienne de réglementation  
des services financiers

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## VIA E-MAIL

April 20, 2023

Attn: Connie Caisse [ccaisse@harrisrebar.com](mailto:ccaisse@harrisrebar.com)  
Vice-President, Finance  
Harris Steel ULC  
Hamilton, ON L8E 2M2

Attn: Domenic Barbiero [dbarbiero@eckler.com](mailto:dbarbiero@eckler.com)  
Principal  
Eckler Ltd.  
1700 – 5140 Yonge Street  
Toronto, ON M2N 6L7

**Re: Pension Plan for Hourly-Rated Employees of Fisher & Ludlow  
Registration Number 0588467**

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Enclosed, please find the Notice of Intended Decision (NOID) with respect to the above noted registered Pension Plan.

Yours truly,

Mitzi D'Souza  
Administrative Assistant, Pensions

Enclosure

c: Jennifer Loader, Financial Services Regulatory Authority of Ontario

**IN THE MATTER OF** the *Pension Benefits Act*, R.S.O. 1990, c. P.8, (the “Act”), in particular subsection 62.1(5);

**AND IN THE MATTER OF** Pension Plan for Hourly-Rated Employees of Fisher & Ludlow, Registration Number 0588467 (the “Plan”)

**NOTICE OF INTENDED DECISION**

**TO:** Harris Steel ULC  
318 Arvin Avenue  
Hamilton, ON L8E 2M2

Attention: Connie Caisse  
Vice President, Finance

*Employer and Administrator*

**AND TO:** Eckler Ltd.  
1700-5140 Yonge Street  
Toronto ON M2N 6L7

Attention: Domenic Barbiero  
Principal

**TAKE NOTICE THAT** pursuant to subsection 62.1(5) of the Act, and by delegated authority from the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the “Chief Executive Officer”), the Director, Pension Plan Operations (the “Director”), intends to consent to the payment out of the pension fund in respect of the Plan to Harris Steel ULC, in the amount of \$76,457.29 as at November 30, 2022, plus investment earnings thereon to the date of payment. Details of this intended decision are described below.

**SI VOUS DÉSIREZ RECEVOIR CET AVIS EN FRANÇAIS**, veuillez nous envoyer votre demande par courriel immédiatement à: [contactcentre@fsrao.ca](mailto:contactcentre@fsrao.ca).

**YOU ARE ENTITLED TO A HEARING BY THE FINANCIAL SERVICES TRIBUNAL (THE “TRIBUNAL”) PURSUANT TO SUBSECTION 89(6) OF THE ACT.** A hearing by the Tribunal about this Notice of Intended Decision may be requested by completing the enclosed Request for Hearing Form (Form 1) and delivering it to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you. The Request for Hearing Form (Form 1) must be mailed, delivered, faxed or emailed to:

Address: Financial Services Tribunal  
25 Sheppard Avenue West, Suite 100  
Toronto, ON M2N 6S6  
Attention: Registrar

Fax: 416-226-7750

Email: [contact@fstontario.ca](mailto:contact@fstontario.ca)

**TAKE NOTICE THAT if you do not deliver a written request for a hearing to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you, an order will be issued as described in this Notice of Intended Decision.**

For additional copies of the Request for Hearing Form (Form 1), visit the Tribunal's website at [www.fstontario.ca](http://www.fstontario.ca).

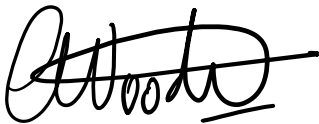
The hearing before the Tribunal will proceed in accordance with the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* ("Rules") made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22. The Rules are available at the website of the Tribunal: [www.fstontario.ca](http://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 extension 7294.

## **REASONS FOR INTENDED DECISION**

1. Harris Steel ULC is the employer and administrator of the Plan (the "Employer").
2. The Plan was wound up effective August 31, 2020.
3. The wind up report filed in May 2021 indicated a deficiency of \$1,774,600 as at August 31, 2020.
4. The employer has been funding the deficit in accordance with section 75 of the Act.
5. The Employer entered into a buy-out annuity contract with Brookfield Annuity Company in February 2022 for any members who elected an immediate or deferred pension. A premium of \$3,265,746.20 was paid on February 17, 2022.
6. Since August 31, 2020, the Employer made contributions totalling \$3,035,000 consisting of contributions totalling \$69,800 prior to February 14, 2022, plus a lump sum payment of \$2,965,200 on February 14, 2022 in order to fully fund the wind up deficit.
7. Following the premium adjustment period that ended in August 2022, an amount of assets equal to \$207,510 was returned to the Plan on September 23, 2022.

8. Information provided by the Plan's actuary on December 13, 2022, as part of the Employer's application under section 62.1 of the Act, showed that there were assets in the amount of \$76,457.29 as at November 30, 2022 remaining in the Plan's pension fund, after all benefits related to the wind up had been settled.
9. In these circumstances, subsection 32(4) of Regulation 909 states that the money remaining in the fund may be paid to the Employer in accordance with subsection 62.1 of the Act, as if the money was an overpayment into the pension fund by the Employer within the meaning of clause 62.1(1)(b) of the Act.
10. The Employer has applied for payment of \$76,457.29.
11. Subsection 62.1(4) of the Act states that if an employer makes an overpayment into the pension fund, the application for reimbursement for the payment must be filed before the later of: (a) 24 months after the date on which the employer made the overpayment; and (b) six months after the date on which the employer, acting reasonably, becomes aware of the overpayment.
12. The Employer's application for reimbursement of the overpayment was made on December 14, 2022. This date is within 24 months after the date on which the Employer made the overpayment. Accordingly, the application has been filed within the time limits set out in subsection 62.1(4) of the Act.
13. Such further and other reasons as may come to my attention.

**DATED** at Toronto, Ontario, April 20, 2023.



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Claire Woodcock  
Director, Pension Plan Operations

By delegated authority from the Chief Executive Officer