

**NORTEL WEBCAST
for Former Employees, Pensioners
and Disabled Employees**

Settlement Agreement

February 23, 2010

**KOSKIE
MINSKY_{LLP}**
BARRISTERS & SOLICITORS





INTRODUCTIONS: ADVISORS

**MARK ZIGLER, SUSAN PHILPOTT
ANDREA MCKINNON**

- Koskie Minsky LLP
- Court-appointed Representative Counsel

GUS TERTIGAS

- RSM Richter
- Business advisors

RON OLSEN, TOM LEVY

- The Segal Company
- Actuarial advisors



INTRODUCTIONS: NRPC

DON SPROULE

- Court-Appointed Representative, NRPC Board, Legal Committee, Health Committee, Retiree

DAVID ARCHIBALD

- Court-Appointed Representative, Legal Committee, Former Legal Counsel, Retiree

MICHAEL CAMPBELL

- Court-Appointed Representative, NRPC Board, Legal Committee, Terminated Employee of Nortel



INTRODUCTIONS: CNELTD

SUSAN KENNEDY

- Court-Appointed Representative for Disabled Employees



HOUSEKEEPING

- Slides on KM Website www.kmlaw.ca/case-central
 - Click on Nortel Networks Corporation
- Questions in English or French
- Webcast presentation to be posted:
 - NRPC website (slides and audio recording)
 - CNETLD Yahoo! Group (slides only)



CNELTD ORGANIZATION

- Membership
 - 130 members (and increasing)
 - Nortel employees receiving, or entitled to receive, disability income benefits
 - 100 CAW-Canada members are excluded from Representation Order, but part of the LTD group and welcome to participate in webcast
 - CAW supports the Settlement Agreement
 - CAW-members will be affected by Settlement Agreement, if court approved
- CNELTD Legal Steering Committee
 - Participate in weekly meetings with KM and Segal
 - Susan Kennedy
 - Johanne Bérubé
 - Moderator of CNELTD Yahoo! Groups communications
 - Kevin LeBlanc
 - Anne Clarke-Stewart
 - Former disabled employee
 - CNELTD liaison with Political Action Committee of NRPC



SETTLEMENT AGREEMENT GOALS - CNELTD

- **Balance interests of constituency (approximately 250 individuals)**
- **Disability Income Benefits**
 - Certainty: ensure income benefits continue for as long as possible
 - Notice: ensure ample notice provided before benefits stop being paid directly by the company
 - Allow individuals time to make alternative arrangements
 - Source of Payment: push to have disability income benefits paid by company directly for as long as possible (and not from the HWT assets)
- **Medical, Dental and Life Insurance Benefits**
 - Continuation: continue health, medical and life insurance benefits for LTD beneficiaries and their families for as long as possible
 - Certainty: provide certainty as to benefit continuation and ample notice of potential discontinuation
 - Time: provide time to continue assessment and options for replacement health benefit coverage and life insurance conversion options
 - Notice: ensure ample notice is provided before benefits stop being paid
 - Allow individuals time to make alternative arrangements

Allow individuals more time to make alternative arrangements and seek best outcome in the circumstances



NRPC ORGANIZATION

- Membership: Pensioner, Terminated, Union/Non Union and Others
- Board: Chair, Vice-Chair, Treasurer, Secretary, Media, at large
 - Regional Chairs on Board
 - Ottawa, Montreal, GTA, London, Belleville
 - Western Canada, Eastern Canada, Outside Canada, *Kingston*
 - Meets weekly
- Subcommittees:
 - Legal Committee
 - 11 members
 - Meets weekly with KM / Segal / Richter
 - Basic Health Plan Replacement Committee
 - 5 NRPC members, 2 LTD members, Segal
 - Political Action Committee



NRPC CONSTITUENCY

Are you a member?

You are a member of the constituency if you or your survivor receive / received/ is entitled to receive one of the following Nortel payments:

- Managerial Pension Plan benefits
- Negotiated Pension Plan benefits
- Excess Plan
- SERP
- Health Plan
- Life Insurance
- TRA / RAP
- Severance pay
- Residual of Commuted Value of RPP



SETTLEMENT AGREEMENT GOALS - NRPC

- Pension Plans
 - Certainty: pension continuation
 - Time: continue political efforts and assess alternatives to plan wind-up
- Health, Dental and Life Insurance Benefits
 - Continuation: continue benefits for as long as possible
 - Certainty: certainty of benefit continuation and notice of discontinuation
 - Time: continue assessment of replacement health plan options
- Termination and Severance
 - Compensation: compensate terminated employees for their termination and severance pay losses
 - Payment: secure priority payment
- Political Efforts
 - Ability to continue lobbying efforts for amendments to CCAA / BIA
 - Ability to assert that any favourable amendments will apply to constituency

Seek the best possible outcome for the constituency



OUTLINE OF PRESENTATION

- A. Summary of Settlement Agreement
- B. Impact on Pensioners and Pension Plans
- C. Impact on Terminated Employees
- D. Impact on LTD Group
- E. Analysis and Recommendation
- F. Settlement Agreement Q&A
- G. Notice of Appearance Procedure
- H. Next Steps in CCAA
- I. Questions



A. THE SETTLEMENT AGREEMENT

- **December 2009**
 - Representative Counsel and Representatives become aware that new Canadian Funding Agreement includes provisions for benefits only to end of Q1, 2010
- **December 2009 – January 21, 2010**
 - Extensive negotiations concerning continued pension and benefit funding
 - Representative Counsel (with input from Representatives, CNELTD, NRPC), CAW-Canada, Monitor, Company, Bondholders, Unsecured Creditors' Committee
- **January 21, 2010**
 - New Canadian Funding Agreement approved
 - Representative Counsel informs Court of issue for former and disabled employees and ongoing negotiations
 - Monitor to advise Court on status of negotiations by January 29, 2010
- **January 21, 2010 – February 8, 2010**
 - Negotiations concerning pension and benefit funding continue
 - Report to Court on January 29 that good progress made



A. THE SETTLEMENT AGREEMENT

- **February 8, 2010**
 - Settlement Agreement executed
 - Representatives, Representative Counsel, Counsel for CAW, Monitor and the Company
 - Press releases issued
 - Posting of information on Rep Counsel and Monitor websites
- **February 9, 2010**
 - Court approval of Notice Procedure
- **February 16, 2010**
 - Newspaper notice published widely
- **February 16, 2010**
 - Notice Letters sent by Monitor (Ernst & Young Inc.) to all individuals affected by Settlement Agreement
- **March 1, 2010**
 - 10:30 a.m. - deadline to file a Notice of Appearance
 - Package can be obtained at www.ey.com/ca/nortel
- **March 3, 2010**
 - Hearing for Court approval of Settlement Agreement
 - 10:30 a.m - 393 University Ave.



A. THE SETTLEMENT AGREEMENT

- **Background - Actions of Representatives and Rep Counsel focused on delivering:**
 - process to maintain pension plan
 - ways to continue LTD income benefits and preserve assets in HWT
 - continuation of health, dental and life insurance benefits for as long as possible
 - Provide certainty
 - Provide maximum notice of future changes
 - secure portion of funding for Pensioners, Former Employees and Disabled Employees
 - acquire additional time to find solution for benefits going forward
- **Likely alternative to a settlement is immediate (March 31, 2010) cessation of benefit plans and wind-up of pension plan**



A. THE SETTLEMENT AGREEMENT

The Financial Picture:

- \$190.8 million under the Canadian Funding Agreement goes to Nortel Canada
- \$44.2 million of the Settlement Agreement represents the bulk of this funding, other than that required to finance Nortel's Canadian operations in 2010-11



A. SETTLEMENT AGREEMENT

Key features

- Payment of all pensioner and disabled employee benefits for claims incurred in 2010, valued at:
 - \$24.4M to pensioners' health and dental
 - \$8.9M to pension fund payments (including survivor pensions)
 - \$2.8M to survivor transition benefits
 - \$1.4M to survivor income benefits
 - \$4.3M to Termination Fund
 - \$3.0M to LTD health, dental and life
 - \$12.2M to LTD income benefits (retroactive to January 2010)
 - **TOTAL: \$57 million**
 - All health and dental expenses to be submitted by Feb 28, 2011
- Secured by a \$57 million charge
 - \$57 million figure is an estimate of these benefits for the entire year of 2010
 - \$44.2 million figure is an estimate of these benefits from April 1 through December 31, 2010 (except for 12 months of LTD income coming from Nortel)



A. SETTLEMENT AGREEMENT

Key Features

- Pensioners and pensioners' survivors: All valid medical, dental and life benefits incurred to December 31, 2010 paid in full
 - Claims may be submitted until February 28, 2011
- Disabled Employees: All valid income and medical, dental and life benefits incurred to December 31, 2010 paid in full
 - Payments to be made by Nortel, not from HWT assets
- Continued current service cost of pension contributions paid to September 2010 based on the last filed valuation
 - Disabled Employees: Accruals in the DC plan will continue until December 31, 2010
- Termination payment to a maximum of \$3,000 for eligible terminated employees in priority to other creditors
- Non-pension survivor income and survivor benefit recipients to receive all payments through 2010 from Nortel
- Former Employees and Disabled Employees will still vote on Plan of Arrangement



A. SETTLEMENT AGREEMENT

Quid pro quo features

- Claims in respect of underfunding of the Pension Plans and HWT will continue to rank as unsecured claims
- Agreement that no priority will be asserted unless the BIA changes
- Releases in favour of Monitor, Nortel's pension committees, Nortel's directors and the Trustee of HWT related only to the pension and benefit plans, respectively
 - misrepresentation by directors and fraud are not released
- Application for leave to appeal to SCC will be withdrawn
- No separate classification of employee claims for CCAA Plan of Arrangement and distribution purposes
- Agreement not to challenge employee incentive programs



A. SETTLEMENT AGREEMENT

Advantages

- Time
 - Interim “stand still” benefit solution for 2010
 - Time to determine allocation of HWT and compensation claims procedure
 - Time to continue assessment of replacement benefits and political lobbying
- Certainty
 - Continued health and medical benefits
 - Continued income disability benefits
 - Continued life insurance
- Security
- Clear period of notice of termination of benefits
- Preservation of assets in HWT
- Secures funding in Canada for constituents
- Avoids immediate Pension Plan wind-up
- Eliminates risky, uncertain and costly litigation



B. IMPACT ON PENSIONERS AND PENSION PLANS

- Pensioners continue to receive health, medical and life benefits to December 31, 2010
 - Life insurance continues to be paid out of HWT
- Pensioner Life Insurance:
 - Will be in force until December 31, 2010
 - Life insurance continues to be paid out of HWT
 - NOTE: NRPC is examining options post-December 30, 2010
- Pensioners' payments from the registered Pension Plans
 - Pensioners continue to receive 100% of pension payments until September 30, 2010
 - Nortel ceases to administer Pension Plans on September 30, 2010
 - Nortel pays current service costs until September 30, 2010
 - Baseline: Pension Plans would start paying out at wind-up rate (~%30 reduction)
 - Ontario - PBGF
 - Québec – Régie des Rentes du Québec + Bill 1
 - NOTE: NRPC will continue efforts to achieve plan continuation post-September



C. IMPACT ON TERMINATED EMPLOYEES

- \$4.3 million Termination Fund
- Eligible employees to receive payment of up to \$3,000 if:
 - You were terminated on or prior to June 30, 2010
 - You have not:
 - Been offered employment with a purchaser of one of Nortel's businesses
 - Received or are entitled to receive any of the following payments:
 - a) Gross cumulative Annual Incentive Plan payments from and after October 1, 2009 of \$3,000 or more;
 - b) Key Employee Incentive Plan or Key Employee Retention Plan payment in 2009; or
 - c) Payment from any Court approved equivalent 2010 plan.
- \$3,000 priority payment of part of your claim – 100% payout
- Termination pay claim against Nortel reduced by amount you receive
 - Beneficial, because distribution amounts from Nortel estate under the claims process will be less than 100%
- Ability to transfer to RRSP
- Costs of administration included
- You are still entitled to apply for Hardship Application Program
 - Termination payment considered family income when received



D. IMPACT ON DISABLED EMPLOYEES

- LTD income benefits to be paid directly by Nortel for all of 2010
 - Currently paid from HWT
- LTD medical, dental and life insurance to be paid by Nortel for all of 2010
- DB pension accruals to continue to September 30, 2010
- DC pension accruals to continue to December 31, 2010



D. IMPACT ON DISABLED EMPLOYEES

Health and Welfare Trust

- Monitor's 39th Report
 - New HWT information released by Monitor
- Finalize process to allocate and distribute HWT to beneficiaries during 2010
 - This will affect all HWT beneficiaries, including retirees with life insurance and survivor benefit beneficiaries
- Trust expenses related to entitlement claims, if they arise, will be paid from HWT
 - Intra-trust litigation among beneficiaries
- Other expenses will still be paid by the Company
 - Allocation of HWT assets
 - Termination of HWT
 - Distribution of HWT assets



Summary of Court Settlement Agreement Approval vs. Rejection

NATURE OF CLAIM	AGREEMENT APPROVAL	AGREEMENT REJECTION
Monthly Disability Income	Paid until December 31, 2010 from Nortel's operating funds. Thereafter HWT distributions and revenues from Nortel estate recoveries will result in lump sum payments	Payments temporarily continued from HWT, thus depleting the assets, until it is wound up and distributed. \$12 million payable for monthly disability income would not be obtained if there is no settlement
Health and Dental Claims	Continue to December 31, 2010 (claims may be filed up to February 28, 2011)	Stops at March 31, 2010



Summary of Court Settlement Agreement Approval vs. Rejection

NATURE OF CLAIM	AGREEMENT APPROVAL	AGREEMENT REJECTION
Life Insurance Coverage (Self)	Continue to December 31, 2010	Stops at March 31, 2010
Life Insurance Coverage (Dependents)	Continue to December 31, 2010	Stops at March 31, 2010
Pension Accrual for DBPP	Continue to September 30, 2010	Stops at March 31, 2010
Pension Contributions for DCPD	Continue to December 31, 2010	Continue to December 31, 2010?



Summary of Court Settlement Agreement Approval vs. Rejection

NATURE OF CLAIM	AGREEMENT APPROVAL	AGREEMENT REJECTION
Right to sue Sun Life for misrepresenting our LTD plan as being insured by them	Available but a risky lawsuit with limited chance of success.	Available subject to being risky litigation
Right to sue Nortel Directors for not funding our plan with sufficient amounts to ensure we would receive all the benefits promised to us under the LTD Plan	Not available but not a viable claim in our opinion	Available but still not a viable claim



Summary of Court Settlement Agreement Approval vs. Rejection

NATURE OF CLAIM	AGREEMENT APPROVAL	AGREEMENT REJECTION
Right to sue Northern Trust who is the Trustee of the Nortel Health and Welfare Trust for not enforcing the terms of the Trust Agreement	Not available and a risky claim with limited chance of recovery	Available but still a risky claim with limited chance of recovery
Right to sue Nortel Directors for fraud, oppression, or wrongful conduct	Available including misrepresentation claims	Available including misrepresentation claims
Right to sue trustees of the pension plan	Not available but not a viable claim in our opinion	Available but still not a viable claim



Summary of Court Settlement Agreement Approval vs. Rejection

NATURE OF CLAIM	AGREEMENT APPROVAL	AGREEMENT REJECTION
Right to ask that the LTD Employees be treated as a separate voting class which would seek a cash settlement that is higher compared to other unsecured creditors	Not available	Available but not a realistic outcome given other creditor classes similarly situated
Right to a Fairness Hearing which would seek a cash settlement that is higher compared to other unsecured creditors based on fairness reasons	Available to individuals but not representatives under the Settlement Agreement and not a likely result	Available to individuals but not a likely result



Summary of Court Settlement Agreement Approval vs. Rejection

NATURE OF CLAIM	AGREEMENT APPROVAL	AGREEMENT REJECTION
Right to object to the \$92.3 million dollars that will be paid to current Nortel Executives	Not available to Representatives but likely to be approved by the Court anyway	Available but likely to be approved by the Court anyway
Right to file a Human Rights Complaint against Nortel for any reason	Not available due to CCAA stay and Settlement Agreement. Damages would be an unsecured claim against Nortel	Not available due to CCAA stay. Damages would be an unsecured claim against Nortel
Employment Status	CCAA Order permits termination at any time. Settlement Agreement requires it at end of December 31, 2010	CCAA Order permits termination at any time



E. ANALYSIS AND RECOMMENDATION

- Settlement Agreement secured large portion of available Canadian funding
- Guaranteed priority payments more valuable than pursuing leave application to SCC for Employment Standards Act (ESA) minimum standard payments, and potential claims against directors or trustee of HWT, all of which are risky, uncertain and costly claims
- Seeking separate class at CCAA Plan stage involves serious risk of immediate bankruptcy and BIA process
- Settlement preserves all unsecured claims (i.e. rank equal to other unsecured creditors)
- Providing certainty over process is in all stakeholders' interests



F. SETTLEMENT FAQ

- **Is this the final deal for the CCAA?**
 - The Settlement Agreement is not the Plan of Arrangement or Compromise. This will come later and will involve a final distribution to creditors, including the Former Employees and Disabled Employees.
- **Do I get to vote on the Settlement Agreement?**
 - There is no vote for the approval of the Settlement Agreement.
 - There is a vote when it comes time for a Plan of Arrangement or Compromise, but that vote is made by the Representatives on behalf of their constituents.
- **Can this deal change?**
 - The Court may amend the Settlement Agreement, and the parties must agree if it does, or it will be void.
- **Can we object to the employee incentive programs introduced in 2010?**
 - No. We have no confidence that objecting to the incentive plans will be effective.
 - Objecting to the employee incentive program payments will not increase the settlement amount and may jeopardize benefits.
 - 88% of the employee incentive program amounts must be paid by the purchasers of Nortel's businesses.
 - All Canadian creditors' input on the employee incentive program payments is through the Monitor, who is involved in the review and assessment of the payments. We rely on the Monitor as a court-appointed officer to ensure that all incentive payments are reasonable and necessary.



F. SETTLEMENT FAQ

- **What is the pensioner / LTD status in the estate?**
 - Barring any future changes to legislation, they are unsecured creditors.
- **What is *pari passu*?**
 - All unsecured creditors will rank *pari passu*, meaning they will rank on equal footing.
 - Equal footing means you will receive the same percentage payout on your distribution as other unsecured creditors will receive.
- **What happens if there are federal reforms?**
 - If the BIA is amended, we can seek that any beneficial provisions will apply to your constituency.
 - The NRPC and CNELTD fought hard to ensure we maintained this right. They were successful by having Clause H.2 included in the Settlement Agreement.
- **Does the agreement release fraud or misrepresentation claims?**
 - No.
 - Fraud / misrepresentation involve claims of personal misconduct.
 - Claims for fraud and misrepresentation will only be pursued if there is evidence of misconduct. There is no evidence of such misconduct to date.
 - Any individual is entitled to pursue a claim they believe is worthwhile as an independent party at their own expense.



G. NOTICE OF APPEARANCE PROCEDURE

- If you wish to oppose the Settlement Agreement:
 - Notice of Appearance
 - Available on Monitor's website at www.ey.com/ca/nortel
 - Deadline: March 1, 2010 at 10:30 a.m.
 - Must be completed and submitted to the Monitor and Monitor's counsel
 - The Monitor will report your opposition to the Court if it has not been withdrawn by March 3
 - Court Approval Hearing – March 3, 2010
 - You or your lawyer must attend at the hearing and make submissions to oppose
 - 10:30 a.m. at 393 University Ave.
 - Wheelchair accessible



H. NEXT STEPS IN CCAA

1. Company's asset sales will continue
2. Finalize and implement process regarding the allocation of assets in the HWT and an appropriate tax-efficient distribution
3. Finalize and obtain Court approval of the Compensation Claims Process
4. Continue to pursue pension plan solutions and replacement health benefit coverage
5. Quantification and Assessment of Claims
6. Allocation of assets among jurisdictions
 - Canada, UK, US and other estates
 - Canada only assets
7. Distribution of Nortel's Canadian estate

Timeline uncertain – updates will be provided as each stage develops



What Next?

Increased Political Action

- Legislative change to the insolvency regime is requiredit's not the court but the existing law that has created our situation....so channel your outrage
- Federal government has the power to change the outcome of this insolvency, and others, to assist pensioners and disabled employees
- Before the March 3 hearing:
 - Contact your MP to urge immediate changes to the bankruptcy laws
 - Contact your nearest Conservative MP to urge immediate changes to the bankruptcy laws
 - Write/phone the Honourable Tony Clement, Minister of Industry



What Next?

KEY DEVELOPMENTS WILL CONTINUE TO OCCUR IN 2010 – stay in touch:

- **NRPC**
 - www.nortelpensioners.ca
- **CNELTD**
 - Yahoo! Group / CNELTD-owner@yahoogroups.com
 - Email communication
- **Representative Counsel**
 - www.kmlaw.ca/case-central or nortel@kmlaw.ca
- **The Monitor**
 - www.ey.com/ca/nortel



QUESTIONS?

English or en Français