

August 3, 2011

The Honourable Minister of Finance Dwight Duncan,
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The Honourable Minister of Consumer Services John Gerretsen,
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Dear Ministers Dwight Duncan and John Gerretsen:

The Nortel disabled urge the Ontario government to enforce the Consumer Protection Act (OCPA) for unfair practices as the Province is now doing to enforce the Environmental Protection Act against Nortel for the clean up of their former London telephone plant and neighbouring properties polluted with dangerous compounds.

The Environment Ministry makes no excuses or apologies for taking legal action to get priority payment of the environmental clean up costs within Nortel's CCAA proceedings. Canadians expect the government to protect the environment because there is no one else to do so. The same can be said of the need for the Ontario government to force a priority remedy for the misrepresentations on disability insurance Nortel sold its employees. Such action is within the jurisdiction of the Consumer Protection Act.

The Environment Ministry is using government lawyers scheduled to appear in CCAA court on Sept. 19th for a three day hearing to defend taxpayers and the environment. Nortel has claimed bankruptcy law trumps environmental law and they shouldn't have to pay the estimated \$10M to clean up this site. The Ontario government is exerting its legal rights within the CCAA process

These would be the same steps for enforcement of the OCPA on a corporation under CCAA, subject to the interim steps of going to court for a freeze of assets and then adjudication of the unfair practices charges and restitution order against Nortel and Sun Life.

It is very clear in the OCPA S. 117 that the Ministry of Consumer Services can lay charges of Unfair Practices Offences against both Nortel and Sun Life. Then, a court judge adjudicates the offences, and if found guilty of an offense, the judge may order Nortel and/or Sun Life to pay restitution of the damages borne by Nortel disabled employees.

Orders for compensation, restitution

117. If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to pay compensation or make restitution.

Both the Superintendent of FSCO's representation by Paliare Roland Rosenberg Rothstein LLP and the Ministry of Environment's AG lawyers' representation in the Nortel CCAA proceedings are adversely impacting the Nortel disabled in material ways. The adverse impact of the Superintendent of FSCO's actions were discussed in our July 26, 2011 letter.

- \$380 M OPBGF creditor claim and \$10 M Ministry of Environment creditor claim directly competing with Nortel disabled creditor claim.
- Superintendent of FSCO supporting the Nortel March 30, 2010 interim settlement with its legal release denying all actions by Nortel disabled for remedy of misrepresentations and breach of trust relating to Nortel's disability insurance and Health and Welfare Trust. Fortunately, the Ontario Government was not a signatory and therefore is not restricted from taking the OCPA enforcement actions, especially upon examination of the new evidence. Ken Rosenberg of Paliare Roland Rosenberg Rothstein LLP expressed the Ontario Government's support at both court hearings for the settlement and amended settlement agreements, notwithstanding the legal arguments on behalf of the dissenting Nortel disabled presented by Joel Rochon of Rochon Genova LLP at both hearings.
- Using Ontario taxpayers money, including the Nortel disabled taxes paid, to assist the Nortel pensioners, with minimal financial benefit to the Nortel disabled, while taking no action to mitigate the poverty and injustice of the Nortel disabled relating to the misrepresentations of their disability insurance.

Surely, it is not the intention of the Ontario Government to take money from the Nortel disabled insurance settlement for the benefit of Ontario taxpayers, while at the same time refusing to enforce the Consumer Protection Act. The Ontario Government does not need to make a law amendment. Use of OCPA S. 117

prevents our poverty, and possible premature death, due to the mental stress on us caused by the systemic failure of Nortel, Sun Life, Northern Trust, and subsequently the courts and governments, who are choosing not to use available legal tools to protect us.

Sincerely,

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