

United Senior Citizens of Ontario August 17, 2009 Annual Convention

Is My Money Safe?
Underfunded Pension Plans and
Reduced Retirement Security

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Estimated Damages to 20,000 Nortel Retirees, Long Term Disabled and Terminated Employees

- Canadian pensioners' income loss estimated at least -28%
- Lost post-retirement health benefits estimated up to \$350 per month
- Disabled former employees' income loss of up to -90%
- Terminated employees getting only an estimated 10% of their severance

FINANCIAL POST

Wednesday, July 8, 2009

Nortel's disabled benefits may go

Victim of CCAA process

Karen Mazurkewich, Financial Post

Presented by



National Post
Podcasts



Reuters

Nortel Networks Corp. has claimed another victim: Employees on long-term disability are just learning that their benefits, which they thought were insured, may be cut off if the company does not emerge intact from *Companies' Creditors Arrangement Act* protection.

Months after Nortel filed for bankruptcy protection, Susan Kennedy learned her benefits were not insured by Sun Life Assurance Co. of Canada, the company issuing her cheques.

Instead, her long-term disability (LTD) payments have been made from a Nortel Health and Welfare Trust, and Sun Life was simply administering benefits on Nortel's behalf.

Comparison of Canada, U.S. And U.K. Pension Benefit Insurance Programs

	Home	03-Aug-09 Canadian
Maximum Annual Guarantee	Currency	Dollars
Canada Outside of Ontario Residents	\$0	\$0
Ontario Pension Benefit Guarantee Fund	\$12,000	\$12,000
U.S. Pension Benefit Guarantee Corp.	\$54,000	\$58,511
U.K. Pension Protection Fund	GBP 28,743	\$51,397

Federal Bankruptcy Laws Nullify Provincial & Federal Pension Protection Laws

- Federal Government's bankruptcy laws have nullified all of the Provincial laws for pension benefits and severance protection
- Pension deficits treated as claims equal to bond owner claims and other unsecured creditor claims
- Outside of Federal bankruptcy laws, Provincial and Federal pension benefit laws require Special Contributions over 5 years to eliminate Pension Fund Deficits

The Acronyms

BIA =

Federal Bankruptcy and Insolvency Act

CCAA =

Federal Companies' Creditors Arrangement Act

What We're Asking For - BIA Amendment

Urgent grant of "preferred" status to pensioner, disabled and severed employee claims above unsecured creditors

Pro: Costs the taxpayer nothing, good social policy

Pushback: Cost of Canadian debt goes up for corporations

Reply:

(1) Cost of Canadian debt goes up nominally
= 0.05% to 0.26%

(2) Bond owners have access to insurance, pensioners do not
= Flagrant imbalance in current BIA

The Equitable Principles for Pension & Health Plan Deficits and Severance Getting BIA Preferred Status

- Pensioners, disabled and severed employees are persons with one source of income
 - Pensioners and long term disabled cannot be expected to go back to work
 - Severeds need to live while looking for work and retirement savings get depleted
- Pensioners, disabled and severed employees were promised employment benefits by implicit or explicit contract [pensions were deferred wages]
- Pensioners, disabled and severed employees are not in the business of extending credit, like the debt investors or suppliers
- Pensioners, disabled and severed employees have no tax credits to cushion their after tax damages – unlike the debt holders and suppliers
- Pensioners do not have access to insurance, whereas bond owners do

Nortel Bankruptcy Situation

- Hedged Bond Owners Used Credit Default Swaps to Gain a Profit of 28%
 - Nortel credit default swap cash settlement = insurance settlement on Feb. 10, 2009 is much higher than expected Nortel bond damage

Bond Purchase	(\$1.00)
CDS Cash Settlement	\$0.88 (Above true damage est. \$0.60)
Bond Liquidation Proceeds	<u>\$0.40</u>
Profit	\$0.28

- While Pensioners, Disabled and Terminated Employees Are Told to Share the Pain with an Expected Income Cut of -28%

Credit Default Swap Market

Strong Incentive for Bankruptcy Filings

- Need to make a bankruptcy court filing in order to create a credit event under the Credit Default Swap Contracts
- Once there is a credit event, then a CDS Cash Settlement Auction is called by the International Swaps and Derivatives Association
- The CDS Cash Settlement Auction is conducted shortly after the bankruptcy filing announcement when the bond price is apt to be at its lowest level (Insurance \geq Actual Damage)

Cost and Availability of Debt

Counter-Arguments

- Impact of BIA amendment is an increase in interest rates by only 0.05% to 0.26% annually for the debt market as a whole.
- Investment banks and debt players throughout Canada and the world were responsible for the toxic structured credit products that caused the financial crisis.
- These players caused corporate bond interest rates to rise by 2.50% to 13.50% compared to the 0.05% to 0.26% that the BIA amendment would cause.

Corporations Hoisting Pensioners, Disabled and Terminated Employees onto Public Social Security Programs

- Public taxpayers and public insurance premium payers should not be required to bear the burden for corporations who choose to enter bankruptcy protection and who can afford to pay for pension, health and long term disability benefits and severance
 - Can afford executive and current employees' bonuses
 - Businesses are being sold for \$ billions in a liquidation rather than a bankruptcy with locks on the door and auctions for used machinery & equipment

CPP Fiscal 2009 Loss = \$24 Billion
CPP Executive Bonuses = \$7 Million



Four Canada Pension Plan Investment Board executives were paid nearly \$7 million in bonuses for the 2008-09 fiscal year, ended March 31. Their investments lost 18.6 per cent of their value during that period.

Public Pension Plans

Executive Bonuses Despite \$ Billions Loss

Public Pension Plans	Investment Loss		Fiscal Year	CEO Pay	
	\$ Billions	%		Total	Salary
Canada Pension Plan	-\$24	-19%	March 31, 2009	\$2,893,600	\$490,000
PSP Investments	-\$10	-23%	March 31, 2009	\$1,419,598	\$485,000
Ontario Teachers Pension Plan	-\$19	-18%	Dec. 31, 2008	\$2,036,788	\$441,923
OMERS	-\$8	-15%	Dec. 31, 2008	\$3,750,469	\$474,904
Caisse	-\$40	-25%	Dec. 31, 2008	\$3,285,100	\$267,700

Public Pension Plans

What Needs to Be Fixed?

- Executive Compensation Plans
- Audit of Investment Performance Benchmarks
 - ✓ Real Estate
 - ✓ Infrastructure
 - ✓ Private Equity
 - ✓ Hedge Funds
- Board Governance and Public Accountability

Unanimous Consent in the House of Commons on Motion to Work With Provinces on Pensions

Mr. Marston (NDP MP Hamilton East—Stoney Creek), seconded by Mr. Mulcair (NDP MP Outremont), moved, — That, in the opinion of the House, in light of the legitimate concerns of Canadians that pensions and their retirement security may not be there for them in their retirement years, the Government of Canada should begin to work with the provinces and territories to ensure the sustainability of Canadians' retirement incomes by bringing forward at the earliest opportunity, measures such as:

- (a) *expanding and increasing the CPP/QPP, OAS and GIS to ensure all Canadians can count on a dignified retirement;*
- (b) *establishing a self-financing pension insurance program to ensure the viability of workplace sponsored plans in tough economic times;*
- (c) *ensuring that workers' pension funds go to the front of the line of creditors in the event of bankruptcy proceedings;*
- (d) *in the interest of appropriate management of the CPP that the Government of Canada immediately protect the CPP from imprudent investment practices by ceasing the practice of awarding managers performance-based bonuses; and (e) take all necessary steps to recover those bonuses for 2009, ensuring managers in the future are paid appropriate industry competitive salaries.*

DATE OF UNANIMOUS CONSENT – JUNE 16, 2009

Ontario Private Member's Resolution

- On May 7, 2009, Liberal MPP Carol Mitchells' private member's resolution was voted on and carried in the house. It reads:
- Mrs. Mitchell - That, in the opinion of this House, **the Government of Canada should protect Ontario workers' severance and termination pay when their employer goes bankrupt by amending the Bankruptcy and Insolvency Act to provide employees with preferred creditor status,** so workers' salaries and compensation rank ahead of banks and insurance companies; and by increasing the maximum employee eligibility amount from the Federal Wage Earner Protection Program.

Where to Learn More

Fix BIA Now! Campaign Website

(Administered by Paul Hanrieder in Calgary, Alberta):

<http://groups.yahoo.com/groups/ismymoneysafe>

Proposed New Federal/Provincial Securities Crime Unit

www.ismymoneysafe.org