

## DISABLED EMPLOYEES PROGRESS REPORT

### **THIS REPORT HAS BEEN PREPARED BY KOSKIE MINSKY LLP IN ITS CAPACITY AS REPRESENTATIVE COUNSEL TO THE NON-CAW (NOW UNIFOR) DISABLED EMPLOYEES OF NORTEL**

April 7, 2015

As Representative Counsel for many of Nortel's former employees (including LTD Beneficiaries), we are writing to provide you with an update on Nortel's insolvency proceedings.

If you are a CAW (now known as Unifor) member, we have their permission to send you this letter. If you have any questions or would like to speak with your legal counsel, you may contact Barry Wadsworth at Unifor at 1-800-268-5763, extension 3776 or e-mail [linda.cantin@unifor.org](mailto:linda.cantin@unifor.org).

If you are not a Unifor member, you may contact your Representative Counsel by email at [nortel@kmlaw.ca](mailto:nortel@kmlaw.ca) or through our toll-free hotline at 1-866-777-6344.

#### **Hardship Fund**

On March 11, 2015, the Ontario Superior Court of Justice (Commercial List) approved an increase to the maximum a former employee (including LTDs) can apply to receive from the Hardship Fund.

Prior to the increase, the most an LTD Beneficiary could receive from the Fund was \$12,100 comprising of a payment of 8 weeks of salary (up to \$1,200 per week) plus a further \$2,500 that could be awarded at the discretion of the hardship committee in the case of medical or other emergencies.

On March 11, 2015, the court approved increases to the maximums under the Hardship Fund, which essentially doubled the limit. The rule will now allow a LTD Beneficiary the opportunity to apply for a total maximum of \$24,200 comprising of a payment of 16 weeks of salary (up to \$1,200 per week) plus a further \$5,000 that could be awarded at the discretion of the hardship committee in the case of medical or other emergencies.

**Payments from the Hardship Fund are treated as an advance on future distributions from the Nortel Estate, so any amount awarded will be deducted from the recipient's ultimate Compensation Claim recovery from the Nortel Estate.**

If you are in a position of immediate financial hardship, you may request a payment from the Fund by completing a Hardship Payment Application. Koskie Minsky can help you complete this form. This will be a private and confidential process, and you will not be required to share your personal information with anyone other than the Monitor, who is responsible for assessing your application, and Representative Counsel.

If you have any questions regarding the eligibility criteria or would like to apply for a payment from the Hardship Fund, please visit our website or call our toll-free hotline at 1-866-777-6344 to request an Application for Hardship Payments.

### **Allocation Litigation**

As reported in our last newsletter in September 2014, the trial to determine the allocation of Nortel's assets began on May 12th, 2014 in a joint hearing before Justice Frank Newbould in the Ontario Superior Court of Justice (Commercial List) and Judge Kevin Gross of the United States Bankruptcy Court for the District of Delaware. The evidentiary portion of the allocation trial included fact and expert witnesses providing testimony for twenty one days from May 12th to June 24th, 2014. Closing arguments were heard September 22-24, 2014.

Arguments were made in writing through a series of pre- and post-trial briefs. All submissions are available publicly on representative counsel's website at the following link: <http://www.kmlaw.ca/Case-Central/Overview/Page/?rid=107&cpid=34>

Following the completion of the allocation trial, Justice Newbould of the Ontario Superior Court of Justice (Commercial List) and Judge Gross of the U.S. Bankruptcy Court advised the parties that they will release their decisions concurrently. No information is available as to when decisions can be expected but we will advise as soon as this occurs.

Please visit our Allocation Litigation' tab on our website for regular updates as they become available or call the toll-free hotline at 1-866-777-6344 for further information.

### **Bondholder Post-Filing Interest Issue**

On August 19, 2014, Justice Newbould of the Ontario Superior Court of Justice (Commercial List) released a decision finding that Nortel Bondholders were not entitled to post-filing interest in the Canadian allocation proceeding. The decision was released following a hearing on July 25, 2014 on two issues, including:

- a) whether the holders of the crossover bond claims are legally entitled in each jurisdiction to claim or receive any amounts under the relevant indentures above and beyond the outstanding principle debt and pre-petition interest (namely, above and beyond the U.S. \$4.092 billion claim for principal and pre-filing interest); and
- b) if it is determined that the crossover Bondholders are so entitled, what additional amounts are such holders entitled to so claim and receive.

The CCC, Monitor and Canadian Debtors, UK Pension Claimants, EMEA Debtors and Wilmington Trust successfully argued that post-filing interest was not legally payable. The decision of Justice Newbould dated August 19, 2014 can be accessed on our website.

The bondholders have appealed Justice Newbould's decision and the Court of Appeal has set April 29, 2015 as the hearing date for the appeal. We will provide an update on our website as further information becomes available.

The issue of post-filing interest was first raised during the allocation trial, and the Canadian and U.S. Courts both requested submissions from the parties identifying what the post-filing interest issue is and why it would be helpful for a decision to be made by the Courts. The Bondholders and other parties, including the CCC, subsequently filed replies and on June 24, 2014 the Courts advised the parties they were going to hear the post-filing interest issue and scheduled a joint hearing.

The hearing in the U.S. Court was adjourned as a result of a "settlement" between the U.S. Debtors and certain Bondholders. The settlement allows for as much as US \$1.0 billion in post-filing interest payable to the guaranteed noteholders from the U.S. Estate. The Canadian Monitor objected to the settlement and opposed the settlement approval.

The U.S. Court heard the motion for approval of the settlement agreement on November 4th and 5th 2014. On December 18, 2014 Judge Gross released his decision approving the bondholder post filing interest settlement.

On December 31, 2014, the Canadian Debtors and Monitor filed a Notice of Appeal. A date for the appeal hearing in the US has not been set at this time but we will update our website and hotline as soon as we have further information.

It is the position of the CCC, on your behalf, that no allocation should result in interest payable to some creditors while others face reductions or termination of benefits.

### **Compensation Claims**

The Monitor continues to review the Personal Information Change Forms (Form B) and Proof of Claim Forms (Form C) that it received. If you submitted a Form B or Form C and have not received a decision yet, please be patient. There is no significance to the order in which reviews are completed. The Monitor is releasing decisions as soon as the claims are reviewed and will continue to do so over the coming months.

For those individuals who have received a response from the Monitor and have questions, please call us at 1-866-777-6344 or e-mail us at [nortel@kmlaw.ca](mailto:nortel@kmlaw.ca).

We continue to receive questions about when to expect a cash distribution from Nortel. The distribution on claims from the Nortel Estate will depend on conclusion of the Allocation Litigation, as described above. Unfortunately, the timing of distribution on claims remains unknown, and we do not expect any such distribution in the near future.

### **Windup of Nortel's Registered Pension Plans**

Morneau Shepell Ltd. (Morneau), the administrator of Nortel's Registered Pension Plans, filed the wind-up report for the Negotiated Plan at the beginning of 2014 and is still waiting for approval from the Financial Service Commission of Ontario (FSCO).

FSCO, the regulatory body in Ontario responsible for pensions must review the report and approve the wind-up before any steps are taken in the wind-up. Once Morneau has received approval of the wind-up report, most members will receive an Option Form which will provide a description of the options available for receiving your pension benefits, and the monetary value of those options. Those options will differ among the provinces, and will depend on which province you were living in when you terminated employment.

Once the Option Forms are distributed, Morneau will be conducting information sessions in various locations across the country to provide you with further information regarding the next steps and an explanation of your options. You can expect to receive details of the date, time and location of the sessions once approval of the wind-up report is received.

The wind-up report for the Managerial Plan is expected to be complete and filed by the end of 2015. FSCO approval will then be required for that Plan as well. Similar to the process for the Negotiated Plan, information sessions will be held across the country to assist members in understanding their options.

If you are close to age 55 you may wish to request a retirement quote from Morneau in order to determine whether you are pension eligible now or if not, when you may become eligible. You can do this by contacting Morneau or through the "Forms" section on Morneau's website at the following link: <https://www.pensionwindups.morneausobeco.com/>

Please note that by simply requesting a quote, you are not indicating to Morneau that you want to start to receive your pension.

If you were an LTD member and terminated employment in a province which permits owners of locked-in RRSPs to withdraw funds based on financial hardship (these provinces are Alberta, Nova Scotia, Ontario and Quebec), you can immediately transfer up to 50% of the estimated cash value of your pension to a locked-in RRSP. Once the wind up reports are approved, members will be able to transfer their remaining entitlement (less any administration fees) to a locked-in account. Members who had previously transferred 50% of their entitlement will be able to transfer their residual balance on approval of the wind up report.

If you have any questions please call us at 1-866-777-6344 or Morneau at:

Managerial Plan Members: 1-877-392-2074

Negotiated Plan Members: 1-877-392-2073

### **The Health and Welfare Trust (HWT)**

On November 19<sup>th</sup>, 2013, the Ontario Superior Court of Justice approved the final HWT distribution to Participating Beneficiaries, including LTD members. The distribution brought the total distribution for LTD members to 38% of entitlements.

As previously reported, in an Advance Income Tax Ruling dated July 19, 2011, the Canada Revenue Agency held that LTD Basic Life and LTD Optional Life and Pensioner Life were taxable in addition to some other benefits paid from the HWT. At the request of the Court-appointed Representatives, Koskie Minsky is challenging the correctness in law of this Advance Tax Ruling through test case appeals to be heard by the Tax Court of Canada.

If you received a payment from the Nortel HWT in 2013 in connection with the termination of group term life insurance coverage you should have received an Objection package in the mail at the end of December 2014. If you did not receive a package and believe you received a payment from the HWT in 2013 that was taxable, please contact us at 1-866-777-6344.

Even if you completed a Notice of Objection for 2011 and/or 2012, to preserve your entitlement to have your 2013 tax year reassessed in the event of a favourable outcome in one or more of the Test Case Appeals, you must also object to your 2013 assessment by completing a Notice of Objection for 2013.

If you received a payment out of the HWT in 2011 and/or 2012 in connection with the termination of group term life insurance coverage, but did not complete a Notice of Objection for 2011 and/or 2012, you may still keep your 2013 taxation year open for reassessment in the event of a successful outcome in one or more of the Test-Case Appeals; however, you must complete a Notice of Objection for 2013.

You must submit your Notice of Objection **by April 30, 2015**.

Notices of Appeal were filed by Koskie Minsky LLP for all four test case appeals on September 11, 2014. The Department of Justice served its replies on November 18, 2014.

Based on an agreed litigation timetable the appeals are expected to be heard during the summer of 2015. We will advise as soon as a hearing date is set by the Tax Court of Canada.

### **Address Changes**

Please ensure you keep your address updated with either Koskie Minsky or the Monitor, Ernst & Young. The Monitor can be reached at: 1-866-942-7177 or [nortel.monitor@ca.ey.com](mailto:nortel.monitor@ca.ey.com)

Koskie Minsky and the Monitor share address change information with each other so you need only provide one of us. We have a Change of Address Form that must be completed and supporting documentation of the new address must be provided. Examples of supporting documentation include a driver's license or a recent utility bill showing the member's name and new address.

In order to receive a copy of the Change of Address Form, please visit the Koskie Minsky website or call the toll-free hotline at 1-866-777-6344.

You must also separately advise Morneau Shepell of your address change, even if you are not receiving your pension yet. We cannot share your address changes with Morneau Shepell. Morneau Shepell can be reached directly at:

Managerial Plan Members: 1-877-392-2074

Negotiated Plan Members: 1-877-392-2073

### **Questions?**

Please keep yourself informed by continuing to check the Koskie Minsky website at [www.kmlaw.ca/case-central/overview/?rid=107](http://www.kmlaw.ca/case-central/overview/?rid=107). We will continue to post important updates on our website.

If you have a specific question or wish to speak to your Representative Counsel, please contact us by email at [nortel@kmlaw.ca](mailto:nortel@kmlaw.ca) or through our toll-free hotline at 1-866-777-6344.

Alternatively, you can reach your Court-Appointed Representative by e-mailing the Canadian Nortel Employees of Long Term Disability (CNETLD) at [SteeringCommittee@cneltd.info](mailto:SteeringCommittee@cneltd.info).

If you are a CAW (Unifor) member, please contact Barry Wadsworth at the Unifor at 1-800-268-5763, extension 3776 or e-mail [linda.cantin@unifor.org](mailto:linda.cantin@unifor.org)