

July 24, 2015

**Via Email**

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Robert Thornton  
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Dear Mr. Thornton:

**Re: U.S. Steel Canada Inc. (“USSC”)  
Potential Bid from United States Steel Inc. (“USS”) in sales process of U.S. Steel  
Canada Inc. (“USSC”)  
Our File No. 14/1751**

We acknowledge receipt of your letter of July 8, 2015 in response to our letter of April 14, 2015.

We appreciate that USSC is temporarily sheltered from the normal pension funding requirements under the Ontario *Pension Benefits Act* (“**PBA**”) due to the Stelco Regulation. However, as you point out and as has been acknowledged by USSC (per McQuade affidavit September 16, 2014, para. 59), USSC’s sheltering under that Regulation expires on December 31, 2015, and on January 1, 2016 the normal statutory pension funding rules resume for USSC.

Secondly, and as we indicated in our April 14, 2015 letter, the applicability of the PBA deemed trust and the express priority granted to the deemed trust in Section 30(7) of the *Personal Property Security Act* (Ontario) (“**PPSA**”) is not confined to a pension wind up situation. Section 57(3) of the PBA applies the deemed trust in favour of pension plan beneficiaries where an employer does not make required contributions to an *on-going* pension plan. Section 57(3) states:

(3) An employer who is required to pay contributions to a pension fund shall be deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer contributions due and not paid into the pension fund.

In the *Indalex* case, the Supreme Court of Canada noted the distinct application of the PBA deemed trust to an on-going pension plan:

[46] ... [Section] 57(3), *which provides that the deemed trust protecting employer contributions exists while a plan is ongoing*, s. 57(4) provides that the wind-up deemed trust comes into existence only when the plan is wound up.

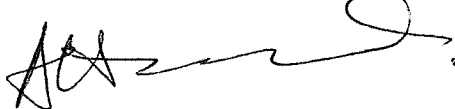
Accordingly, the amounts owing to the USSC pension plans by USSC that are not paid, whether in an on-going pension plan or a wind up situation, are immediately subject to the PBA deemed trust in favour of the pension plan beneficiaries, with the priority granted in Section 30(7) of the PPSA.

We understand that USSC is not currently in a position to pay regular PBA pension funding as of January 1, 2016, therefore making the application of the PBA deemed trust priority as of that date a virtual certainty. USS cannot ignore this commercial reality. Accordingly, any “credit bid” contemplated by USS in the USSC sales process needs to take into account that as of January 1, 2016, USS will not have a first priority secured claim (assuming that the amount of a USS secured claim is ultimately proved in the pending USS motion before the court which, as you know, is still in the discovery stage).

As we indicated in our April 14, 2015 letter, we remain available to discuss restructuring solutions for USSC with your client with a view to a mutually acceptable transaction. We hope to hear from you in that regard soon.

Yours truly,

**KOSKIE MINSKY LLP**



Andrew J. Hatnay  
AJH/vdl

- c. USSC Client Committee  
Michael Barrack, *Blake, Cassels & Graydon LLP*  
James Gage, *McCarthy Tetraults LLP*  
Alex Morrison, *Ernst & Young LLP*  
Kevin Zych, *Bennett Jones LLP* (counsel to Monitor)  
Ken Rosenberg, Lily Harmer, *Paliare Roland LLP*  
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