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FORENSIC ACCOUNTING REPORT

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DATE: July 30, 2012

CLIENT: Nortel Disabled

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SUBJECT: Fraud and Misappropriation – Trust Funds Complaint

INSTRUCTIONS

Instructions received June 4, 2012 were to complete a forensic report on the old and new evidence in the Fraud and Breach of Trust in Nortel's handling of the Canadian Employees' Health and Welfare Trust.

Misappropriation – Trust Funds Complaint

Upon conducting a review of additional information and materials received there is evidence to support that during the time Nortel's cash balances were declining between the period of May 2005 to and including April 2006, persons in authority having exclusive care and control of the Nortel Health and Welfare Trust Fund, did breach a fiduciary duty through knowingly misappropriating Trust funds for the unauthorized purpose and use by Nortel to offset declining corporate losses during the aforementioned period between May 2005 to April 2006.

This appears to be a methodical and calculated scheme running over a prolonged term resulting in the misappropriation of approximately \$32 million from the Nortel Health and Welfare Trust Fund for a use other than authorized by this Trust Fund.

The Nortel Health and Welfare Trust Fund was governed by both a Health and Welfare Trust Trustee Agreement, and common law for trusts, as the Nortel Health and Welfare Trust Fund was for the use and exclusive benefit of the beneficiaries.

The \$32 million in funds fraudulently removed from the Trust was applied to the suffering Nortel's cash strapped position to offset the losses identified between May 2005 and April 2006, which resulted in a profit gain in 2006 for Nortel. The removed Trust money created a financial risk to unsuspecting and vulnerable beneficiaries, who relied on the Trust and were unaware of the money taken from the Trust during this period.

DEFINITION OF OFFENCE

CRIMINAL BREACH OF TRUST

336. Everyone who, being a trustee of anything for the use or benefit, whether in whole or in part, of another person, or for a public or charitable purpose, converts, with intent to defraud and in contravention of his trust, that thing or any part of it to a use that is not authorized by the trust is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

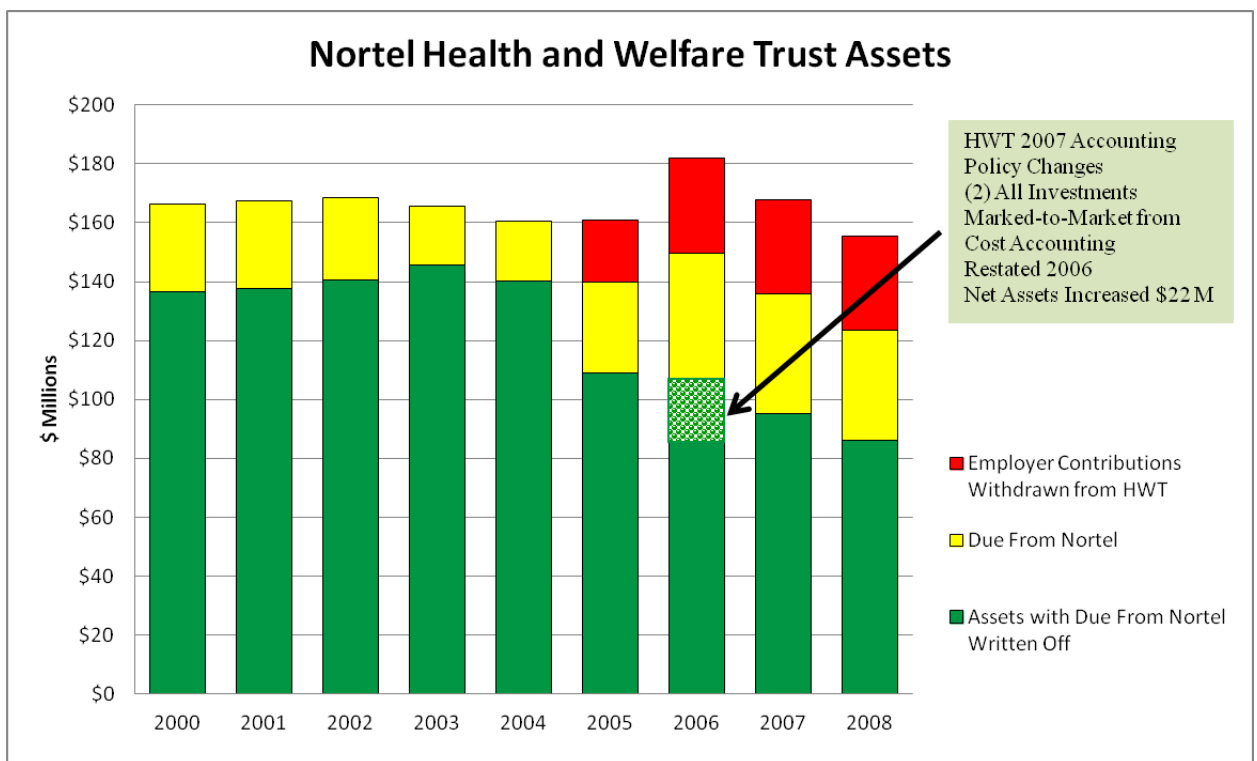
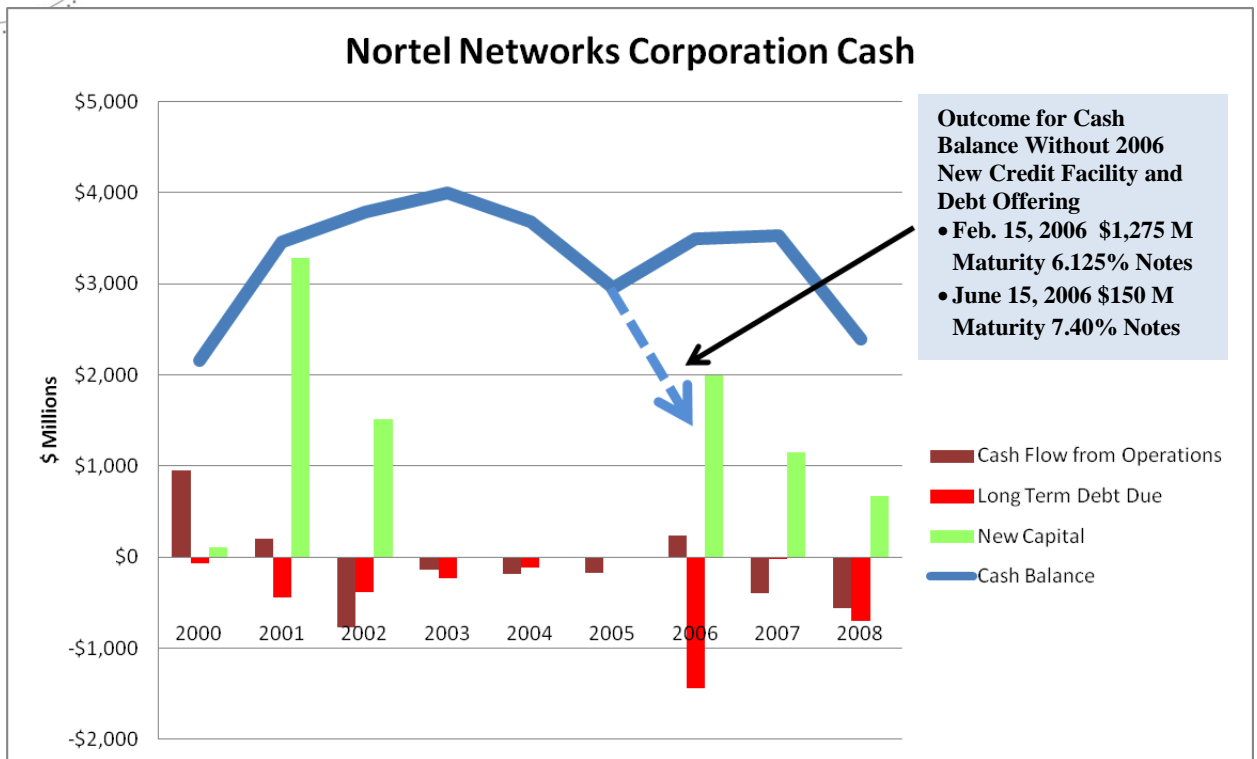
FRAUD THEORY

- **Motive**
- **Knowledge / Opportunity**
- **Rationalization**

MOTIVE

At December 31, 2004, The Health and Welfare Trust had \$74 million set aside for incurred claims of the Nortel Disabled. Persons who were identified as having a fiduciary duty to oversee the management of the Trust, pursuant to the agreement and law, by April 2006, \$32 million had been removed. It has now been determined that the \$32 million which had been removed from the Health and Welfare Trust as converted and applied to Nortel's income statement. Rather than applying those funds as legally bound to pay for the future income of the Nortel Disabled, Nortel used them to pay for the pay as you go Medical and Dental Claims, and the core employer paid Life Insurance Premiums for active and Long Term Disabled Nortel Employees during May 2005 to April 2006.

CHART 1:



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KNOWLEDGE / OPPORTUNITY

Nortel Knowledge Summary

- 1) In 1980 Nortel created a Trust Fund to hold the assets in support of its Funded Wage Loss Replacement Plan and did establish the HWT Trustee Agreement to define this Trust's legal terms and conditions. Nortel by creating a Trust could not subsequently shut down the Trust without the consent of the Trust beneficiaries and without paying all the claims and obligations to them as outlined in the signed Trustee Agreement.

Exhibit "A"

[Nortel - Montreal Trust HWT Trustee Agreement Jan. 1, 1980](#)

- 2) On January 1, 1980 Nortel to give effect to the Health and Welfare Plan entered into a Trustee Agreement with Montreal Trust to establish a Trust fund to be known as the "Health and Welfare Trust".
- 3) The Trustee Agreement stated the Trustee shall determine on a sound actuarial basis at least once every calendar year the level of contributions to the Trust Fund necessary to fund adequately the Health and Welfare Plan.
- 4) All the payments to the Trustee by the Corporation and by the employees, together with all profits, increments and earnings thereon, shall be irrevocable and constitute upon receipt by the Trustee, the Trust Fund to be administrated by the Trustee in accordance with the terms of the Trustee Agreement.
- 7) This 1980 Trustee Agreement created a Bona Fide Trust which under Trust Law could not be altered or shut down without the consent of the Trust beneficiaries.
- 8) This Employee Long-Term Disability Insurance contract should follow the insurance legal principal that if there is any ambiguity in coverage or doubt in coverage, courts rule in favour of the insured.

Exhibit "B"

[Chilton v. Co-operators Insurance Co., 1997 CanLII 765 \(ON CA\)](#)

- 9) In Chart 2 from May 2005 to April 2006 Nortel did breach its fiduciary duty through knowingly misappropriating Trust funds for unauthorized purpose and use by Nortel by failing to reimburse to the HWT the pay as you go Medical and Dental Claims and the Core Employer Paid Life Insurance Premiums for the Active and LTD Employees (hereinafter referred to as "the pay as you go benefits") temporarily paid from the HWT.

- 10) May 2005 the first month HWT funds were misappropriated for unauthorized use, occurred after Deloitte Touche signed the 2004 auditor's report on April 29, 2005.

Exhibit "C"

[Nortel Networks Corporation 10 K 2004 dated May 2, 2005](#)

PDF Page 357, F-88

- 11) Before May 2006 Nortel decided not to wind-up its HWT as indicated in the

Exhibit "D"

[Affidavit of Michael McCorkle, sworn September 27, 2010](#)

"Nortel considered winding up the trust in 2006, but Mercer's and the Law Department's advice was that such an act would trigger an obligation to top up the income plan deficits immediately. Although we did not have a formally approved timeline in place to eliminate the HWT deficit, we did recognize that it was a firm obligation and we planned to return the \$30 million plus taken out of the HWT during 2005 to 2006."

- 12) The Deloitte Touche signing of the 2005 auditor's report on April 28, 2006 did coincide with the subsequent month's reinstatement of Nortel's contributions to the HWT for reimbursement of the Medical and Dental Claims and the Core Employer Paid Life Insurance Premiums for the Active and LTD Employees paid by the HWT.

Exhibit "E"

[Nortel Networks Corporation 10K 2005 dated May 1, 2006](#)

PDF Page 175

- 13) There were no changes in the Canadian income tax law before, during or after May 2005 to April 2006 that lessened the tax benefits to Nortel associated with its HWT.
- 14) After April 2006 there was subjective awareness when Nortel devised a plan to repay the money they knowingly had misappropriated for unauthorized use from the HWT funds.

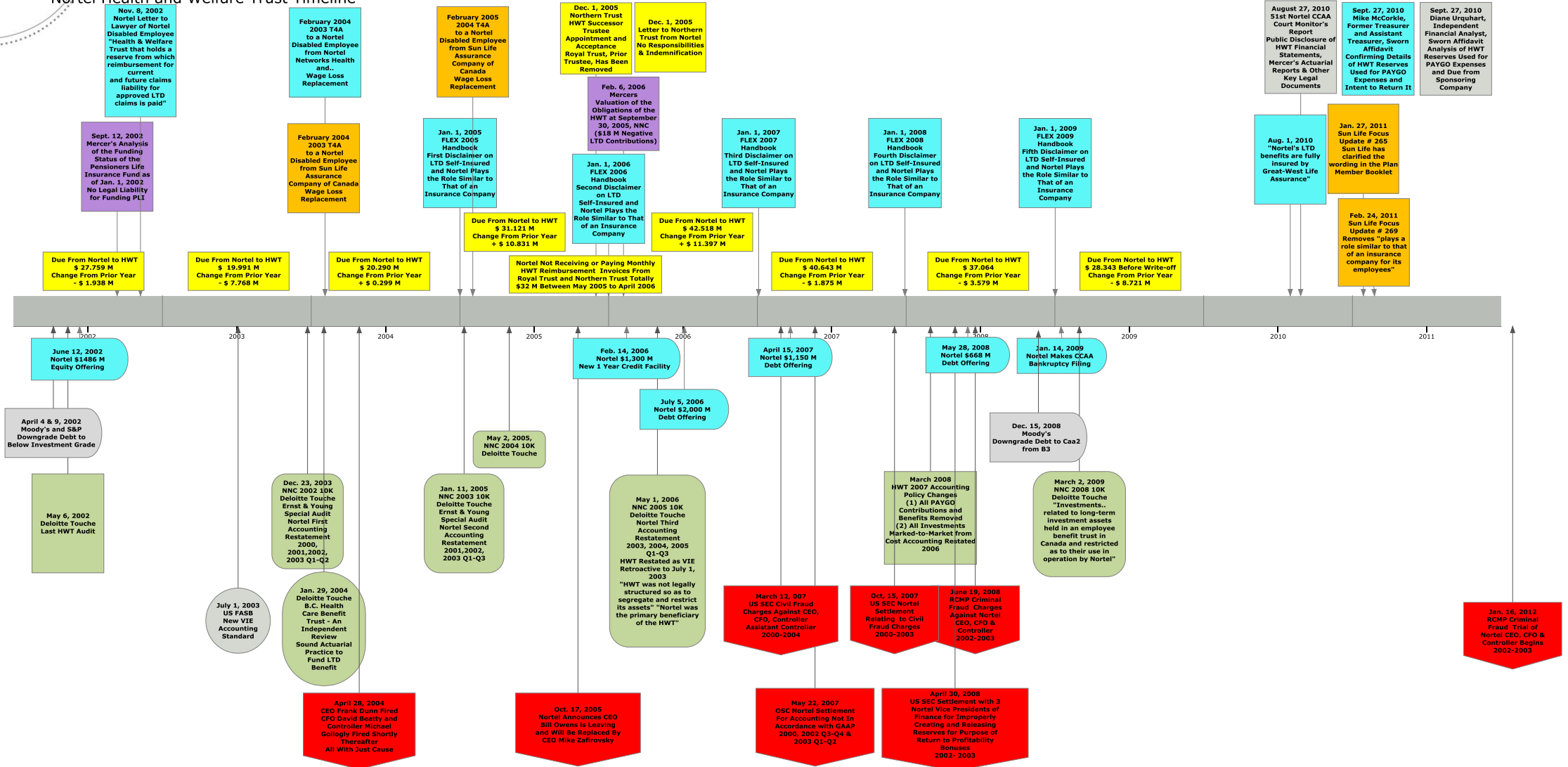
Exhibit "F"

[Fifty-First Report of the Monitor, dated August 27, 2010](#)

PDF Page 28, Point 81

CHART 2: (Expand view to 200%)

Nortel Health and Welfare Trust Timeline



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Corporate Culture and Events Around Long-Term Disability Insurance Fraud and Breach of Trust Dates

- 15) In Chart 2 prior and post the period May 2005 to April 2006 Nortel finance had undergone turmoil as evidenced by the following events:
- 16) On October 23, 2003, when Nortel announced third quarter earnings of US\$179 million, it advised that a second accounting restatement of 2001, 2002 and 2003 quarter one, two and three financial statements was required to reduce previously reported net losses. The board of directors established a Special Committee to review the reasons for the restatement and they engaged the outside assistance of US law firm of Wilmer Cutler Pickering Hale and Dorr LLP ("WCPHD") who in turn retained Huron Consulting Services LLC ("Huron") to provide expert accounting assistance.

Exhibit "G"

[Nortel News Release 2003Q3 Results October 23, 2003](#)

- 17) On April 28, 2004 based on periodic reports by WCPHD on the progress of the independent inquiry, the Audit Committee recommended, and the Board of Directors approved, termination for cause of CEO, Frank Dunn, the CFO Douglas Beatty, the Controller, Michael Gollogly and seven employees who held senior finance positions throughout the global operating units of Nortel. All ten people dismissed with cause repaid bonuses received.

Exhibit "H"

[Nortel News Release President and CEO as well as CFO and Controller, Terminated April 28, 2004](#)

- 18) The review identified a number of management control characteristics at Nortel which permitted accounting manipulation to occur, including:
- Management "tone at the top" that conveyed the strong leadership message that earnings targets could be met through application of accounting practices that finance managers knew or ought to have known were not in compliance with U.S. GAAP and that questioning these practices was not acceptable;
 - Lack of technical accounting expertise which fostered accounting practices not in compliance with U.S. GAAP;
 - Weak or ineffective internal controls which, in turn, provided little or no check on inaccurate financial reporting;

- Operation of a complicated "matrix" structure which contributed to a lack of clear responsibility and accountability by business units and by regions; and
- Lack of integration between the business units and corporate management that led to a lack of transparency regarding provisioning activity to achieve internal EBT targets.

19) On January 11, 2005 Deloitte Touche and Ernst & Young Special Audit issued Nortel's second accounting restatements of the 2001, 2002 and 2003 quarter one, two and three financial statements due to accounting irregularities regarding the release of reserves during these periods to show return to profitability triggering executive bonuses.

Exhibit "I"

[Nortel Networks Corporation 10 K 2003 dated Jan. 11, 2005](#)

20) The recommendations developed by WCPHD and Nortel Networks Corporation provided to the Audit Committee and published within the 2003 Financial Statements were directed at:

- *Establishing standards of conduct to be enforced through appropriate discipline;*
- *Infusing strong technical skills and experience into the finance organization;*
- *Requiring comprehensive, on-going training on increasingly complex accounting standards;*
- *Strengthening and improving internal controls and processes;*
- *Establishing a compliance program throughout the Company which is appropriately staffed and funded;*
- *Requiring management to provide clear and concise information, in a timely manner, to the Board to facilitate its decision-making; and*
- *Implementing an information technology platform that improves the reliability of financial reporting and reduces the opportunities for manipulation of results.*

21) *These recommendations were grouped into three categories - people, processes and technology - and are discussed below:*

- People

An effective "tone at the top" requires effective policies and procedures, but these alone are not sufficient. Those who manage and lead the Company, and are its officers, must exercise the highest fiduciary duties to the Company and shareholders and must be accountable, both to corporate management and the Board, for accurately reporting financial results.

- Processes

A basic component of sound corporate oversight is the control structure. Internal controls - the Company's accounting policies, organizational structure, systems, processes, employees, leadership, and culture - working together, foster accurate financial reporting and sound disclosure in a timely manner. While management has recognized weaknesses in existing processes and controls, and has taken steps to remedy these deficiencies, more needs to be done.

(See Chart 3 for processes involving the pay as you go benefits and the funded benefits in the HWT.)

- Technology

Management has announced that it intends to acquire and install a SAP information technology platform to facilitate production of accurate financial results in a timely and cost effective manner. The objectives of any technology platform implemented by Nortel should include identification of existing control procedures that are redundant or inefficient; prevention/detection and correction of errors on a timely basis; prevention or detection of fraud; simplification of systems and increased productivity; reduction of opportunities for manual intervention; ability to trace transactions from start to finish; improved operation of controls; and substantive analysis of results, including both operating and financial metrics. In sum, those responsible for implementing SAP should have a strong focus on re-engineering existing processes so that the control elements intrinsic to the SAP system are effective.

22) The second financial statement restatements on January 11, 2005 had stalled and put at risk the obtaining of new debt financing. After an absence of 4 years of new long term debt financing, a new credit facility of \$1,300 million occurred on February 14, 2006, just in time to refinance the \$1,275 million 6.125% notes due on February 15, 2006.

23) On April 28, 2006 Deloitte Touche issued a third accounting restatement for 2003, 2004 and 2005 quarter one to three.

Exhibit "E"

[Nortel Networks Corporation 10K 2005 dated May 1, 2006](#)

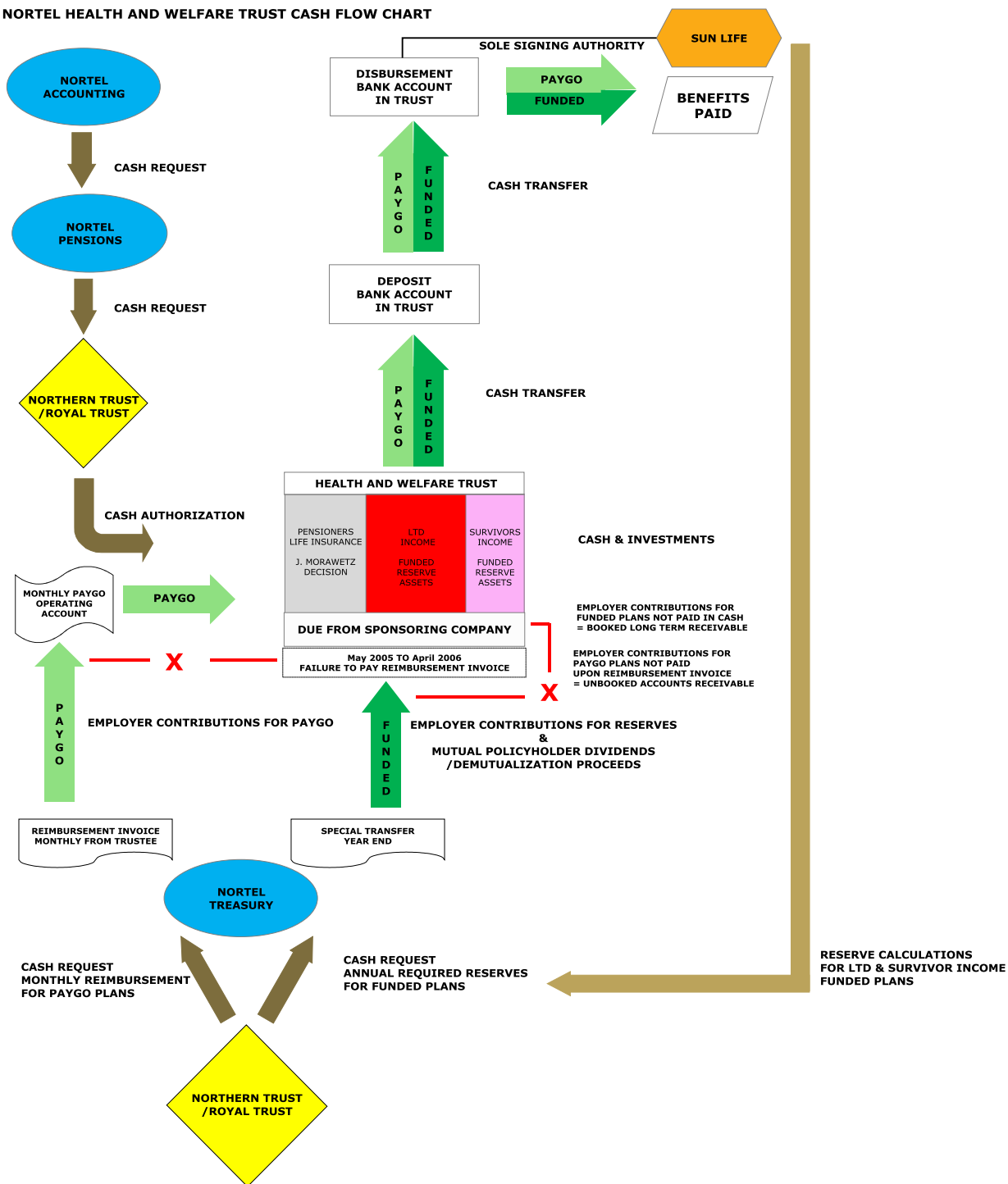
24) Now before the courts in 2012 is the June 19, 2008 RCMP criminal fraud offence against former Nortel executives CEO, CFO & Controller regarding the release of reserves during fiscal years 2002 and 2003 to show return to profitability triggering executive bonuses.

Exhibit "J"

[RCMP IMET Case in Progress - Nortel](#)

CHART 3:

NORTEL HEALTH AND WELFARE TRUST CASH FLOW CHART



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Nortel Detailed Knowledge

25) The HWT having a function as a tax efficient vehicle, adds to Nortel's legal obligations in respect to the appropriate use of the assets within the Trust, since access to the HWTs tax benefits are legitimate only when the HWT structure and activities comply with the Income Tax Act provisions and Canada Revenue Agency Interpretations and Rulings for HWTs and Wage Loss Replacement Plans.

26) [**IT85R - Pre 1986 Health and Welfare Trusts for Employees Jan. 20, 1975**](#)

Exhibit "K"

"2. Health and welfare benefits for employees are sometimes provided through a trust arrangement under which, the trustees (usually with equal representation from the employer (or employers' group)) and the employees (or their union) receive the contributions from the employer or employers (hereinafter referred to as the employer) and in some cases from employees to provide health and welfare benefits that have been agreed to between the employer and the employees (or their union)). Under such an arrangement an employee is not considered to receive or enjoy a benefit at the time of the employer's contribution is made to the trustees."

27) [**IT428 - Wage Loss Replacement Plans April 30, 1979**](#)

Exhibit "L"

"7. A plan for purposes of paragraph 6(1)(f) of the Act and section 19 of the ITAR must be an "insurance" plan. Those provisions are not applicable, therefore, to uninsured employee benefits such as continuing wage or salary payments based on sick leave debits, which payments are included in income under paragraph 6(1)(a). It is to be noted that, while a plan must involve insurance, it is not necessary that there be a contract of insurance with an insurance company. If, however, insurance is not provided by an insurance company, the plan must be one that is based on insurance principles, i.e., funds must be accumulated, normally in the hands of trustees or in a trust account, that are calculated to be sufficient to meet anticipated claims. If the arrangement merely consists of an unfunded contingency reserve on the part of the employer, it would not be an insurance plan."

28) [**Income Tax Act Amendment S. 18 \(9\) \(a\) \(iii\) Dec. 11, 1979**](#)

Exhibit "M"

Employer contributions for pre-funding of future life insurance premiums after the end of the year have not been tax deductible under Income Tax Act Amendment S. 18 (9) (a) (iii) since Dec. 11, 1979.

29) Nortel had a legal obligation to make employer contributions on a sound actuarial basis each year to fund adequately its Health and Welfare Plan, according to the HWT Trustee Agreement.

30) **Nortel - Montreal Trust HWT Trustee Agreement Jan. 1, 1980**
Exhibit "A"

"ARTICLE IV - EMPLOYER'S CONTRIBUTIONS

1. The corporations and its designated affiliated or subsidiary corporations agree to make Employer's contributions to the Trust in amounts sufficient to pay any claims which may be asserted against the Trust Fund at a result of the administration of the Health and Welfare Plan, and as may otherwise be required from time to time by this Trust for the purposes of the Health and Welfare Plan, as determined by the Trustee on a sound actuarial basis.
2. The Trustee shall determine or cause to be determined, on a sound actuarial basis from time to time, and in any event, once every calendar year, the level of contributions to the Trust Fund necessary to fund adequately the Health and Welfare Plan.
3. Subject to paragraphs (1) and (2) hereof, the corporation and its designated affiliated or subsidiary corporations shall be responsible for the adequacy of the Trust Fund to meet and discharge any and all payments and liabilities under the Health and Welfare Plan."

31) Nortel's employer contributions were irrevocable.

32) **Nortel - Montreal Trust HWT Trustee Agreement Jan. 1, 1980**
Exhibit "A"

"ARTICLE II - TRUST FUND

1. The Trust fund is created for the purpose of providing the Health and Welfare Plan benefits for the benefit of the Employees.
2. All payments made to the Trustee from time to time by the Corporation and designated affiliated or subsidiary corporations and by the employees, together with all profits, increments and earning thereon, shall be irrevocable and constitute upon receipt by the Trustee, the Trust Fund to be administered by the Trustee in accordance with the terms of this Trust Agreement, the Health and Welfare Benefit Plan and the Eligibility Requirements."

33) The HWT could not be terminated without notice to the Trustee and without Nortel being responsible to pay to the Trustee sufficient funds to satisfy all claims and obligations, according to the HWT Trustee Agreement.

34) [Nortel - Montreal Trust HWT Trustee Agreement Jan. 1, 1980](#)
Exhibit "A"

"ARTICLE IV - AMENDMENT AND TERMINATION

Upon sixty (60) days prior written notice to the Trustee, the Corporation may terminate its obligation to make Employer's contributions in respect of benefits after the date of written notice to the Trustee (hereinafter called the "Notice of Termination.") Upon receipt of the Notice of Termination the Trustee shall within one hundred twenty (120) days determine and satisfy all expenses, claims and obligations arising under the terms of the Trust Agreement and Health and Welfare Plan up to the date of the Notice of Termination. The Trustee shall also determine upon a sound actuarial basis, the amount of money necessary to pay and satisfy all future benefits and claims to be made under the Plan in respect to benefits and claims up to the date of the Notice of Termination. The Corporation and the designated affiliated or subsidiary corporations shall be responsible to pay the Trustee sufficient funds to satisfy all the expenses, claims and obligations, and such future benefits and claims. The final accounts of the Trustee shall be examined and the correctness thereof ascertained and certified by the auditors appointed by the Trustee. Any funds remaining in the Trust Fund after the satisfaction of all expenses, claims and obligations and future benefits, and claims, arising under the terms of the Trust Agreement and the Health and Welfare Plan shall revert to the Corporation."

35) [Appendix KKK - Internal Company Manual 1981](#)
Exhibit "N"

The Nortel Internal Company Manual dated in or about 1981 further validates the funding policy of the Nortel disability income benefits within the HWT and therefore indicates the LTD income was not paid on an annual pay as you go basis. The Nortel Internal Company Manual dated in or about 1981 says Nortel's disability income insurance creates an actuarial liability beginning in the year in which the claims are incurred and that this actuarial liability is to be paid at 20 percent per year uniformly over a five year period.

36) This Nortel Internal Company Manual says that Mutual Life, a predecessor of Sun Life is responsible for advice on plan design trends, estimates of outstanding liabilities for future periods and of the level of funding required for expected claims.

" 11.02 Long-Term Disability

Funding of actuarial liability at 20 percent per year uniformly over a five year period beginning in the year in which the claims are incurred is acceptable and consistent with the Advance Income Tax Ruling from the Department of National Revenue. Payments are made at fiscal year-end."

1.16 Mutual Life shall advise the Trustees and Northern Telecom of the level of funding required to pay for expected claims.. This advice is to be provided no later than year end for each year. Mutual Life's Group Policyholder Service officer is Mr.. Gerry Ward; their actuary is Mr. Kurt Von Schilling. The phone number is 456-0471/2/3/5."

- 37) The CRA Interpretation Bulletins and Rules for HWTs do not permit corporations to make tax deductions for new employer contributions when there is an other than temporary surplus in the Trust Fund relative to the incurred claims for benefit plans within the HWT. So the statement that the fund was somehow established in the 1980's when financial surpluses were extensive in order to achieve tax benefits does not make sense, since the HWT could not contain other than temporary surplus assets.

Exhibit "O"

[CRA Ruling Document # 9412155 - HWT Surplus - July 26, 1994](#)

Exhibit "P"

[Canadian Pacific Case on LTD Benefits Not a Contingency Reserve Sept. 10, 1998](#)

- 38) This Employee Long-Term Disability Insurance contract should follow the insurance legal principal that if there is any ambiguity in coverage or doubt in coverage, courts rule in favour of the insured.

Exhibit "B"

[Chilton v. Co-operators insurance Co., 1997 CanLII 765 \(ON CA\)](#)

- 39) The ASO Agreement between Nortel and Clarica Insurance January 1, 1999 validates the existence of annual estimates of disability and survivor reserves, which refutes the statement that the LTD income was paid on an annual pay as you go basis.

Exhibit "Q"

[ASO Agreement with Clarica Insurance Jan. 1, 1999](#)

"Base Fees include the following services:
assistance with plan design and review
annual estimate of incurred but not reported claims
annual estimates of disability and survivor reserves
maintenance of a plan document and ASO Agreement"

- 40) An internal Nortel report dated May 31, 1999 received by a Nortel disabled employee in a court discovery process showed that Nortel held a \$236,676.44 reserve for a disability incurred claim in her specific name and policy certificate number.

NORTEL NETWORKS
OTTAWA - Skyline
May 31, 1999

REVIEW

90002.B.000- [REDACTED]
Reserve : \$236,676.44

Active rehab

NAME: [REDACTED]
CERT: [REDACTED]
OCCUPATION: [REDACTED]
AGE: [REDACTED]
DATE OF DISABILITY: June 2, 1998
QUALIFYING DATE: December 1, 1998
DEFINITION CHANGE: December 1, 1999

Exhibit "R"

[Nortel Internal Document Showing Reserve \\$ Amount for LTD Claimant May 31, 1999](#)

41.) Page 28 of the Mercer's Valuation of the Obligations of the Health and Welfare Trust as at September 30, 2005 clearly shows that Nortel management was informed that they removed \$18,098 thousands of dollars of contributions from the LTD asset reserve in the HWT. This figure is labelled as negative contributions, distinct from benefit payments made to the LTD. This removal of contributions is contrary to the requirements for irrevocability of employer contributions in the HWT Trustee Agreement and the CRA Interpretation Bulletins and Rules relating to the Income Tax Act for HWTs.

"The following table presents a reconciliation of Trust assets by benefit ¹⁹

	Retiree Life	LTD	SIB	Optional Life	Total	
Balance at September 30, 2004		61,079	74,524	18,755	18,938	173,296
Contributions	-	(18,098)	-	2,183	(15,915)	
Benefit Payments	7,374	11,846	1,487	3,641	24,348	
Investment income	3,133	3,822	972	977	8,904	

¹⁹ Figures are in thousands of Canadian dollars

Mercers Human Resource Consulting"

Exhibit "S"

[Appendix GGG - Valuation of the Obligations of the Health and Welfare Trust as at September 30, 2005](#)

- 42) Nortel did not have the legal right to unilaterally wind-up the HWT without the unanimous consent of the HWT beneficiaries, according to the Ontario Variance of Trust Act and court precedents for variance of a Trust

Exhibit "T"

[Ontario Variance of Trust Act R.S.O. 1990, CHAPTER V.1](#)

Exhibit "U"

[Montreal Trust v. Superintendent of Financial Services Decision No. P0307-2008-1, Jan. 7, 2009](#)

"In the Dickson case [Dickson v. Richardson [1981] O.J. No. 2451], the Court of Appeal ultimately refused to approve the settlement varying the trust because it had not received the unanimous consent of all beneficiaries. The Court of Appeal held that since a compromise was a contract to which all parties must consent, and since the court did not have the power to bind known dissentients, the order of the court below amending the trusts could not be supported by the court's inherent jurisdiction in that case. In the case before us, the Applicants have addressed this concern by obtaining a Court order under the Class Proceedings Act, 1992 to bind all possible parties (but for the sole opt out)."

- 43) The document evidence and the professional standards applicable to Mercer's actuaries indicate that Mercer's would have agreed that Nortel could wind-up the HWT only after meeting its legal obligations for funding the LTD and survivors' income insurance benefits.

Exhibit "D"

[Affidavit of Michael McCorkle, sworn September 27, 2010](#)

"Nortel considered winding up the trust in 2006, but Mercer's and the Law Department's advice was that such an act would trigger an obligation to top up the income plan deficits immediately. Although we did not have a formally approved timeline in place to eliminate the HWT deficit, we did recognize that it was a firm obligation and we planned to return the \$30 million plus taken out of the HWT during 2005 to 2006."

- 44) Mercer's Valuation of the Obligations of the Health and Welfare Trust as at September 30, 2005 has a date of February 6, 2006 and the scope of work in this document is described to be valuing the net obligations of the Trust in the event they were to be fully funded as of September 30, 2005. Mercer's could not have approved the plan to wind-up the HWT and stop making employer contributions into the HWT beginning May 2005 before it had prepared this report.

Exhibit "S"

[Appendix GGG - Valuation of the Obligations of the Health and Welfare Trust as at September 30, 2005](#)

"Scope of Work"

Mercer Human Resource Consulting ("Mercer") was engaged to value the net obligations of Nortel Networks Corporation's ("Nortel") Health & Welfare Trust ("the Trust"). A description of the work to be performed was provided in our November 7, 2005 letter to Norma Crowder.

The results of this valuation represent the net obligations of the Trust in the event they were to be fully funded as of September 30, 2005. They are intended for use by Nortel in reviewing the Trust and its ongoing operations and may not be suitable for other purposes. In particular, the results of this valuation are not appropriate for accounting purposes or determining contribution levels, without modification. Other purposes may require additional determinations."

- 45) In addition, Mercer's actuaries must follow accepted actuarial practice given their profession, and it is clearly not accepted actuarial practice to wind-up an HWT, while its corporate sponsor is ongoing, with the intent to remove assets from the HWT that were required to pre-fund the incurred claims of the Nortel disabled and survivors' income benefits. Professional actuaries must describe their valuations clearly, and make them in the context of the HWT Trustee Agreement and the benefit plan documents.
- 46) The Third Party Trustee, Royal Trust, resigned or was terminated at about December 2005. Royal Trust was replaced by Northern Trust on December 1, 2005.

Exhibit "V"

[Nortel - Northern Trust HWT Successor Trustee Appointment and Acceptance Dec. 1, 2005](#)

- 47) The Nortel Treasurer Kate Stevenson and General Counsel - Operations William LaSalle wrote a letter to the replacement third party Trustee, Northern Trust, on December 1, 2005. This was the day Northern Trust signed its HWT Trustee Successor Appointment. This letter indemnifies Northern Trust for any liability associated with employer contributions not being determined on a sound actuarial basis, employer contributions being made or not made by Nortel to the HWT despite the HWT Trustee Agreement and even after the HWT is terminated.

Notwithstanding anything to the contrary in the Health and Welfare Trust and for the avoidance of any doubt, we agree that you shall have no responsibility for determining, reviewing or monitoring the amounts of Nortel Networks Limited's contributions required in order to fund adequately the Health and Welfare Plan ("Contribution Amounts") nor to advise and carry out administrative procedures in accordance with the Health and Welfare Plan and the eligibility Requirements. Nortel Networks Limited agrees that it shall be solely responsible for determining said Contribution Amounts on a sound actuarial basis and administering the Health and Welfare Plan and agrees to indemnify and hold you harmless from any and all costs, losses, damages, claims, actions, suits, Liabilities, expenses or other charges (including attorneys' fees) that you incur directly or indirectly arising out of the contributions made (or not made) by Nortel to the Health and Welfare Trust or out of the administration of the Health and Welfare Plan.

This indemnification shall survive the termination of the Health and Welfare Trust. To the extent necessary, this letter shall constitute an amendment to the Health and Welfare Trust.

Exhibit "W"

[Letter from Nortel to Northern Trust Dec. 1, 2005](#)

- 48) Mike McCorkle, the former Assistant Treasurer and Treasurer, swore an affidavit explicitly saying that Mercer's and the Law Department's advice was that such an act [winding-up the HWT] would trigger an obligation to top up the income plan deficits immediately.

Exhibit "D"

[Affidavit of Michael McCorkle, sworn September 27, 2010](#)

"8. Nortel considered winding up the trust in 2006, but Mercer's and the Law Department's advice was that such an act would trigger an obligation to top up the income plan deficits immediately. Although we did not have a formally approved timeline in place to eliminate the HWT deficit, we did recognize that it was a firm obligation and we planned to return the \$30 million plus taken out of the HWT during 2005 to 2006."

- 49) Chart 3 shows that the HWT had two purposes. One purpose was for the HWT to be a conduit for the administration of receiving required employer contributions to pay for annual pay as you go benefits. The second purpose of the HWT was for the accumulation of employer contributions, together with investment income, to fund disability income insurance and survivors' income insurance sponsored by Nortel, and not through third party insurers.

50) It has not been disputed in the court process that the HWT assets were intended to pay for the incurred claims of the income of the disabled and survivors of deceased Nortel employees. (J. Geoffrey Morawetz made a decision that there were also assets in the HWT to pay for the future life insurance premiums that Nortel promised to pay on behalf of the pensioners. This was not the position put forward with supporting expert evidence by the dissenting Nortel disabled. No appeal was permitted of J. Morawetz's decisions in respect to the Nortel HWT and the Nortel disabled.)

Exhibit "X"

[Endorsement HWT Distribution J. Morawetz Nov. 9, 2010](#)

[Endorsement Leave to Appeal HWT Distribution J. Weiler Jan. 7, 2011](#)

[Supreme Court of Canada Leave to Appeal J. LeBel, J. Fish, J. Cromwell June 9, 2011](#)

51) The sworn affidavit of Michael McCorkle confirms the differential treatment within the HWT of the pay as you go medical and life insurance benefits versus the funded LTD income benefit.

Exhibit "D"

[Affidavit of Michael McCorkle, sworn September 27, 2010](#)

3. The HWT was set up as a tax efficient vehicle by Nortel many years ago to promote the health and welfare of Nortel employees, and at the same time, to administer payments for Nortel pensioners' medical costs and life insurance coverage. The medical costs and life insurance premiums of the pensioners, and of the active and long term disabled employees were paid on the basis of what we called pay-as-you-go. Nortel made employer contributions into the HWT annually to reimburse the HWT for the employees' and pensioners' medical claims and the life insurance premiums paid to Sun Life.
4. At some point before my time at the Toronto office, the Pensioners' life insurance premiums stopped being paid for by employer contributions on a pay-as-you-go basis and began to be paid out of the HWT assets. We regarded the reserve assets for the Pensioners' Life Insurance Plan to be in run-off mode, as Nortel had determined earlier in the decade that it was not obliged to pre-fund pensioners' future life insurance premiums.
5. The income benefits for the long term disabled were treated differently, as these specifically involved the need to make employer contributions into the HWT to accumulate assets and produce investment income to pay for the future income of the employees that had become long term disabled.

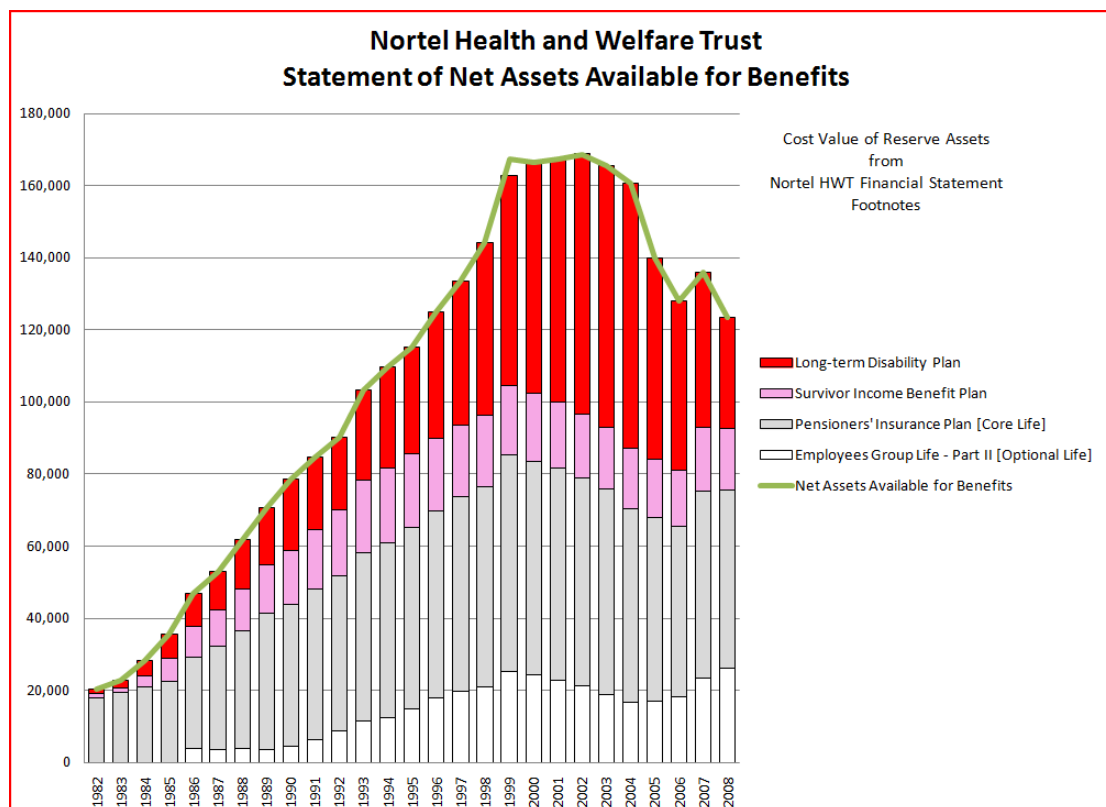
52) The sum of the asset reserves for the different Funded Plans in the Health and Welfare Trust equaled total net assets during the period 1982 to 2008 as shown in Chart 4A. No Medical and Dental Claims and the Core Employer Paid Life Insurance Premiums for the Active and LTD Employees are listed under the liabilities being funded in the HWT. There is no residual amount of assets in the HWT available to pay for these pay as you go benefits.

Exhibit "Y"

[HWT Financial Statements - Appendices O-RR](#)

53) In Chart 4B The Health and Welfare Trust Financial Statements Footnote 4 provides cost value of reserved assets for just five sub-accounts: Long Term Disability Plan, Survivor Income Benefits Plan, Survivor Transition Benefit Plan, Pensioners' Insurance Plan (Retiree Life), and Group Life - Part II (Optional Life).

CHART 4A:



Urquhart Investigative & Forensic Accounting adheres to all legislation governing the collection, use, and disclosure of personal information. The information provided herein is for your exclusive use only. In part or in aggregate, it may not be held, used, or disclosed for reasons other than those for which it is provided.

**NORTEL NETWORKS
HEALTH AND WELFARE TRUST FUND
Statement of Net Assets Available for Benefits
December 31, 2004
(in thousands of dollars)**

	2004	2003
INVESTMENTS (Note 3)		
Bonds and debentures		
Federal	\$ 23,568	\$ 29,712
Provincial	85,297	88,720
Corporate	30,083	23,575
	138,948	142,007
Cash and short-term investments	6,563	8,639
	145,510	150,646
ACCURED INTEREST	2,190	2,401
DUE FROM SPONSORING COMPANY	20,290	19,991
LONG-TERM RECEIVABLE (NOTE 3)	521	521
	23,000	22,913
TOTAL ASSETS	168,510	173,559
ACCURED CLAIMS PAYABLE (Note 2)	(8,012)	(7,995)
NET ASSETS AVAILABLE FOR BENEFITS (Note 4)	\$ 160,498	\$ 165,564

ON BEHALF OF NORTEL NETWORKS LIMITED

**NORTEL NETWORKS
HEALTH AND WELFARE TRUST FUND
Notes to the Financial Statements
December 31, 2004**

2004 Cost Value of Reserves Assets

Long-term Disability Plan	\$73,516
Survivor Income Benefit Plan	16,490
Survivor Transition Benefit Plan	-
Pensioners' Insurance Plan [Core Life]	53,918
Employees Group Life - Part II [Optional Life]	16,576
NET ASSETS AVAILABLE FOR BENEFITS	\$160,500

4. FUTURE BENEFIT PAYMENTS AND RELATED RESERVES

As at December 31, 2004, the estimated value of obligations under the various benefit plans exceeded the value of reserved assets in the Fund. The funding status of the Reserved Plans and Survivor Transition Benefit Plan at year end is as follows:

(a) Plans requiring a series of benefit payments

Certain plans entail a regular series of benefit payments to a claimant. The estimated present value of the future payments anticipated to be made after December 31, 2004 in respect of claims which commenced before that date and the related value of assets reserved in the Fund are as follows:

	2004		2003	
	Present Value of Future Payments	Cost Value of Reserved Assets	Present Value of Future Payments	Cost Value of Reserved Assets
	(\$'000)	(\$'000)	(\$'000)	(\$'000)
Long-term Disability Plan	\$ 104,138	\$ 73,516	\$ 102,641	\$ 72,735
Survivor Income Benefit Plan	17,068	16,490	18,198	17,026
Survivor Transition Benefit Plan	359	-	1,055	-
	\$ 121,565	\$ 90,006	\$ 121,894	\$ 89,761

The actual benefit payments are charged against the Fund in the period in which they are paid.

(b) Plan requiring lump sum payments - Pensioners' Insurance Plan

An actuarial valuation of the Pensioners' Insurance Plan is performed by an independent actuary every three years.

The most recent actuarial valuation of this Plan, dated as at January 1, 2002, indicates that, at that date, the actuarial liabilities amounted to \$74,931,000 and the market value of the assets amount to \$63,551,000. Therefore, there exists a funding deficiency of \$11,380,000. The interest rate actuarial assumption is 7.0% per annum.

The Plan, as at December 31, 2004, has assets reserved with a book value of \$53,918,000 (2003 - \$57,059,000).

(c) Plan requiring lump sum payments - Group Life - Part II

Employees have the option to purchase additional group life insurance coverage up to age 65. This is fully employee funded, and the value of the assets reserved at December 31, 2004 totaled \$16,576,000 (2003 - \$18,744,000).

2004 Cost Value of Reserve Assets

Pensioners, Active and LTD Employees	
Medical and Dental Benefits Plans	NONE
Active and LTD Employees	
Core Life Insurance Plans	NONE

- 54) The HWT Financial Statement for 2007 contains a change in accounting policy, which is to exclude from sponsor company contributions and from benefits paid the amount relating to medical, dental and company paid group life, as these are not benefits for which the Fund has assets.

"4. COMPARATIVE AMOUNTS

Due to the implementation of the basis of presentation as outlaid in note 2(c) above, comparative amounts for 2006 have been materially changed to reflect current accounting methodology. 2006 investment in bonds were increased by \$21,814 to reflect the market value of these investments. 2006 "change in unrealized gains" were increased by \$2,735 to reflect the decrease, year-over-year in the unrealized gain and losses", and the balance of \$ 19,086 was added to "Opening Net Assets Available for Benefits".

In addition, the comparative figures in the statement of changes in net assets has been changed to exclude from sponsor company contributions and from benefits paid the amount relating to medical, dental and company paid group life, as these are not benefits for which the Fund has assets. In 2007, the Fund changed its policy to billing the sponsor company directly for the benefits paid on its behalf rather than recording benefits paid and a matching contribution. Accordingly 2006 contributions and benefits paid were reduced by \$38,128."

Exhibit "Y"

[HWT Financial Statements - Appendices O-RR](#)

- 55) Employees paid source deductions to buy optional LTD income benefits. Starting in 1995 and until 2006, the Core Long-Term Disability Benefit paid by Nortel covered 50% of FLEX Earnings and the employees could purchase Optional Long-Term Disability Benefit to "Raise 50% benefit to 70%." 2007 and later, the Core Long-Term Disability Benefit paid by Nortel covered 50% of FLEX Earnings and the employees could purchase Optional Long-Term Disability Benefit to "Raise 50% benefit to 66-2/3%%." The cost of the Optional Long-Term Disability coverage was unchanged at 0.45% of FLEX Earnings during 1995 up to 2007, rising to 0.50% in 2008. Prior to 1995, the Core Long Term Disability Benefit paid by Nortel covered 70% of FLEX Earnings.
- 56) Nortel employees paid for their optional disability insurance coverage using a combination of FLEX credits paid for by the employer and payroll deductions from their salaries. A Nortel employee who later became disabled was paying \$9.61 per pay period or \$250 per year as shown in the Nortel FLEX benefits confirmation statement for 1997. The same Nortel employee was paying \$11.33 per pay period or \$295 per year for the optional coverage in 1999.

Exhibit "Z"

[Nortel FLEX benefits confirmation statement 1997](#)

Exhibit "AA"

[Nortel Your Default Benefit Statement 1999](#)

57) The format of the Nortel FLEX benefits confirmation statement was more informative in 2000, where we see that Nortel paid \$467 per year for the core 50% coverage and the employee paid \$339 per year for the optional increase in coverage from 50% to 70% of pre-disability income. Interesting to note is that the employee paid more than his fair share of the disability insurance coverage considering his cost was 42% of the combined employer and employee cost, whereas the incremental coverage bought was just 29% of the total coverage amount. The combined employer and employee cost of \$806 per year was just 1.07% of pre-disability income.

Exhibit "BB"

[Nortel FLEX benefits confirmation statement 2000](#)

58) There was no disclosure made to the Nortel LTD beneficiaries of the following facts that were severely detrimental to their interests and for which all of Nortel's Pension Policy Committee of Directors, Pension Investment Committee of Senior Executives and the HWT's external Trustees, Royal Trust and subsequently Northern Trust, had a fiduciary duty to act in the interests of the HWT's beneficiaries. Failure to disclose HWT activities that are contrary to the interests of the Nortel LTD cannot reasonably be considered to be not nefarious or not deceitful and to be open and transparent as they could be in the situation.

- Nortel's intent to wind-up the HWT, a Bona Fide Trust, containing the asset reserves specifically there to fund the Nortel disabled current and future income as prescribed in the HWT Trustee Agreement (in addition to the survivors' income insurance asset reserves);
- Not making reimbursement payments into the HWT for pay as you go benefits paid by the HWT during May 2005 to April 2006;
- Not making required employer contributions for the newly determined Nortel disabled beneficiaries contrary to the Trustee Agreement;
- Using the asset reserves relating to the Trustee Agreement's requirement for Nortel to pay the current and future income of existing Nortel disabled (and survivors') beneficiaries for the unintended purpose of paying the pay as you go benefits during May 2005 to April 2006. The HWT did not contain any assets whose purpose was to pay for these latter expenses since these latter expenses

are paid by Nortel's reimbursement payments going into the HWT each year on a pay as you go basis. Pre-funding of these expenses within the HWT is not permitted in the Income Tax Act and the CRA Interpretations and Rules governing HWTs.

- 59) Nortel LTD employees received T4s in 1996 from the Health and Welfare Trust and T4As in 2003 from the Nortel Health and _____, and so the employees were informed about the existence of the HWT.

Exhibit "CC"

[T4A 2003](#)

Exhibit "DD"

[T4 96 & T4A's 2003 & 2004](#)

- 60) On March 15, 1999, Nortel disabled employees received a Notice Long Term Disability (Ltd) - Deduction Changes, in which it was disclosed that CPP-QPP contributions would no longer be a payroll deductions from their wage loss replacement income. The reason given provides another disclosure that Nortel's "wage loss replacement plan" was funded under the Northern Health and Welfare Trust:

"Why the Change?

The change stems from our consultants' review of tax issues related to the LTD Program. That review determined that, since the LTD plan is a "wage loss replacement plan" funded under the Northern Telecom Health and Welfare Trust (HWT), CPP/QPP contributions should not apply to LTD benefit payments. The other required change is that LTD benefits will be reported on a T4A slip rather than a T4 slip."

Exhibit "EE"

[Notice Long Term Disability \(Ltd\) - Deduction Changes March 15, 1999](#)

- 61) Nortel acknowledged that its Health and Welfare Trust held a reserve from which reimbursement for current and future claims liability for approved LTD claims is paid in correspondence with one Nortel disabled employees' lawyer.

This Nortel disabled employee's lawyer asked 3 questions in a letter to a Nortel lawyer dated November 5, 2002:

- i. Is Nortel's LTD plan underwritten by an insurer?
- ii. Does Nortel's LTD plan have a segregated fund for financing benefit payments?
- iii. What measures has Nortel taken to provide funding for future LTD benefits in the event of an assignment in bankruptcy?

The Nortel lawyer responded to the 3 questions in a letter dated November 8, 2002:

No, our LTD plan is self-insured.

Contributions are paid into and claims are paid out of a Health & Welfare Trust.

Nortel's contributions are for core coverage. Employees contribute for optional coverage using company-provided FLEX credits.

I will not engage in this exercise in speculation. I would, however, point out that there is a Health & Welfare Trust that holds a reserve from which reimbursement for current and future claims liability for approved LTD claims is paid, as noted above.

Exhibit "FF"

[Correspondence between LTD's Lawyer and Nortel April 26, 2002 to Feb. 3, 2003](#)

- 62) Nortel first disclosed its long term disability plan was self-insured in its 2005 and subsequent benefit handbooks on or about p. 2:

"Did you know: Most of Nortel's Health & Group Benefits, including short-term disability, long-term disability, medical and dental/vision/hearing care, are self-insured. This means that Nortel plays a role similar to that of an insurance company for its employees. In other words, the Company assumes the risks and pays the claims directly from its net income or retained earnings. The insurance company only provides administrative services such as claims processing."

Exhibit "GG"

<http://ismymoneysafe.org/Nortel2/2005 FLEX Benefits Enrolment Guide.pdf>

<http://ismymoneysafe.org/Nortel2/2005 FLEX Benefits Handbook.pdf>

<http://ismymoneysafe.org/Nortel2/2005 Guide D'Inscription Au Regime d'avantages sociaux a la carte.pdf>

<http://ismymoneysafe.org/Nortel2/2005 Brochure d'avantages sociaux a la carte.pdf>

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<http://ismymoneysafe.org/Nortel2/2009 FLEX Benefits Enrollment Guide.pdf>

<http://ismymoneysafe.org/Nortel2/2009 FLEX Benefits Handbook.pdf>

<http://ismymoneysafe.org/Nortel2/2009 New Hire Benefits Information.pdf>

- 63) The disability self-insured disclaimer provided in Nortel's 2005 and subsequent year employee benefit brochures is false, misleading and deceitful. Starting in 2005, Nortel did not maintain adequate financial reserves to fund its disability insurance as it should have done in playing its role similar to that of an insurance company. The Nortel Health and Welfare Trust wind-up distribution funds just 35% of the December 31, 2010 actuarial liabilities estimated by Mercer's for the current and future income within the incurred claims of the Nortel disabled former employees.

- 64) The Health and Welfare Trust was deceptively not audited from 2002 to 2009 even though the Nortel Internal Company Manual required an annual external audit of the HWT under section 1.17. This is clearly a breach of duty of the Trustee who failed to ensure the audits were completed.

65) The HWT Financial Statements stopped being externally audited beginning in the Year 2002, which is the same year that Frank Dunn, David Beatty and Michael Gollogly are charged with the criminal offence of creating arbitrary reserves for the purpose of releasing these reserves in the first quarter of 2003 and obtaining a return to profitability bonus. Nortel's Treasurer, Kate Stevenson, is one of the signatories of the HWT Financial Statements in 2001, 2005, and 2006, with an illegible co-signor in 2001 and Controller Canada, Mark Hamilton, the co-signor in 2005 and 2006. There were no Nortel signatures on the HWT Financial Statements for 2003, 2003 and 2004.

Exhibit "Y"

[HWT Financial Statements - Appendices O-RR](#)

HWT Financial Statement Year	Externally Audited	Pg.	Nortel Signatures	Pg.
1982 to 1999	Deloitte & Touche, or Predecessor firm		YES	
2000	Deloitte & Touche	143	Doug Beatty Other (A)	145
2001	Deloitte & Touche	152	Kate Stevenson Other (A)	154
2002	NO Chartered Accounts	161	None	
2003	NO Tax Department File Reference Only	171	None	
2004	NO Tax Department File Reference Only	178	None	
2005	NO Chartered Accountants	188	Kate Stevenson Mark Hamilton - Controller Canada	189
2006	NO No Identifier	195	Kate Stevenson Mark Hamilton - Controller Canada	197
2007	NO No Identifier	203	Wasim Haque - Controller Canada	205
2008	NO Management's Report - Wasim Haque	212	Wasim Haque - Controller Canada	212
2009	NO No Identifier	221	None	

Employee Knowledge Summary

66) The employees were deceptively told they had disability insurance equal to 50% of their salaries. The company had offered an additional 20% of disability insurance coverage if the employee signed up and paid out of their own pocket by deduction from their pay cheque. So the employees were told by the company they either had 50% or the 70% disability insurance coverage. The employees thought they were insured by an outside disability insurance carrier. Later when Nortel told the employees they're disability insurance was self-insured, it did not tell them of the risk of no coverage in case of bankruptcy. The employees, not perceiving any risk in the disability insurance coverage in place, did not look for disability coverage from outside disability insurance carriers.

67) An internal Nortel report dated May 31, 1999 received by a Nortel disabled employee in a court discovery process showed that Nortel held a \$236,676.44 reserve for a disability incurred claim in her specific name and policy certificate number.

Exhibit "R"

[Nortel Internal Document Showing Reserve \\$ Amount for LTD Claimant May 31, 1999.pdf](#)

68) Nortel LTD employees received T4s in 1996 from the Health and Welfare Trust and T4As in 2003 from the Nortel Health and _____, and so the employees were informed about the existence of the HWT.

Exhibit "CC"

[T4A 2003](#)

Exhibit "DD"

[T4 96 & T4A's 2003 & 2004](#)

69) The Nortel HWT was the vehicle for executing Nortel's "utmost good faith" insurance contract. The Nortel disability benefit plan was an insurance contract with legal liability created when the required employer and employee contributions were placed in the trust = HWT. Nortel had knowingly misappropriated funds from the HWT for an unauthorized purpose which the Trustee did not stop. The Trustee showed "bad faith" as well as a breach in his fiduciary duty.

- 70) Any borrowing /removal of funds without beneficiary approval is knowingly misappropriation of funds from the Trust. Nortel led its employees to believe they were insured before 2005 and, even at 2005 and after, Nortel says "Nortel plays a role similar to an insurance company for its employees," while it was removing insurance reserve assets from the Trust = HWT. The evidence shows Nortel employees knew about the Nortel HWT, and while employees did not see the third party Trustee Agreement with Northern Trust and prior trust companies, the case law with respect to both Trusts and insurance contracts say the courts must err on the side of Trust beneficiaries and the insured in respect to legal contracts not seen by the Trust beneficiaries and the insured, when making its decisions regarding the legal responsibilities of third party Trustees and insurers.
- 71) The disability self-insured disclaimer provided in Nortel's 2005 and subsequent year employee benefit brochures is false, misleading and deceptive. Starting in 2005, Nortel did not maintain adequate financial reserves to fund its disability insurance as it should have done in playing its role similar to that of an insurance company. The Nortel Health and Welfare Trust wind-up distribution funds was just 35% of the December 31, 2010 actuarial liabilities estimated by Mercer's for the current and future income within the incurred claims of the Nortel disabled former employees.
- 72) The long- term disabled struggling and worried about their financial future never would have considered themselves in a position to help finance Nortel while it faced declining cash balances. But Nortel management and the Trustees of the HWT by deceit knowingly misappropriated \$32 million for the unauthorized purpose Nortel operating expenses for a year.

Rationalization

- 73) From May of 2005 to April of 2006 the pension committee and senior executives perpetuated a scheme to misappropriate funds over an extended period of time by failing to reimbursement the pay as you go benefits temporarily paid from the HWT, despite their fiduciary duty and legal obligation to pay for these claims and its practice for doing so in the prior 25 years.

This \$32 million misappropriation of funds from the HWT, was knowingly misappropriated from the disabled and survivors, for a use other than authorized, to lower Nortel's loss in 2005 and raise its profit in 2006 for the benefit of Nortel's owners, with its related impact on Nortel employee incentive bonuses.

- 74) Management rationalized their misappropriating of the HWT funds to pay for their own pay as you go expenses as only a timing issue with their intent to put the

money back for the named disabled employees when Nortel's financial position improved.

- 75) After April 2006 the evidence of subjective awareness was when Nortel devised a plan to repay the misappropriated Trust funds to the HWT.

Exhibit "D"

[Affidavit of Michael McCorkle, sworn September 27, 2010](#)

"Nortel considered winding up the trust in 2006, but Mercer's and the Law Department's advice was that such an act would trigger an obligation to top up the income plan deficits immediately. Although we did not have a formally approved timeline in place to eliminate the HWT deficit, we did recognize that it was a firm obligation and we planned to return the \$30 million plus taken out of the HWT during 2005 to 2006."

Remarks & Closing

- 76) Our comments are based on information provided to us. If additional information is made available to us, we reserve the right to revise our report.
- 77) In preparing this report we have relied upon unaudited financial information, the company's records and financial information prepared by the company. We have not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information, and accordingly, express no opinion or other form of assurance on the financial information contained in this report.

Charlotte M. Urquhart CA, CA•IFA
CA-designated specialist in investigative and forensic accounting



DATE: July 30, 2012

CLIENT: Nortel Disabled

SUBJECT: Fraud and Misappropriation – Trust Funds Complaint

LIST OF EXHIBITS:

Exhibit "A"

[Nortel - Montreal Trust HWT Trustee Agreement Jan. 1, 1980](#)

Exhibit "B"

[Chilton v. Co-operators Insurance Co., 1997 CanLII 765 \(ON CA\)](#)

Exhibit "C"

[Nortel Networks Corporation 10 K 2004 dated May 2, 2005](#)

PDF Page 357, F-88

Exhibit "D"

[Affidavit of Michael McCorkle, sworn September 27, 2010](#)

Exhibit "E"

[Nortel Networks Corporation 10K 2005 dated May 1, 2006](#)

PDF Page 175

Exhibit "F"

[Fifty-First Report of the Monitor, dated August 27, 2010](#)

Exhibit "G"

[Nortel News Release 2003Q3 Results October 23, 2003](#)

Exhibit "H"

[Nortel News Release President and CEO as well as CFO and Controller, Terminated April 28, 2004](#)

Exhibit "I"

[Nortel Networks Corporation 10 K 2003 dated Jan. 11, 2005](#)

Exhibit "J"

[RCMP IMET Case in Progress - Nortel](#)

Exhibit "K"

[IT85R - Pre 1986 Health and Welfare Trusts for Employees Jan. 20, 1975](#)

Exhibit "L"

[IT428 - Wage Loss Replacement Plans April 30, 1979](#)

Exhibit "M"

[Income Tax Act Amendment S. 18 \(9\) \(a\) \(iii\) Dec. 11, 1979](#)

Exhibit "N"

[Appendix KKK - Internal Company Manual 1981](#)

Exhibit "O"

[CRA Ruling Document # 9412155 - HWT Surplus - July 26, 1994](#)

Exhibit "P"

[Canadian Pacific Case on LTD Benefits Not a Contingency Reserve Sept. 10, 1998](#)

Exhibit "Q"

[ASO Agreement with Clarica Insurance Jan. 1, 1999](#)

Exhibit "R"

[Nortel Internal Document Showing Reserve \\$ Amount for LTD Claimant May 31, 1999](#)

Exhibit "S"

[Appendix GGG - Valuation of the Obligations of the Health and Welfare Trust as at September 30, 2005](#)

Exhibit "T"

[Ontario Variance of Trust Act R.S.O. 1990, CHAPTER V.1](#)

Exhibit "U"

[Montreal Trust v. Superintendent of Financial Services Decision No. P0307-2008-1, Jan. 7, 2009](#)

Exhibit "V"

[Nortel - Northern Trust HWT Successor Trustee Appointment and Acceptance Dec. 1, 2005](#)

Exhibit "W"

[Letter from Nortel to Northern Trust Dec. 1, 2005](#)

Exhibit "X"

[Endorsement HWT Distribution J. Morawetz Nov. 9, 2010](#)

[Endorsement Leave to Appeal HWT Distribution J. Weiler Jan. 7, 2011](#)

[Supreme Court of Canada Leave to Appeal J. LeBel, J. Fish, J. Cromwell June 9, 2011](#)

Exhibit "Y"

[HWT Financial Statements - Appendices O-RR](#)

Exhibit "Z"

[Nortel FLEX benefits confirmation statement 1997](#)

Exhibit "AA"

[Nortel Your Default Benefit Statement 1999](#)

Exhibit "BB"

[Nortel FLEX benefits confirmation statement 2000](#)

Exhibit "CC"

[T4A 2003](#)

Exhibit "DD"

[T4 96 & T4A's 2003 & 2004](#)

Exhibit "EE"

[Notice Long Term Disability \(Ltd\) - Deduction Changes March 15, 1999](#)

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<http://ismymoneysafe.org/Nortel2/2009 New Hire Benefits Information.pdf>

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