

PENSIONERS HAVE RIGHT TO VOTE ON FINAL CCAA PLAN

Written by Diane Urquhart, October 28, 2017

Unfortunately, debtors, CCAA court appointed representative legal counsel for pensioners, court appointed pensioners' representatives, court monitors and judges have not exerted the legal right of individual pensioners to vote on the CCAA Final Plan. The Nortel CCAA proceeding is a case in point. The power of the individual pensioners' vote was squandered by the pensioners' representatives on the advice of Koskie Minsky from the beginning of the Nortel CCAA process.

The Companies Creditors Arrangement (CCAA) requires that creditors vote on the CCAA Final Plan of Compromise. The court may sanction the CCAA Final Plan after 50.1% of the creditors by head count and 66-2/3% of the value of the creditors vote yes to the CCAA Final Plan. Typically all unsecured creditors vote in one broad class. The Federal Government legislators included the 50.1% headcount vote majority requirement in order to balance the power in negotiations between the large creditors, like bond owners and suppliers, and small creditors, like individual Canadians.

The CCAA defines the words claim, securities creditor and unsecured creditor. A claim is any indebtedness, liability or obligation of any kind. A creditor would then be an entity that has a claim. The CCAA distinguishes between a secured creditor and an unsecured creditor, the latter being any creditor that is not a secured creditor.

Pensioners are beneficiaries of registered defined benefit pension plans, where assets are held in trust to fund their promised pension income. The question is: Is the registered defined benefit pension plan the creditor or are the thousands of pensioner beneficiaries of this plan the creditors for the purpose of voting at the creditors' meeting. Our answer to this question is that the pensioner beneficiaries should be the creditors for the purpose of voting at the creditors' meeting. Here's why?

The CCAA's 50.1% head count majority requirement was intended to give power to small creditors in negotiations of settlements, and pensioners as individual Canadians are small creditors. When both a corporation and a corporation sponsored defined benefit pension plan are being liquidated, the pensioner has a claim against the pension plan and also against the corporation for any deficit in the pension plan, with the latter being his share of an "indebtedness, liability or obligation of any kind" owed by the corporation to him or her specifically. The Ontario Pension Act goes so far as to call the deficit of a pension plan a deemed trust. Trusts are a conduit for beneficiaries, that have a legal relationship with the pensioners, but are not distinct legal entities. Therefore, the pension plan itself is not an unsecured creditor, only its pension beneficiaries should be considered unsecured creditors for the purposes of the vote.

Interestingly, the CCAA says "a trustee for the holders of any unsecured bonds issued under a trust deed or other instrument running in favour of the trustee shall be deemed to be an unsecured creditor for all purposes of this Act except for the purpose of voting at a creditors' meeting in respect of any of those bonds." If individual bond owners are unsecured creditors for voting purposes despite there being a trust deed and trustees, then individual pensioner beneficiaries would surely have been contemplated by the legislation drafters to be unsecured creditors for voting purposes also. Otherwise, these legislators would be putting pensioner beneficiaries at a severe disadvantage compared to individual bond owners, contrary to the very intention of having a 50.1% headcount vote majority.

The CCAA does not have rules of priority amongst creditors and its purpose is to provide court protection from creditors forcing liquidation under the Bankruptcy and Insolvency Act (BIA.) The SCC has decided that the purpose of the CCAA is to facilitate reorganization or restructuring of a corporation, in order to avoid liquidation and thereby save jobs, enable the survival of suppliers and mitigate damages to Canada's economic growth. The CCAA is purposely a skeletal act that contemplates the possibility for negotiated settlements involving unequal treatment of unsecured creditors. The CCAA intended that creditor groups holding more than 50.1% of the headcount votes to have the power to negotiate better settlements than would occur upon liquidation under the BIA. The retail owners of Non Bank Asset Backed Commercial Paper were able to get negotiated full cash settlement within the Non Bank ABCP CCAA Final Plan because they had the power of the 50.1% head count majority.

Here is how pensioners lost their right to an individual vote on the Nortel CCAA Final Plan. This was a four step process agreed to by the debtor, Nortel; court appointed representative legal counsel for former employees including the pensioners, Koskie Minsky LLP; court appointed representatives of former employees, including pensioners, Don Sproule, David Archibald and Mike Campbell; the CCAA court monitor, Ernst & Young; and judges, J. Geoffrey Morawetz and J. Frank Newbold. At no time during the Nortel CCAA proceeding did any of these central players argue that the pensioners should have individual votes on the Nortel CCAA Final Plan according to S.1 of the CCAA.

The Representative Order, May 7, 2009:

The loss of individual pensioners' votes is effectively agreed to near the beginning of the CCAA process when the Representative Order dated May 7, 2009 is agreed to by the representatives and representative legal counsel and then ordered by the court. In the Representation Order, Representatives are given the purpose of settling or compromising claims by the Former Employees, without any limitations on how they serve this purpose. Later the individual pensioners will learn that their individual votes will be sacrificed by the representatives under the advice of Koskie Minsky.

THIS COURT ORDERS that, ..., Donald Sproule, David Archibald and Michael Campbell are hereby appointed as representatives of all Former Employees in the proceedings under the *Companies' Creditors Arrangement Act ... the Bankruptcy and Insolvency Act ... or in any other proceeding which has been or may be brought before this Honourable Court ... including, without limitation, for the purpose of settling or compromising claims by the Former Employees in the Proceedings.*

The Interim Settlement, February 8, 2010:

The representatives on the advice of Koskie Minsky accepted the interim settlement at February 8, 2010 that paid pensioners just Cdn\$9 million compensation in exchange for Cdn\$1,889 million of pension plan deficits being treated equal to ordinary unsecured creditors. It was agreed that no individual pensioners or administrator of the pension plans could take any actions to get a settlement better than equal treatment with the unsecured creditor. This effectively forced individual pensioners to vote yes to the Nortel Final CCAA Plan that has equal payment of pensioner claims and unsecured creditor claims because the Representative Order has no limitation on the representatives' purpose being settling or compromising claims. In the end the Nortel bond holders got paid 100 cents on the dollar of claim and the Canadian pensioners conceded Cdn\$1,039 million or 55% of their pension

claims (before taking into account the PBGF payment in the pension plans for Ontario pensioners that protects the first \$1000 per month of Ontario pensions.)

- I The Representatives agree on behalf of the members of the Pension Plans, their beneficiaries and surviving spouses, who are entitled to benefits from the Pension Plans ... that in respect of any claim for payment of or damages related to any solvency or wind up deficiencies, unfunded liabilities, or unpaid or accrued contributions ... (a) no Pension Claims shall enjoy any priority in any manner over the claims of ordinary unsecured creditors made against Nortel; ... (c) the Pension Claimants shall not support, directly or indirectly, any application, claim or action by Nortel, in its capacity as administrator of the Pension Plans, the New Administrator, any successor administrator howsoever appointed, the Superintendent, as the administrator of and on behalf of the PBGF, or any other person or entity, to directly or indirectly assert, advance, re-assert or re-file any claims or initiate any legal proceedings or actions of any nature or kind in these proceedings ... that the Pension Claims or any part thereof rank as a priority claim over the claims of ordinary unsecured creditors

The central players would defend their acceptance of the Nortel interim settlement agreement on the premise that bond holders could move to conduct a liquidation under the BIA, where pension deficits are treated equally with unsecured creditors and therefore the right to an individual pensioner vote to get a better than pari passu settlement is of no value.

But Koskie Minsky has now changed its position by threatening to take court action in the Sears CCAA proceeding in order to get the pensioners paid in full and in priority to the unsecured creditors. We presume Koskie Minsky LLP now uses the Indalex pension fund court decisions to argue that pension deficits are a deemed trust under the Ontario Pension Act and that the CCAA's paramountcy over provincial pension acts should not apply since there is no purpose of the act being served. Sears has decided to liquidate and there will be no restructuring or reorganization that the CCAA is intended to facilitate to save jobs, suppliers and economic growth.

[Indalex \(Re\) \[2011\] SCC 34308 Dec. 1, 2011](#)

[Indalex \(Re\), \[2011\] ONCA 265 April 7, 2011](#)

[Indalex \(Re\), \[2010\] ONSC 1114 Feb. 18, 2010](#)

The Compensation Claims Procedure Order, October 6, 2011:

The representatives under the advice of Koskie Minsky agreed to the Compensation Procedure Order approved by the court on October 6, 2011. This is the point at which the Canadian Pension Claims are separated from the Compensation Claims of the individual pensioners. The Canadian Pension Claims are the deficits of the two Registered Defined Benefit Pension Plans. Pensioners are told at this time that the FSCO appointed Administrator of these plans, Morneau Shepell, will file the claims of the pension plans on behalf of all plan members. No mention in the 2011 Compensation Claims Procedure Order that individual pension plan members will not be voting on the Final CCAA Plan in respect to their pro rata share of the pension plan deficits, just that Morneau Shepell will be filing the pension plan deficits on behalf of all plan members.

“on hearing the submissions of counsel for the Applicants, the Monitor, LTD Beneficiaries' Representative Counsel, Former Employees' Representative Counsel, CAW Counsel, the Continuing Employees' Representative Counsel, counsel for the U.S. Debtors, counsel for the Bondholder Group, the Committee and the Board of Directors of Nortel Networks Corporation and Nortel Networks Limited, and on the consent of the LTD Beneficiaries' Representative, LTD Beneficiaries' Representative Counsel, Former Employees' Representatives, Former Employees' Representative Counsel, Continuing Employees' Representatives, Continuing Employees' Representative Counsel, the CAW and CAW Counsel, no one appearing for the other

parties served with the Applicants' Motion Record, although duly served as appears from the affidavits of service of Darlene Moffett and Caterina Costa sworn September 20, 2011 and September 21, 2011, respectively, filed.

ON BEING ADVISED that certain claims were each excluded from the operation of the Claims Procedure Order, and that the Applicants now wish to establish a claims process with respect to such claims.”

Note: This Compensation Claims Process does not include claims for the funding deficits in the registered pension plans. Those claims have been made by the Administrator of the registered pension plan on behalf of all plan members. Any payments on those claims will be paid to the registered pension plans and will ultimately benefit the plan members. Any questions regarding your registered pension plans should be directed to Morneau Shepell Ltd. at: website: www.pensionwindups.morneausobeco.com, phone: Negotiated Plan: 1-877-392-2073, phone: Managerial Plan: 1-877-392-2074, email: nortelwindup@morneausobeco.com

The Final Plan, November 30, 2016:

Pensioners learn what their representatives under the advice of Koskie Minsky agree to in the CCAA Final Plan dated November 30, 2016. At this late date, the pensioners learn there will be two affected unsecured claims for the pension plans against the Canada estate: Cdn\$1,369 million for Managerial Plan and Cdn\$521 million for the Negotiated Plan. This means two votes for the two claims in terms of the headcount vote and Cdn\$1,889 million in terms of the value vote. This conceded the individual votes of 12,501 pensioners and 9,218 deferred pensioners, which the representatives had the power to do as there were no limitations on their purpose of settling and compromising claims under the Representative Order of May 7, 2009. Also, these individual pensioner votes were forced to be yes in any case by the Interim Settlement Agreement. This Interim Settlement Agreement also forced the Administrator to vote their two votes yes also, because the representative agreed to equal treatment of the pension deficits with the unsecured creditors (despite the Indalex cases and Nortel being liquidated and not restructured or reorganized.

“**Canadian Pension Claim**” means any and all Claims arising from or related to deficits and alleged deficits in the Canadian Registered Pension Plans.

“**Canadian Registered Pension Plans**” means: (i) the Managerial Plan; and (ii) the Negotiated Plan.

“**Compensation Creditors**” means Creditors who are holders of Compensation Claims (as such term is defined in the Compensation Claims Procedure Order).

4.4 Canadian Pension Claims

The Canadian Pension Claims are Affected Unsecured Claims. The total Proven Affected Unsecured Claim under this Plan on account of the Managerial Plan shall be CA\$1,368,644,000, and the total Proven Affected Unsecured Claim on account of the Negotiated Plan shall be CA\$520,835,000. [SUM CA 1,889,479]

“**Canadian Pension Claim**” has the meaning set forth in Section 4(g)(i) hereof.

4(g) Resolution of Certain Claims – The Parties have agreed to the following treatment for the following claims:

- (i) the Canadian registered pension plans deficit claims against each of the Canadian Debtors shall be allowed as unsecured Proven Claims against the Canadian Estate in the aggregate amount of CAD\$1,889,479,000 (the “**Canadian Pension Claim**”);

Plan Filing and Meeting Order, Dec. 1, 2016

At December 2, 2016, pensioners learn that not only will they not have individual votes in respect to the Canadian Pension Claims, they will also not have individual votes on their Compensation Claims. They are told in the Plan Filing and Meeting Order dated December 1, 2016 that their representatives

will be voting in favour of the plan and that they should not submit a separate proxy. The representatives had already effectively bound themselves and the Administrator of the pension plans to a yes vote within the Interim Settlement Agreement. The power of the individual pensioners' vote had been squandered by the representatives on the advice of Koskie Minsky from the beginning of the Nortel CCAA process.

COMPLETION OF PROXIES

Any Affected Unsecured Creditor who is entitled to vote at the Meeting and that wishes to vote by proxy or in Person at the Meeting must complete, sign and return the applicable form of proxy included in its creditor package and deliver its proxy to the Monitor in accordance with applicable Instructions.

Compensation Creditors

IF YOU ARE A COMPENSATION CREDITOR COVERED BY THE REPRESENTATION ORDERS OR REPRESENTED BY UNIFOR, A REPRESENTATIVE OR UNIFOR WILL BE VOTING ON YOUR BEHALF AND WILL BE VOTING IN FAVOUR OF THE PLAN. YOU SHOULD NOT SUBMIT A SEPARATE PROXY.

**APPENDIX
EXCERPTS FROM RELEVANT DOCUMENTS**

**COMPANIES CREDITORS ARRANGEMENT ACT
Current to Oct. 13, 2017**

Compromises to be sanctioned by court

6 (1) If a majority in number representing two thirds in value of the creditors, or the class of creditors, as the case may be — other than, unless the court orders otherwise, a class of creditors having equity claims, — present and voting either in person or by proxy at the meeting or meetings of creditors respectively held under sections 4 and 5, or either of those sections, agree to any compromise or arrangement either as proposed or as altered or modified at the meeting or meetings, the compromise or arrangement may be sanctioned by the court and, if so sanctioned, is binding

- (a) on all the creditors or the class of creditors, as the case may be, and on any trustee for that class of creditors, whether secured or unsecured, as the case may be, and on the company; and
- (b) in the case of a company that has made an authorized assignment or against which a bankruptcy order has been made under the [Bankruptcy and Insolvency Act](#) or is in the course of being wound up under the [Winding-up and Restructuring Act](#), on the trustee in bankruptcy or liquidator and contributories of the company.

claim means any indebtedness, liability or obligation of any kind that would be a claim provable within the meaning of section 2 of the [Bankruptcy and Insolvency Act](#);

secured creditor means a holder of a mortgage, hypothec, pledge, charge, lien or privilege on or against, or any assignment, cession or transfer of, all or any property of a debtor company as security for indebtedness of the debtor company, or a holder of any bond of a debtor company secured by a mortgage, hypothec, pledge, charge, lien or privilege on or against, or any assignment, cession or transfer of, or a trust in respect of, all or any property of the debtor company, whether the holder or beneficiary is resident or domiciled within or outside Canada, and a trustee under any trust deed or other instrument securing any of those bonds shall be deemed to be a secured creditor for all purposes of this Act except for the purpose of voting at a creditors' meeting in respect of any of those bonds;

unsecured creditor means any creditor of a company who is not a secured creditor, whether resident or domiciled within or outside Canada, and a trustee for the holders of any unsecured bonds issued under a trust deed or other instrument running in favour of the trustee shall be deemed to be an unsecured creditor for all purposes of this Act except for the purpose of voting at a creditors' meeting in respect of any of those bonds.

**BANKRUPTCY AND INSOLVENCY ACT
Current to October 13, 2017**

claim provable in bankruptcy, provable claim or claim provable includes any claim or liability provable in proceedings under this Act by a creditor;

creditor means a person having a claim provable as a claim under this Act;

person includes a partnership, an unincorporated association, a corporation, a cooperative society or a cooperative organization, the successors of a partnership, of an association, of a corporation, of a society or of an organization and the heirs, executors, liquidators of the succession, **administrators or other legal representatives of a person;**

REPRESENTATIVE OF FORMER EMPLOYEES ORDER
May 27, 2009

THIS MOTION, made by Donald Sproule, David Archibald and Michael Campbell (collectively, the "Representatives") on behalf of former employees, including pensioners, of Nortel Networks Corporation, Nortel Networks Limited, Nortel Networks Global Corporation, Nortel Networks International and/or Nortel Networks Technology Corporation (collectively "Nortel") or any person claiming an interest under or on behalf of such former employees or pensioners and surviving spouses in receipt of a Nortel pension, or group or class of them (collectively the "Former Employees") was heard Monday, April 20, 2009, on the Commercial List at the courthouse at 330 University Avenue, Toronto, Ontario, Reasons for Decision having been reserved to May 27, 2009,

2. **THIS COURT ORDERS** that, subject to paragraphs 8-9 hereof, Donald Sproule, David Archibald and Michael Campbell are hereby appointed as representatives of all Former Employees in the proceedings under the *Companies' Creditors Arrangement Act (Canada)* ("CCAA"), the *Bankruptcy and Insolvency Act (Canada)* (the "BIA") or in any other proceeding which has been or may be brought before this Honourable Court (the "Proceedings"), including, **without limitation**, for the purpose of settling or compromising claims by the Former Employees in the Proceedings.

(b) upon request of the Representatives and their counsel, such documents and data, as may be relevant to matters relating to the issues in the Proceedings, including documents and data, pertaining to the various pension, benefit, supplementary pension, termination allowance plan is, severance and termination payments and other arrangements for group health, life insurance, retirement and severance payments, including up to date financial information regarding the funding and investments of any of these arrangements.

7. **THIS COURT ORDERS** that the Representatives, or their counsel on their behalf, are authorized to take all steps and to do all acts necessary or desirable to carry out the terms of this Order, including dealing with any Court, regulatory body and other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.

8. **THIS COURT ORDERS** that, subject to paragraph 9 hereof, any individual Former Employee who does not wish to be bound by this Order and all other related Orders which may subsequently be made in these proceedings shall, within 30 days of publication of notice of this Order, notify the Monitor, in writing, by facsimile, mail or delivery, and in the form attached as Schedule "A" hereto and shall thereafter not be bound and shall be represented themselves as an independent individual party to the extent they wish to appear in these

Proceedings.

11. THIS COURT ORDERS that the Representatives and Koskie Minsky LLP shall have no liability as a result of their respective appointment or the fulfilment of their duties in carrying out the provisions of this Order from and after January 14, 2009 save and except for any gross negligence or unlawful misconduct on their part.

INTERIM SETTLEMENT AGREEMENT
February 8, 2010

E. RANKING OF PENSION CLAIMS

I. The Representatives agree on behalf of the members of the Pension Plans their and beneficiaries and surviving spouses who are entitled to benefits from the Pension Plans and whom they represent and on their own behalf (collectively, the "Pension Claimants") that in respect of any claim for payment of or damages related to any solvency or wind up deficiencies, unfunded liabilities, or unpaid or accrued contributions (including, for greater certainty, any special payments whatsoever), any liability regarding the Pension Benefits Guarantee Fund (the "PBGF") or any obligation of or claim arising against any person with respect to the Pension Plans or the administration thereof (the "Pension Claims"): (a) no Pension Claims shall enjoy any priority in any manner over the claims of ordinary unsecured creditors made against Nortel; (b) the Pension Claimants hereby waive, and shall not directly or indirectly assert, advance, re-assert or re-file any claims or initiate any legal proceedings or actions of any nature or kind in these proceedings or in any subsequent receivership or bankruptcy proceedings, or in any other proceedings, or in any other forum whatsoever concerning Nortel or any Nortel Worldwide Entity or the Pension Plans, that the Pension Claims or any part thereof rank as a priority claim over the claims of ordinary unsecured creditors, as a trust (whether deemed or otherwise) or a lien or charge (hereinafter referred to as a "lien"), or under any other legal or equitable theory; and (c) the Pension Claimants shall not support, directly or indirectly, any application, claim or action by Nortel, in its capacity as administrator of the Pension Plans, the New Administrator, any successor administrator howsoever appointed, the Superintendent, as the administrator of and on behalf of the PBGF, or any other person or entity, to directly or indirectly assert, advance, re-assert or re-file any claims or initiate any legal proceedings or actions of any nature or kind in these proceedings or in any subsequent receivership or bankruptcy proceedings, or in any other proceedings, or in any other forum whatsoever concerning Nortel or any Nortel Worldwide Entity or the Pension Plans, that the Pension Claims or any part thereof rank as a priority claim over the claims of ordinary unsecured creditors, as a trust (whether deemed or otherwise) or a lien, or under any other legal or equitable theory, and such claims shall be treated as ordinary unsecured claims, and for greater certainty, any such claims, to the extent allowed against Nortel pursuant to any claims adjudication procedure established in these proceedings, shall rank on a *pari passu* basis with the claims of the ordinary unsecured creditors of Nortel.

2. That portion of any proofs of claim already or hereafter filed by the Superintendent as the administrator of and on behalf of the PBGF, by Nortel or by any person claiming that any payments by the PBGF or that the Pension Claims or any part thereof rank as a priority or preferential claim over the claims of ordinary unsecured creditors of Nortel, as a trust (whether deemed or otherwise) or a lien, or under any other legal or equitable theory shall be disallowed, but only to the extent that they claim such priority or preference, and such disallowance shall not be opposed or appealed, directly or indirectly, by such claimants. For greater certainty, such disallowance shall not otherwise affect the quantum or validity of such claims, which shall rank as ordinary unsecured creditors on a *pari passu* basis with the claims of the ordinary unsecured creditors of Nortel, in each case, to the extent allowed against Nortel pursuant to any claims adjudication procedure established in these proceedings.

COMPENSATION CLAIMS PROCEDURE ORDER

Oct. 6, 2011

“on hearing the submissions of counsel for the Applicants, the Monitor, LTD Beneficiaries' Representative Counsel, Former Employees' Representative Counsel, CAW Counsel, the Continuing Employees' Representative Counsel, counsel for the U.S. Debtors, counsel for the Bondholder Group, the Committee and the Board of Directors of Nortel Networks Corporation and Nortel Networks Limited, and on the consent of the LTD Beneficiaries' Representative, LTD Beneficiaries' Representative Counsel, Former Employees' Representatives, Former Employees' Representative Counsel, Continuing Employees' Representatives, Continuing Employees' Representative Counsel, the CAW and CAW Counsel, no one appearing for the other parties served with the Applicants' Motion Record, although duly served as appears from the affidavits of service of Darlene Moffett and Caterina Costa sworn September 20, 2011 and September 21, 2011, respectively, filed. ON BEING ADVISED that certain claims were each excluded from the operation of the Claims Procedure Order, and that the Applicants now wish to establish a claims process with respect to such claims.”

(f) “Benefit Claims” means the claims of Employees under the Non-Registered Pension Plans and claims for Non-Pension Benefits calculated in accordance with the Compensation Claims Methodology and to be set out in an Information Statement;

(p) “Compensation Claims” means the Benefit Claims, Termination and Severance Pay Claims or Patent Award Claims calculated pursuant to the Compensation Claims Methodology;

(ee) “Employees” means the Applicants' employees, former employees, pensioners and their survivors, including LTD Beneficiaries;

(gg) “Former Employees' Representative Counsel” means Koskie Minsky LLP, as appointed by the Court on May 27, 2009;

(www) “Registered Pension Plan” means the Nortel Networks Limited Managerial and Non-Negotiated Pension Plan and the Nortel Networks Limited Negotiated Plan.

(yy) “Non-Registered Pensions Plans” means the non-registered pension plans provided by the Applicants to Employees and listed in the Monitor's Report and the Mercer 2011 Non-Registered Pension/Pension Accruals Valuation;

16. THIS COURT ORDERS that any Compensation Creditor (or union with respect to a Grievance Claim) that wishes to assert an Other Compensation Claim shall be required to file a Proof of Claim

on or before the Applicable Proof of Claim Bar Date, as provided herein, provided, however, that Compensation Creditors shall not file a Proof of Claim with respect to payments to be made from a Registered Pension Plan by the administrator (currently, Morneau Sheppel Ltd.) of a Registered Pension Plan.

Note: This Compensation Claims Process does not include claims for the funding deficits in the registered pension plans. Those claims have been made by the Administrator of the registered pension plan on behalf of all plan members. Any payments on those claims will be paid to the registered pension plans and will ultimately benefit the plan members. Any questions regarding your registered pension plans should be directed to Morneau Shepell Ltd. at: website: www.pensionwindups.morneausobeco.com, phone: Negotiated Plan: 1-877-392-2073, phone: Managerial Plan: 1-877-392-2074, email: nortelwindup@morneausobeco.com

PLAN OF COMPROMISE AND ARRANGEMENT November 30, 2016

“**Canadian Pension Claim**” means any and all Claims arising from or related to deficits and alleged deficits in the Canadian Registered Pension Plans.

“**Canadian Registered Pension Plans**” means: (i) the Managerial Plan; and (ii) the Negotiated Plan.

“**Compensation Creditors**” means Creditors who are holders of Compensation Claims (as such term is defined in the Compensation Claims Procedure Order).

4.4 Canadian Pension Claims

The Canadian Pension Claims are Affected Unsecured Claims. The total Proven Affected Unsecured Claim under this Plan on account of the Managerial Plan shall be CA\$1,368,644,000, and the total Proven Affected Unsecured Claim on account of the Negotiated Plan shall be CA\$520,835,000. [SUM CA 1,889,479]


“**Canadian Pension Claim**” has the meaning set forth in Section 4(g)(i) hereof.

“**Required Majority**” means, with respect to the Affected Unsecured Creditors Class, a majority in number of Affected Unsecured Creditors holding Voting Claims representing at least two thirds in value of the Voting Claims of Affected Unsecured Creditors, in each case who are entitled to vote at the Meeting in accordance with the Meeting Order and who are present and voting in person or by proxy on the resolution approving the Plan at the Meeting.

4(g) Resolution of Certain Claims – The Parties have agreed to the following treatment for the following claims:

- (ii) the Canadian registered pension plans deficit claims against each of the Canadian Debtors shall be allowed as unsecured Proven Claims against the Canadian Estate in the aggregate amount of CAD\$1,889,479,000 (the “**Canadian Pension Claim**”);

Ad hoc committee of creditors having claims only against the Canadian Debtors comprised of: the former and disabled Canadian employees of the Canadian Debtors through their court-appointed representatives, Unifor, Morneau Shepell Ltd. as Administrator of Nortel's Canadian registered pension plans, Superintendent of Financial Services of Ontario as Administrator of the Pension Benefits Guarantee Fund and the court-appointed representatives of the current and transferred employees of the Canadian Debtors.

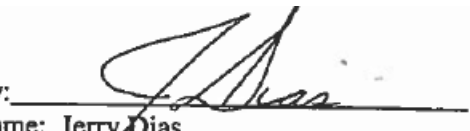
By: 
Name: DONALD E. SPROULE
Title: COURT APPOINTED REP
FORMER NORTEL EMPLOYEES

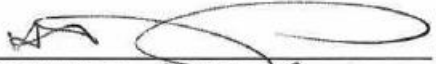
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By: 
Name: DAVID D. ARCHIBALD
Title: COURT APPOINTED REP.

By: 
Name: M.A. CAMPBELL, P. ENG.
Title: COURT APPOINTED REP.

By: 
Name: Jerry Dias
Title: President, Unifor

By: 
Name: HAMISH DUNLOP
Title: PRINCIPAL, MORNEAU SHEPELL
IN ITS CAPACITY AS ADMINISTRATOR OF
NORTEL'S CANADIAN REGISTERED PENSION PLANS
By: AND NOT IN ITS PERSONAL CAPACITY

By: 
Name: Brian Mills
Title: Superintendent of Financial Services
of Ontario

INFORMATION CIRCULAR November 30, 2016

REQUIRED APPROVALS UNDER THE CCAA AND OTHER CONDITIONS TO IMPLEMENTATION

Creditor Approval by a Required Majority

In order for the Plan to be approved and binding in accordance with the CCAA, the Canadian Debtors must hold a Meeting pursuant to a Meeting Order⁶ (to be sought from the CCAA Court on or about December 1, 2016) and the Resolution to approve the Plan must receive the affirmative vote of the Required Majority of the Affected Unsecured Creditors Class, being a majority in number of Affected Unsecured Creditors, and two-thirds in value of the Voting Claims of Affected Unsecured Creditors, in each case who vote (in person or by proxy) on the Plan at the Meeting.

Creditors who have Affected Unsecured Claims that are Crossover Claims must vote on the Plan in addition to any vote that such Creditor may cast in respect of the U.S. Plans. Voting on the U.S. Plans will not be considered a vote on the Plan and *vice versa*.

Court Approval of the Plan under the CCAA

Prior to the Plan becoming effective, the CCAA requires that the Plan be approved by the CCAA Court if it is approved by the Required Majority of Affected Unsecured Creditors with Voting Claims voting at the Meeting (in person or by proxy).

Pursuant to the Settlement and Support Agreement and subject to the approval of the Resolution in respect of the Plan, it is contemplated the hearing for the Sanction Order will be scheduled for no later than January 24, 2017.

Interested parties should consult their legal advisors with respect to the legal rights available to them in relation to the Plan, Meeting and the Sanction Order.

The authority and discretion of the CCAA Court is very broad under the CCAA. The CCAA Court will consider, among other things, the fairness and reasonableness of the terms and conditions of the Plan. The CCAA Court must issue the Sanction Order before the Plan can be implemented. If the

CCAA Court grants the Sanction Order, and other conditions are satisfied, the Plan will become binding on the Affected Creditors and all Persons named or referred to in, or subject to, the Plan.

PLAN FILING AND MEETING ORDER

Dec. 1, 2016

(hhh) "Meeting Date" means the date and time for the Meeting to be selected by the Monitor, which date shall be on or about January 17, 2017 (unless extended in accordance with the terms of this Meeting Order);

(s) "Canadian Pension Claims" has the meaning given to it in the Plan;

(t) "Canadian Registered Pension Plans" has the meaning given to it in the Plan;

(bb) "Compensation Claims" has the meaning given to it in the Compensation Claims Procedure Order;

(cc) "Compensation Claims Procedure Order" means the Compensation Claims Procedure Order of the CCAA Court dated October 6, 2011, including the Compensation Claims Methodology Order of the CCAA Court dated October 6, 2011;

(dd) "Compensation Creditor" means a Creditor who is a holder of a Compensation Claim and who, as of the date of this Meeting Order, continues to be represented by a Representative and Representative Counsel pursuant to the Representation Orders or by Unifor;

NOTICE TO AFFECTED UNSECURED CREDITORS

December 1, 2016

NOTICE IS ALSO HEREBY GIVEN that a meeting of Affected Unsecured Creditors (the "Meeting") will be held at **1 p.m. on Tuesday, January 17, 2017** (or such other date as may be set and announced in accordance with the Meeting Order) at **The International Centre Conference Centre (6900 Airport Road, Mississauga, Ontario)**, for the purpose of considering and, if thought advisable, passing, with or without variation, a resolution to approve the Plan (the full text of which resolution is set out in Schedule "A" to the Information Circular) and to transact such other business as may properly come before the Meeting (or any adjournment thereof). The Meeting is being held pursuant to the Order of the Court made on December 1, 2016 (the "Meeting Order"). A copy of the Meeting Order is available on the Monitor's Website under the Section "Plan and Other Creditor Meeting Documents". Capitalized terms used but not otherwise defined in this notice have the meaning ascribed to them in the Meeting Order, Information Circular or Plan

COMPLETION OF PROXIES

Any Affected Unsecured Creditor who is entitled to vote at the Meeting and that wishes to vote by proxy or in Person at the Meeting must complete, sign and return the applicable form of proxy included in its creditor package and deliver its proxy to the Monitor in accordance with applicable Instructions.

Compensation Creditors

IF YOU ARE A COMPENSATION CREDITOR COVERED BY THE REPRESENTATION ORDERS OR REPRESENTED BY UNIFOR, A REPRESENTATIVE OR UNIFOR WILL BE VOTING ON YOUR BEHALF AND WILL BE VOTING IN FAVOUR OF THE PLAN. YOU SHOULD NOT SUBMIT A SEPARATE PROXY.

135TH MONITOR'S REPORT
January 30, 2017

Voting Procedure

51. Pursuant to the Plan and Meeting Order, there is only one class of voting creditors, being the Affected Unsecured Creditor Class. The Meeting Order set out the voting process for the Affected Unsecured Creditors which consist of: (a) Ordinary Creditors; (b) Compensation Creditors; and (c) Bondholders.

52. Ordinary Creditors were required to complete and sign Voting Proxies and either return them to the Monitor at least three (3) Business Days prior to the Meeting or bring them in person to the Meeting.

53. Compensation Creditors consist of virtually all current and former employees of the Canadian Debtors. There are three (3) individuals who validly opted out of representation in accordance with the Representation Orders and who were provided materials to vote as Ordinary Creditors. All remaining current and former employees of the Canadian Debtors are "Compensation Creditors" for the purposes of the Meeting Order and are represented by Court appointed Representatives pursuant to various Representation Orders and by representative counsel, or by Unifor. Pursuant to the Meeting Order, this Court appointed Representatives and Unifor, as applicable, who have sole authority to vote on behalf of the Compensation Creditors. Compensation Creditors were not entitled to vote individually.

59. The following table shows the voting results in respect of Voting Claims:

	Number	Value	% Number	% Value
In Favour	14,922	\$9,254,874,847	99.97%	99.24%
Against	4	\$70,530,494	0.03%	0.76%
Total	14,926	\$9,325,405,341	100%	100%