Court File No. 09-CL-7950

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. c-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED, NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS INTERNATIONAL CORPORATION AND NORTEL NETWORKS TECHNOLOGY CORPORATION

APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AFFIDAVIT OF JEREMY BELL

I, JEREMY BELL, of the City of Vancouver, in the Province of British Columbia, **SOLEMNLY SWEAR AS FOLLOWS:**

1. I submit this affidavit to provide my opinion on the generally accepted actuarial principles and practices used to determine sufficient contributions to fund long term disability wage replacement benefits. As a result of my education, experience and position, I have knowledge of the matters to which I hereinafter depose to, except where stated to be based upon information and belief.

Education and Professional Experience

2. I graduated with an honours degree in mathematics from the University of Victoria in 2000. On graduation, I received the Jubilee Medal for the Faculty of Science, presented to the student with the highest graduating grade point average in the Faculty.

3. In 2003, I obtained the Chartered Financial Analyst designation. This designation requires the completion of comprehensive examinations related to ethics, investments and financial statement analysis. In addition, relevant work experience is required.

4. In 2005, I became a Fellow of the Society of Actuaries and a Fellow of the Canadian Institute of Actuaries. These designations require the completion of comprehensive examinations related to finance, risk, insurance and pensions. They require relevant work experience. These designations represent the highest professional standing as an actuary.

5. I have been working in the actuarial field since 2000 in various areas. Initially, for the first five years, I worked primarily in the pension consulting field for Mercer Human Resource Consulting in Vancouver. In this capacity, I determined reserves and funding requirements for pension plans and provided advice on related matters to clients.

6. For the next four years, I worked in the investment consulting field, primarily with Aon Consulting in Vancouver. In this capacity, I advised pension plans, self-insured long-term disability income plans, property and casualty insurance companies, and foundations on investment and risk issues.

7. For the last year, I have been the Chief Actuary and Chief Investment Officer of the Healthcare Benefit Trust. The Healthcare Benefit Trust is a health and welfare trust as defined by the Canada Revenue Agency. We are governed by a Trust Agreement between our Trustees and our settlor. Our Trustees have a fiduciary obligation to manage the Trust in the best interests of our beneficiaries.

8. We provide benefits to employers in the health and community social service sectors. We cover over 80,000 active members and over 6,000 disabled members.

9. We provide group life, accidental death and dismemberment, extended health, dental and disability income benefits to beneficiaries. Benefits are provided on an administrative services only basis. In other words, we are not an insurance company.

10. In my current role, I am responsible for setting reserves and rates for benefits. The vast majority of our reserves relate to disability income benefits. I am also charged with managing the investments of the assets held in respect of the liabilities.

11. I have provided evidence accepted within British Columbia Supreme Court. And, I have testified and been accepted as an expert at hearings of the Manitoba Public Utilities Board.

12. Since 2009, I have been a member of the Group Insurance Committee of the Canadian Institute of Actuaries. Group insurance encompasses insurance and benefits provided to a group, for example, disability insurance to employees of an employer. We

are charged with educating group practitioners, discussing group insurance issues and initiating group insurance discussions within the Canadian Institute of Actuaries.

Generally Accepted Actuarial Principles

13. In the currently in force Standards of Practice – General Standards for the Canadian Institute of Actuaries, dated February 5, 2009, accepted actuarial practice is defined as:

> Accepted actuarial practice is the consensus of the actuarial profession on how work should be done. Unless the context requires otherwise, accepted actuarial practice refer to accepted actuarial practice for work in Canada.

I attach as exhibit "A" a copy of the Standards of Practice – General Standards for the Canadian Institute of Actuaries.

14. Section 1210.02 of the same Standards of Practice further detail where one can turn for guidance on what constitutes accepted actuarial practice:

> 1210.02 – The rules and the standards are the only explicit articulation of accepted actuarial practice for work in Canada. Explanation, examples, and other useful guidance may also be found in
>
> - New standards,
> - Educational notes,
> - Actuarial principles,
> - Exposure drafts,
> - Historical records, and
> - Canadian and international actuarial literature.

15. While Section 1210.02 provides useful ideas for identifying accepted actuarial practice, I have not identified any useful public written account providing direction on

accepted actuarial practice as it pertains to funding self-insured long-term disability income benefits.

16. In determining whether our funding practices are made in accordance with accepted actuarial practice, I rely on two corroborating pieces of evidence: external opinions and reviews of our practices, related standards of practice and other CIA documents.

External Opinions and Reviews of our Practices

17. In 2004, Deloitte & Touche and Morneau Sobeco performed an independent assessment of Healthcare Benefit Trust. Morneau Sobeco is a firm of consulting actuaries.

18. The report was comprehensive, covering a number of topics, but included a substantial component on actuarial issues. The actuarial component of the review resulted in various recommended changes to our then-existing actuarial practices. But, most importantly, the review confirmed that the broad principles employed by Healthcare Benefit Trust were in accordance with accepted actuarial practice. Section 1.2.1 of this report includes the following sentence:

> Our high level review of HBT's actuarial assumptions and methodology indicate that they conform to acceptable actuarial practices.

I attach as exhibit "B" a copy of the Morneau Sobeco report.

19. Further in this report, in Section 4.5.2 Adjustments to Future Contribution Strategy, the following statement is made regarding our funding policy:

> This deficit recovery strategy is consistent with accepted actuarial practice.

20. It would have been within the purview of this report to identify fundamental misgivings with our funding strategy. In particular, one would have expected the authors to note if and where our funding strategy deviated from accepted actuarial practice.

21. In 2009, Morneau Sobeco prepared an update to the 2004 report. In this report they analyzed Healthcare Benefit Trust's progress on implementing the recommendations made in the 2004 report. The report continued to agree with the broad principles used for funding our benefits, while offering some minor suggestions for changes. I attach as exhibit "C" the Morneau Sobeco updated report.

22. For the 10 years up to and including December 31, 2008, Hewitt and Associates, a firm of consulting actuaries, prepared our annual valuation, recommended contributions for current service and any contributions necessary to fund deficits. In their most recent report, as at December 31, 2008, the Actuary's Opinion on page 11 includes the following statement: "In my opinion, the decisions made by the Trustees with regard to contribution rates is, in aggregate, actuarially sound and is appropriate given the current and projected financial position of the Trust." While not explicitly stated, I would interpret this comment as equivalent to stating that the contributions and funding are in accordance with accepted actuarial practice. I attach as exhibit "D" the valuation prepared by Hewitt and Associates.

Related Standards of Practice and other CIA Documents

23. Although providing different types of benefits, self-funded pension plans and self funded long-term disability income plans have some common features. Most importantly for this discussion, is that they both attempt to set aside funds in a systematic way to provide for the benefits due in the future. One can turn to portions of Standards of Practice – Pensions for the Canadian Institute of Actuaries for evidence on accepted actuarial practice for funding long-term disability income plans.

24. Section 3400.05 of the Standards, dated April 2009, describes the objectives of funding a pension plan:

> 3400.05 – The objectives of funding a plan in accordance with accepted actuarial practice are:
>
> > the systematic accumulation over time of dedicated assets which, without recourse to the employer's assets, secure the plan's benefits in respect of members' service already rendered, and the orderly and rational allocation of contributions among time periods.

I attach as exhibit "E" a copy of the Standards of Practice – Pensions for the Canadian Institute of Actuaries.

25. The author reviewed the Standards of Practice – Insurance for the Canadian Institute of Actuaries. There is limited direction in these Standards on appropriate funding or contribution rates. The focus is instead on valuing liabilities. The expected value of liabilities assumed in a given a period will presumably define the minimum level of premiums required to fund these benefits – it would be difficult for insurance

companies to continue to operate in absence of contributions generally exceeding liabilities incurred.

26. In June 2010, the Canadian Institute of Actuaries released an Education Note titled "Valuation of Group Life and Health Policy Liabilities". This education note provides detailed guidance to actuaries performing valuations of liabilities for life and health benefits to be included in insurers financial statements. Included in these benefits are long-term disability income benefits.

27. Section 8.1.1 provides direction on valuing liabilities for reported long-term disability income benefits. The preamble to this sections states:

> 8.1.1 – Long-term Disability
> In most cases, LTD benefits for reported claims continue to be paid by the insurer after a group terminates. Therefore, cash flows for LTD claims are normally projected until the end of the benefit period. Claims administration expenses would generally be projected in a manner consistent with the projected benefit payments.

I attach as exhibit "F" a copy of the Canadian Institute of Actuaries Education Note.

28. Based on the excerpt above, one would infer that the liability for an individual would be set as the value of all future payments expected for the individual. Assumptions and methodology underlie the calculation of the expected future payments and the practice used to express future payments in the present day. Direction on some of the assumptions and methodology are included later in the same section 8.1.1.

29. Later the Education Note discusses and provides guidance on determining a liability in respect of claims that are incurred but not yet reported (or IBNR). These

liabilities serve to increase the liability calculated in respect of claims that are yet to be reported.

30. In my opinion, Healthcare Benefit Trust's funding practices in respect of our long-term disability income benefits are in accordance with the stated objectives of funding for a pension plan. In addition, our funding practices are consistent with the methodology implied by insurers assuming that their contributions are set to at least equal the liability assumed in a period.

Healthcare Benefit Trust's Funding Methodology

31. Ultimate responsibility for the Healthcare Benefit Trust's contribution levels for current service and in respect of any deficits or surpluses reside with our Trustees. The Trustees are obliged to consider actuarial advice when establishing these contribution rates. Although the Trust Agreement for the Healthcare Benefit Trust does not specify the required funding, the decisions of the Trustees on contributions have been consistent with actuarial advice. The result has been contributions, over time, that are defensible using and consistent with accepted actuarial practice.

32. Base contributions are set annually. Base contributions are intended to cover the cost of accruing benefits during a year. The cost of accruing benefits in a year is equal to the payments made to these new claimants during the year plus the remaining disabled life reserves at the end of the year plus a reserve in respect of claims that have been incurred but not reported.

33. Our contributions recognize that the coverage that we provide is the event of a person becoming disabled. We have an obligation to continue to provide benefits to these individuals until they are no longer disabled.

34. The primary component of the reserve, the disabled life reserve, is calculated for each individual as the present value of his or her future benefits until the anticipated completion of his or her claim.

35. Claims are assumed to terminate due to recovery or death based on the Canadian Institute of Actuaries' 1988-1994 Termination from Long-term Disability Table. In our valuation we adjust this table for our experience. We have separate resulting tables for those receiving CPP disability payments and those not receiving CPP disability payments.

36. Many of our disability income benefits are indexed, most commonly in our plan benefits are indexed to actual wage rate increases negotiated for a given occupation. For example, a disabled claimant that is a nurse will see their benefit increase over time based on negotiated wage rate increases in the provincial agreement with nurses. This indexing, and some consumer price index-based increases, are anticipated using assumptions in our valuation.

37. Disability income payments from our Trust are often offset by income received by disabled claimants from other sources: CPP Disability, WorkSafeBC, Insurance Corporation of British Columbia or other income earned by individuals. Where these offsets exist, we incorporate these offsets into the valuation. For those without it, we also

anticipate the acceptance of some portion of claimants onto CPP Disability, including a retroactive component. We make assumptions related to these acceptances in our valuation.

38. The present value of payments in the future are brought back to the current day at a discount rate reflecting the anticipated return on assets over the long term.

39. Various other assumptions are used in our valuation of disabled life reserves such as administrative expenses and increases in CPP Disability levels. These assumptions are included in our valuation.

40. In addition to the assumptions that are relevant for the disabled life reserves, we make an assumption for the value of liabilities associated with claims that have been incurred but not yet reported.

41. Major assumptions – including assumptions about the value of claims that have been incurred but not reported – are regularly reviewed. Most recently in 2008 Hewitt reviewed all of our major assumptions and revised them slightly. In addition, in the most recent valuation, as at December 31, 2009, we altered some assumptions to reflect emerging experience.

42. Investment returns and claims experience never match assumptions exactly. As such deficits and surpluses develop. Our plan funding incorporates the management and discharge of deficits.

43. In determining funding requirements for deficits and surpluses, we use asset smoothing. Asset smoothing is a common technique used in actuarial valuations for other types of benefits, such as pension plans. We smooth assets over a period of 5 years. The resulting deficits and surpluses are amortized over a sufficiently short period to not expose the Trust to significant risk of lack of payment. This varies by client. For those clients with a deemed credit risk – not implicitly guaranteed by government – the period is 10 years.

Summary Regarding Funding Obligations

44. It is my opinion that the Healthcare Benefit Trust is funded in accordance with accepted actuarial practice. Our current contributions provide for the accumulation of assets for current coverage: disabled life reserves for new entrants, reserves for incurred but not reported claims and payments made to these new claimants during the year. Our amortizations of deficits and surpluses will correct deviations from assumed outcomes in a systematic way over time.

45. I also recognize that accepted actuarial practice allows for a range of possible outcomes. The levels of contributions and the frequency of reviews can vary reasonably. As an example, in some circumstances, if contribution rates were set for a two or three year period, I would consider it appropriate to perform a valuation less frequently than annually.

46. While there is flexibility in interpreting accepted actuarial practice, there are practices which I would consider to fall outside accepted actuarial practice for funding.

For example, in my opinion, a disability income plan funded on a pay-as-you-go basis – in other words, claims payments are paid as they arise – could not claim to be funded in accordance with accepted actuarial practice. By its design, much of the future funding costs would be used to pay for past events.

47. A funding practice that doesn't systematically accumulate assets and discharge deficits would very likely fall outside funding based on accepted actuarial practice.

Treatment of Obligations on Wind Up

48. With the backing of large public sector institutions, any discussion of a wind up of the Healthcare Benefit Trust would be theoretical. The proportion of assets attributable to beneficiaries would need to be dealt with at the time.

49. We do, however, experience terminations from the Healthcare Benefit Trust periodically. In these terminations, employers exit the Trust. They cease contributing pending settlement of outstanding obligations. Coverage for any **future** claim ceases.

50. In these instances we continue to pay for the following in respect of employees covered by the employer:

a) **Income for existing disabled members at the date of termination**. This income is paid until the point that the member is no longer eligible to receive it due to recovery, reaching the maximum age or death.

b) Reimbursements for life, accidental death and dismemberment, extended health and dental **claims that happened prior to the date of termination**.

51. In these instances we cease paying for the following in respect of employees covered by the employer: any claims related to any event occurring after the date of termination.

52. If the employer had remained with the Healthcare Benefit Trust, we would have provided certain types of coverage for its disabled employees without charge to the employer: life, accidental death and dismemberment, and 50% of the cost of extended health and dental benefits. Once the employer terminates from the Healthcare Benefit Trust non-incurred claims and future coverage for benefits revert to the employer.

53. It is my opinion that our treatment of existing and future claims on employers exiting the Healthcare Benefit Trust is reasonable. It is also my opinion that in a self-funded Health and Welfare Trust paramount importance should be placed on incurred claims: non-closed long-term disability claims, as well as other claims occurring prior to the date of termination.

54. I believe that claims not incurred at the time of a bankruptcy of a company should be funded from a Health and Welfare Trust **after** incurred claims are provided for.

AFFIRMED BEFORE ME at the City of Vancouver, Province of British Columbia, this 3rd day of September, 2010.

A COMMISSIONER FOR TAKING OATHS IN BRITISH COLUMBIA

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